



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)
)
) ISCR Case No. 10-00345
)
)
Applicant for Security Clearance)

Appearances

For Government: Melvin A. Howry, Esq., Department Counsel
For Applicant: *Pro se*

August 31, 2011

Decision

GOLDSTEIN, Jennifer I., Administrative Judge:

Applicant is a 55-year-old employee of a defense contractor. He has one sister and two brothers residing in Saudi Arabia. His mother and two other sisters reside in Egypt. His foreign family members raised a security concern under Foreign Influence. He mitigated the Foreign Influence security concerns by demonstrating he has deep and longstanding loyalties to the U.S. He is also alleged to have a history of indebtedness including two debts in the approximate amount of \$14,207, raising security concerns under Financial Considerations. Applicant mitigated the Financial Considerations security concerns because the debts were caused by unforeseen circumstances beyond his control, and he has acted responsibly with respect to his debts. His debts are now satisfied. Eligibility for access to classified information is granted.

Statement of the Case

On January 21, 2011, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines F, Financial Considerations, and B, Foreign Influence. The action was taken

under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective September 1, 2006.

Applicant answered the SOR on April 5, 2011, and requested a hearing before an administrative judge. The case was assigned to me on May 24, 2011. DOHA issued a notice of hearing on June 6, 2011, scheduling the hearing for June 23, 2011. The hearing was convened as scheduled. The Government offered Exhibits (GE) 1 through 7, which were admitted without objection. The Government requested administrative notice be taken of certain facts relating to Egypt and Saudi Arabia as contained in Hearing Exhibits (HE) I and II. Applicant had no objection and I took administrative notice of the documents. The Applicant offered Exhibits (AE) A through E, which were admitted without objection. Applicant testified on his own behalf. On June 29, 2011, Applicant submitted one additional exhibit, AE F. Department Counsel indicated it had no objection and AE F was admitted. DOHA received the transcript of the hearing (Tr.) on July 11, 2011.

Procedural Matters

Pursuant to Additional Procedural Guidance ¶¶ E3.1.2, E3.1.3, E3.1.7, and E3.1.13 of the Directive, Department Counsel moved to amend the SOR issued to Applicant as follows:

1. Delete SOR subparagraph 1.a and replace it with a new subparagraph 1.a to read as follows:

a. You have one sister and two brothers who are residents of Saudi Arabia.

2. Add SOR subparagraph 1.b to read as follows:

b. Your mother and two sisters reside in Egypt.

Applicant had no objection to the amendments and I granted the motion. (Tr. 91-92.)

Findings of Fact

Applicant is a 55-year-old employee of a defense contractor. He is currently laid-off, pending his security clearance adjudication. He has worked for his current employer since November 2008. He has been married three times. His first marriage was from 1985 to 2008, when they divorced. He had four children with his first wife. In 2009, his first wife passed away. His second marriage occurred in 2008 and lasted for eight months, when they divorced. He married his third and current wife in March 2011. (GE 1; AE A; Tr. 93-95.)

DOHA alleged under Guideline B, Foreign Influence that Applicant has one sister and two brothers who are residents of Saudi Arabia, and his mother and two sisters reside in Egypt. Applicant admits these allegations. He also testified that he has one sister that resides in Jordan.¹ (SOR; GE 1; GE 2; Tr. 75-92.)

Applicant was born in Egypt to parents who had fled from the former Palestine. They were stateless people and had few rights in Egypt. They were given no citizenship rights in Egypt such as a public education, health care, or a right to work. (GE 1; Tr. 40-41.)

When Applicant and his siblings were able, they each left Egypt and went to Saudi Arabia in pursuit of work. Saudi Arabia has a system, called "Al Kafeel" which permits foreign workers to make a good living in Saudi Arabia, but also imposes strict rules on the workers. This system requires workers to have a sponsor. Workers may not move, travel, or seek medical treatment without permission from their sponsor. Applicant worked in Saudi Arabia under this system beginning in 1983, until his contract was canceled and he lost his sponsor in 1992. Of his six siblings, his two brothers and one sister still remain in Saudi Arabia working under this system. Applicant returned to Egypt, but could not work. (Tr. 40-46.)

Seeking a better life for himself and his four children, Applicant immigrated to the United States on December 16, 1995. He sought political asylum in the U.S. based upon his lack of rights in Egypt and Saudi Arabia. Asylum was granted on September 14, 1997. (AE A; Tr. 41-47.) Applicant testified about his decision to immigrate. He stated:

I couldn't live in this kind of environment. Everything is against religion. Everything is against - - - our cultures are different. I wanted to raise my kids in a healthy environment. That's why I took the action, and I moved to the United States. . . It was the first time I felt respect. (Tr. 42.)

Applicant had no family or contacts when he moved to the U.S. Two weeks after he arrived in the U.S., he started a candy business to support himself and his family. He worked at his business for three years until the economy experienced a downfall in 2000. He had to close the business and file Chapter 7 bankruptcy due to economic hardship. Since then Applicant has worked in various positions including "a sensitive position" for a water department. (Answer; Tr. 43-44, 63-64.)

He became a U.S. citizen in March 2008. He testified that he is loyal to the U.S. It was the U.S. that gave him his rights. He is now free to express his opinions and have opportunities to explain himself, such as the instant hearing. These rights were denied in Saudi Arabia and Egypt. He testified he would be willing bear arms against Egypt or Saudi Arabia on behalf of the U.S. In 2008, he was hired by his present employer to work with the U.S. Multinational Security Transition Team for in Iraq as a translator. He

¹ The SOR failed to allege any security concerns with respect to his sister in Jordan.

was in Iraq for two and a half years, serving alongside many high-level military members. (GE 1; Tr. 40-53.)

His immediately family includes this four adult children and his wife. He is very proud of his children and has raised them as Americans. They celebrate all U.S. holidays. One of his children recently graduated from a state university with a degree in civil engineering, another works for an American bank and is studying accounting. His third child is in school studying economics. His fourth child is studying psychology. All are in the United States. (GE 1; Tr. 95.)

Applicant has a large extended family. His two brothers and one sister are in Saudi Arabia. His oldest brother works as a pharmacist and his other brother is businessman. They both make a lot of money. His sister is retired from her former position as a teacher at a university in Saudi Arabia. Applicant differs himself from his siblings in Saudi Arabia. He testified that instead of focusing on money as his brothers did; Applicant has chosen to focus on the future of his children. He came to the U.S. to provide a better life for them. He only contacts his siblings three times a year, on holidays, to wish them well. (GE 1; AE A; Tr. 44-46, 53-54, 57-59, 78-80, 87.)

Applicant's mother and two sisters reside in Egypt. They all reside together in the home Applicant's father owned. Applicant's father is deceased. One of his sisters was a teacher in Saudi Arabia before returning to Egypt to care for their mother. His other sister returned from Saudi Arabia to live with their mother after her husband passed away. Applicant sent this sister small amounts of financial support a few times when her husband was sick and unable to work. He has not sent her money since 2009. He speaks to them by phone three times per year on holidays. (Tr. 55-58, 80-87.) When asked what he would do if the welfare of his mother was threatened, he replied:

But my mother lives with two sisters and the closest funds for her in Saudi Arabia not in America. So, I am not able to do anything for her, and I should think in a quiet way and the right way that if it's out of my hands, I cannot do anything for her. The best thing I can do is to report that with people who are responsible or who knows how to deal with this situation. (Tr. 85-86.)

DOHA alleged under Guideline F, Financial Considerations, that Applicant filed Chapter 7 bankruptcy in May 2001, and that he is indebted to two creditors in the approximate amount of \$14,207. Applicant admitted these allegations in his Answer. (SOR; Answer.)

Applicant filed Chapter 7 bankruptcy on or about August 24, 2000. He disclosed approximately \$54,189 in unsecured debts. Applicant testified that each of the debts related to his candy business. In 2000 his business experienced an economic downturn. He was new to the business environment and had little experience on protecting the continuity of his business. His debt was discharged in August 2001.² After closing his

² The SOR alleges that the debt was discharged "August 2010." This is clearly a typographical error. He credit report reflects the Chapter 7 bankrupts was discharged in August 2001.

business, Applicant pursued a master's degree that included studying marketing, finance, business analysis, operations management, accounting, and statistics; the skills he thought he needed to learn should he want to lead a successful business in the future. (GE 1; GE 2; GE 4-GE 7; AE B; Tr. 43-44, 63.)

Applicant's two debts on the SOR are both for repossessed vehicles for which Applicant co-signed. The first debt of \$9,624 was a vehicle he co-signed for with one of his sons. His son was to be responsible for making the payments, but defaulted on the loan. Applicant presented documentation that established he satisfied this debt. The second debt was a vehicle loan he co-signed with his first wife during the course of their marriage. The debt was assigned to his first wife as part of their divorce. The vehicle was repossessed. She passed away in 2009, prior to being able to satisfy this debt. Applicant presented documentation he fulfilled this financial obligation. Applicant's most recent credit reports show both accounts are "paid." (GE 1; GE 2; GE 4-GE 7; AE B- AE D; Tr. 67-74.)

Applicant's credit reports show no other delinquent accounts. He testified he is current on all of his credit cards. He has substantial savings to see him through his current period of unemployment and is actively seeking alternative positions. (GE 7; Tr. 96-98.)

Applicant is well respected by the Deputy Director he worked for in Iraq. His Deputy Director indicated Applicant "has done an exceptional job as the senior linguist and cultural advisor." The Deputy Director recommended that Applicant's level of security clearance be upgraded. Similarly, his Operations Officer noted that "his high education, critical thinking, and command of English and Arabic have made significant contributions." Both recommended him without reservations. Applicant also presented copies of numerous certificates he had been awarded for outstanding service. Past employers submitted reference letters that attested to Applicant's honesty, responsibility, and excellent reputation. (AE A.)

I take administrative notice of the following facts regarding Egypt. (HE I.) Egypt is the most populous country in the Arab world and the second-most populous on the African Continent. It is a republic with a strong executive and a developing economy. In October of 1981, Islamic extremists assassinated President al-Sadat. Mubarek, his Vice President, was elected to succeed him.³

Egypt is a strong military and strategic partner of the United States. The United States and Egypt enjoy a strong and friendly relationship based on shared mutual interest in Middle East peace and stability, revitalizing the Egyptian economy, strengthening trade relations, and promoting regional security. Egypt played a key role

³ In February 2011, Hosni Mubarak resigned after thirty years of ruling Egypt. At this time, it is too early to tell what effects, if any, this change will have on selections and elections of new Egyptian leaders and the stabilization of Egypt's political, economic, and social institutions. At the present time, it is too soon to make reliable predictions as to how Egypt's relations with its neighbors and Western allies will progress. Both parties were given the opportunity to address this regime change, but neither chose to do so. (Tr. 13-19.)

during the 1990-1991 Gulf crisis. The Egyptian contingent was the third-largest in the coalition forces, after the U.S. and the U.K. Yet, even taking into account these mutual interests and military cooperation, the Egyptian-U.S. relationship has gradually deteriorated over the last decade.

Egypt has suffered from numerous terrorist attacks. These attacks generally coincide with holidays and occur near tourist sites. Major terrorist attacks, where foreigners have either been killed, injured or kidnapped, have occurred most recently in July 2005, April 2006, September 2008, and February 2009. Americans have been the victims of some of these terrorist attacks within Egypt.

In April 2009, the Egyptian government uncovered a 49-person Hezbollah cell clandestinely operating in Egypt. Hezbollah is designated as a foreign terrorist organization and is considered by the United States to be the most technically-capable terrorist group in the world. Prior to September 11, 2001, Hezbollah was responsible for more American deaths than any other terrorist group, including the suicide truck bombings of the U.S. Embassy and U.S. Marine barracks in Beirut in 1983, and the U.S. Embassy annex in Beirut in 1984, and the 1985 hijacking of TWA flight 847, during which a U.S. Navy diver was murdered. Criminal networks that may be associated with terrorist groups in the region, including Hezbollah, have used tunnels located in Egypt to smuggle humans, weapons, and other contraband into Israel and the Gaza Strip. In addition to terrorism, extremist activity in certain areas of Egypt has created instability and public disorder.

The State Department notes that Egypt's human rights record is poor and serious abuses continue in many areas. Problems include: limitations on the right of citizens to change their government, torture, arbitrary arrest, and executive branch limits and pressure on the judiciary. The government's respect for freedoms of association and religion remained poor, and the government continued to restrict nongovernmental organizations (NGOs). The government partially restricted freedom of expression. In 2008, the U.S. Congress passed legislation that withheld U.S. financial assistance until the Secretary of State certified that Egypt had taken concrete steps in certain vital areas, including improving its human rights record and curbing smuggling along the border with Gaza. The former Secretary of State had to exercise a waiver of these conditions in order to authorize the release of financial assistance to Egypt. Pending legislation before the current U.S. Congress calls on the Egyptian Government to, among other things, end all forms of harassment, including judicial measures, the detention of media professionals and, more generally, human rights defenders and activists calling for reforms.

I take administrative notice of the following facts regarding Saudi Arabia. (HE II.) The central institution of the Saudi Arabian Government is the monarchy ruled by the Al Saud family, and there are no political parties or national elections. The Qu'ran is the constitution of the country and Saudi Arabia is governed on the basis of Islamic Law (Shari'a).

Despite generally good relations, the United States remains concerned about human rights conditions in Saudi Arabia. Principal human rights issues include abuse of prisoners and incommunicado detention; prohibitions or severe restrictions on freedom of speech, press, peaceful assembly and association, and religion; denial of the right of citizens to change their government; systematic discrimination against women and ethnic and religious minorities; and suppression of workers' rights. Saudi Arabia has a religious police known as the Mutawwa'in (MOI) or the Committee for the Promotion of Virtue and Prevention of Vice (CPVPV) which reports directly to the king. The religious police monitor public behavior to enforce strict adherence to conservative Islamic norms.

In Saudi Arabia, the law guarantees the inviolability of homes and the privacy of correspondence. Despite these provisions, custom officials routinely opened mail and shipments to search for contraband, including material deemed pornographic or that appeared to be non-Sunni Islamic material. The authorities also opened mail and used informants and wiretaps in internal security and criminal matters. Informants and, in some districts, an informal system of ward bosses, reported to the MOI seditious ideas, anti-government activity, or behavior contrary to Islam in their neighborhoods.

The United States and Saudi Arabia share a common concern about regional security, oil exports and imports, and sustainable development. However, Saudi Arabia's relations with the United States were strained after the September 11, 2001, terrorist attacks in which 15 of the suicide bombers were Saudi citizens. Additionally, on May 12, 2003, suicide bombers killed 35 people, including nine Americans, in attacks at three housing compounds for Westerners in Riyadh. On June 9, 2004, and June 12, 2004, terrorists killed two Americans. On June 18, 2004, terrorists kidnapped and beheaded another American. On December 6, 2004, terrorists attacked the U.S. Consulate in Jeddah, killing five consulate employees.

A Travel Warning is in effect for Saudi Arabia due to concerns about the possibility of terrorist activity directed against American citizens and interests. Terrorist groups continue to target housing compounds and other establishments where westerners may be located. These terrorist groups may employ a wide variety of tactics and also may target Saudi Government facilities and economic/commercial targets within the Kingdom.

Individuals and organizations based in Saudi Arabia have been designated by the U.S. Government as providing financial and material support to Al-Qaeda and other terrorist groups. Critics of Saudi policies have cited reports that the Saudi government permitted or encouraged fund raising in Saudi Arabia by some charitable religious groups and foundations that espoused extremist ideologies or were linked to or exploited by Al-Qaeda and other terrorist groups. Al-Qaeda is a foreign terrorist organization established by Osama bin Laden in 1988 that launched attacks against Americans in Saudi Arabia in 2003 and 2004. On September 11, 2001, nineteen Al-Qaeda members hijacked and crashed four U.S. commercial jets on American soil, leaving nearly 3,000 individuals dead or missing.

The Saudi government continues to confront terrorism and extremist ideologies, although with varying degrees of success. In the first six months of 2008, the Saudi government arrested over 700 militants who had allegedly been planning to attack oil fields and other vital installations. It also planned terrorism trials for almost 1,000 individuals indicted on various terrorism-related charges including terrorist finance.

Saudi Arabia maintains contact with the two main Palestinian political entities – the secular nationalist Fatah movement and the Islamic Resistance Movement, more commonly known as Hamas, which remains a U.S.-designated foreign terrorist organization. The Saudi government has at times pursued policies relating to the Palestinians that are divergent from the expressed preferences of the United States.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or

safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline B, Foreign Influence

The security concern for the Foreign Influence guideline is set out in AG ¶ 6:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.

The guideline notes nine conditions that could raise security concerns under AG ¶ 7. One is potentially applicable in this case:

(a) contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion.

The Government raised concerns over possible foreign influence because of Applicant's familial ties of affection to his two brothers and one sister who reside in Saudi Arabia and his mother and two sisters who reside in Egypt. Applicant calls each of them three times per year on holidays. Applicant has also provided financial support to one sister in Egypt. Not only does disqualifying condition AG ¶ 7(a) require the presence of foreign contacts, it also requires that a heightened risk be present. Government Counsel introduced sufficient evidence on terrorist activities and human rights abuses in both Egypt and Saudi Arabia to establish a heightened risk relating to Applicant's immediate family members in each of these countries. These contacts raise security concerns under AG ¶ 7(a).

AG ¶ 8 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 8 and find that the following mitigate the concern under AG ¶ 7(a):

(a) the nature of the relationships with foreign persons, the country in which these people are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S.; and

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest.

Applicant's brothers and one sister reside in Saudi Arabia and his mother and two sisters are in Egypt. Despite these facts, it is unlikely Applicant will be placed in a position of having to choose between the interests of his family or a foreign government and the interests of the U.S. because his contacts with both Egypt and Saudi Arabia are non-political and limited to good wishes on holidays. He can be expected to resolve any potential future conflicts of interest in favor of the U.S. He experienced life in both Egypt and Saudi Arabia. He found both to be oppressive. He willingly left his extended family and chose to immigrate to the United States to escape the lack of freedom, and give his children the opportunity of freedom without oppression. His testimony shows that he is a loyal U.S. citizen and would resolve any conflict in favor of the U.S.

The Appeal Board has long recognized that:

Where the applicant has established by credible, independent evidence that his compliance with security procedures and regulations occurred in the context of dangerous, high-risk circumstances in which the applicant had made a significant contribution to the national security. The presence of such circumstances can give credibility to an applicant's assertion that he can be relied upon to recognize, resist, and report a foreign power's attempts at coercion or exploitation.⁴

He has served as a civilian employee in Iraq on behalf of the U.S. mission there. The letters and pictures from Applicant's time in Iraq establish that he has served the U.S. interest in the past and will continue to do so in the future. He is raising his children to be Americans and celebrates all U.S. holidays. He would report any threats made on his foreign family members to the proper U.S. authorities. Mitigating conditions AG ¶¶ 8(a) and 8(b) apply.

⁴ ISCR Case 05-03846 at 6 (App. Bd. November 14, 2006.)

Guideline F, Financial Considerations

The security concern for Financial Considerations is set out in AG ¶ 18, as follows:

Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

The guideline notes several conditions that could raise security concern under AG ¶ 19. Two are potentially applicable in this case:

- (a) inability or unwillingness to satisfy debts;
- (c) a history of not meeting financial obligations.

Applicant filed bankruptcy in 2001 after the failure of his candy business. He also incurred \$14,207 in debt on two vehicle repossessions. The Government established a case for disqualification under Guideline F.

Three Financial Considerations Mitigating Conditions under AG ¶ 20 are potentially applicable:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances; and
- (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant meets significant mitigating factors for financial considerations. While his financial difficulties are recent, the circumstances under which they occurred are unlikely to recur. The death of his ex-wife caused the delinquency in the case of one of the vehicles. They did not predict their divorce, or her death, when they purchased the vehicle together. The other repossessed vehicle was for Applicant's son, and Applicant acted responsibly in fulfilling this obligation when his son defaulted on this loan. Applicant has documented his successful resolution of both of these debts. Similarly, his

2001 bankruptcy was due to a business downturn. Applicant's financial problems are directly attributable to unforeseen circumstances in each instance. He continues to remain current on his other financial obligations. It does not appear that Applicant was living beyond his means in any regard. He can be trusted to monitor his finances closely and resolve his debts in the future. Clearly, Applicant's financial problems are under control. AG ¶¶ 20(a), 20(b), and 20(d) apply.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress;
- and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines B and F in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment. Applicant is well respected by his Deputy Director and Operations Officer, as well as past employers. He performs well at his job. His integrity and his financial track record, show Applicant is trustworthy. He has served the U.S. as a civilian in Iraq for over two years. His dedication and service, along with his love of the freedoms he has been granted with U.S. citizenship, indicate he has a strong loyalty to the U.S.

Overall, the record evidence leaves me without questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has mitigated the Foreign Influence and Financial Considerations security concerns.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline B:	FOR APPLICANT
Subparagraph 1.a.:	For Applicant
Subparagraph 1.b.:	For Applicant
Paragraph 2, Guideline F:	FOR APPLICANT
Subparagraph 2.a.:	For Applicant
Subparagraph 2.b.:	For Applicant
Subparagraph 2.c.:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Jennifer I. Goldstein
Administrative Judge