



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



In the matter of:	)	
	)	
	)	ISCR Case No. 10-02723
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Braden Murphy, Esq., Department Counsel  
For Applicant: *Pro se*

April 6, 2011

**Decision**

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RICCIARDELLO, Carol G., Administrative Judge:

Applicant failed to mitigate the Government’s security concerns under Guideline F, Financial Considerations, Guideline B, Foreign Influence, and Guideline E, Personal Conduct. Applicant’s eligibility for a security clearance is denied.

On October 19, 2010, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guidelines F, B and E. On December 30, 2010, DOHA amended the SOR to include additional allegations under Guideline E. The action was taken under Executive Order 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 within the Department of Defense on September 1, 2006.

In an undated answer to the original SOR, Applicant requested a hearing before an administrative judge. Applicant answered the amended SOR on January 11, 2011.

He failed to sign his answer, but acknowledged at his hearing that he intended to sign his amended answer. The case was assigned to me on February 11, 2011. DOHA issued a Notice of Hearing on February 22, 2011. I convened the hearing as scheduled on March 10, 2010. The Government offered exhibits (GE) 1 through 5. Applicant did not object and they were admitted into evidence. The Government requested administrative notice be taken of Hearing Exhibit (HE) I. I granted the request. Applicant testified on his own behalf. He offered exhibits (AE) A through D, which were admitted into evidence without objections. The record was held open until March 17, 2011, to allow Applicant to submit additional documents, which he did, and they were marked as AE E through I, and admitted into evidence without objections.<sup>1</sup> DOHA received the hearing transcript (Tr.) on March 17, 2011.

### **Findings of Fact**

Applicant denied the SOR allegations in ¶¶ 1.b, 1.c, 3.d, 3.e, 3.f, 3.g, 3.h, 3.i, and 3.j. Applicant admitted the remaining allegations. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is 44 years old. He was born in Afghanistan and moved to Pakistan around 1984. He immigrated to the United States in 1987. He attended school in Afghanistan. He has never married and has no children. He became a naturalized citizen of the United States in 1996. He has worked for a federal contractor since December 2009.<sup>2</sup>

Applicant admitted that the debt in SOR ¶ 1.a (\$86,914) belongs to him. He indicated this account is a home equity line of credit that is delinquent because it is included with his mortgage and part of a loan modification. He applied to have his mortgage and line of credit consolidated into one payment. He explained he is not making payments on this debt because he was told not to pay it as part of the modification. He stated he was negotiating a payment plan. The debt is listed in Applicant's credit reports as charged off.<sup>3</sup> Applicant provided a letter from an attorney dated March 11, 2011, which stated: "I have been retained by you to serve as your attorney in your loan modification efforts with [creditor]." The letter also stated that Applicant's file "is currently under review with the creditor's representative."<sup>4</sup> No other documentary evidence was provided.<sup>5</sup>

Applicant denied the debts in SOR ¶¶ 1.b (\$8,560) and 1.c (\$398). Applicant does not believe either debt belongs to him. Both are listed in his December 2009 credit

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<sup>1</sup> HE II and III are Department Counsel's responses AE E through H.

<sup>2</sup> Tr. 57-58, 61, 100.

<sup>3</sup> GE 3; AE G.

<sup>4</sup> AE G.

<sup>5</sup> Tr. 32, 38-53.

report. The debt in SOR ¶ 1.b is listed in his most recent credit report that he provided, but ¶ 1.c is not listed. Applicant provided a document showing he has several accounts with the same creditor. He provided a letter that noted he had an account with the creditor, but the account is in his brother's name and Applicant is an authorized user. The letter stated: "[Applicant's brother] is still obligated to repay any balance on the account, but as an Authorized User, [Applicant] has no contractual financial obligation for this account." The creditor has sent a request that the account be removed from Applicant's credit report.<sup>6</sup>

Applicant's father owns a share of land and buildings in Afghanistan. He estimated that it is more than 1,000 acres of land. It is in a city and is prime real estate. He owns the land with other family members who live there. Applicant's father came to the United States in 1998 and has not returned to Afghanistan. He is a citizen of the United States. He indicated the property is worth between one million dollars and one billion dollars. At one time, his father and the family members were offered \$50,000,000 to purchase some of the property, but they could not all agree, so they did not sell it.<sup>7</sup>

Applicant's immediate family all live in the United States, except one sister who lives in Pakistan. He last saw his sister in 1986 and they talk on the phone occasionally. They last spoke about a year ago. She is a widow and her husband's family was wealthy, so she does not need money. Applicant does not have any other contact with family members in Afghanistan.<sup>8</sup>

Applicant's father, brother, sister, and her three children all live together in the same house. Two of his nephews are grown. They are 23 and 21 years old. They reside with Applicant when they are home from college. The youngest child is four years old.<sup>9</sup>

Applicant completed his security clearance application (SCA) on December 1, 2009. On his SCA he listed his sister's children as his own children. During his interview with an authorized investigator for the Department of Defense, he indicated that he did not know the identity of the mother of the children. He was asked if the children were legally adopted and he said no. He was asked why he did not know the identity of the mother, and he responded that he raised them as if they were his own and the children are not aware that he is not their father. He was asked if the children knew the identity of their mother, and he said he listed them as his children because he was trying to protect his sister's dignity. Applicant refused to provide any further details to the investigator regarding this matter. At his hearing, Applicant admitted he knew he was not the children's father and knew his sister was their mother. He did not want to divulge that his sister was not married when she had the first two children. His sister was

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<sup>6</sup> Tr. 30-53; GE 2 at 46; GE 3 at 5; AE E, AE G, H.

<sup>7</sup> Tr. 53-61.

<sup>8</sup> Tr. 61-63.

<sup>9</sup> Tr. 64-69.

married to the youngest child's father, but is no longer. Applicant was not sure why he lied about this information.<sup>10</sup>

During Applicant's investigative interview, he indicated that one of his nephews, who lived with him, was incarcerated in the county jail. He was unable to provide details about him and told the investigator he did not wish to discuss it. At his hearing, Applicant admitted he drove his sister to visit her son, who is his nephew, in jail before he was interviewed by the investigator. He stated he had no idea why his nephew was in jail. He stated he never asked his sister why he was in jail. He was questioned further and claimed he did not remember if his sister told him why his nephew was in jail. He could not remember if he helped his sister obtain his nephew's release from jail. Applicant's testimony was not credible.<sup>11</sup>

Applicant responded "no" to all of the financial questions on his SCA. Applicant was asked by the investigator about his finances. He stated he did not recall missing payments or being late on any of his accounts. He was asked to sign a financial release for the purpose of obtaining the details about his accounts. Applicant declined to sign the release, stating that he did not understand why it was necessary and he did not understand the question. He was provided details and explanations several times by the investigator, but remained unresponsive in providing a release. At his hearing, Applicant claimed he did not recall or remember refusing to sign a release. He denied that he refused to sign a release. Applicant's testimony was not credible.<sup>12</sup>

Applicant was arrested in September 2004 for "unlicensed hacker," which is operating a taxi without a license. The assault charge included in the SOR was outside of the seven-year period. Regarding the 2004 offense, he admitted he was stopped by the police and was put in handcuffs and taken to the police station. He was advised he would receive a court date in the mail. He presented the correct documents to the court to show he was licensed and the charge was dismissed. He did not list it on his SCA because he thought he only had to list a conviction.<sup>13</sup>

Applicant failed to list his sister, who lives in Pakistan, on his SCA. He indicated he made a mistake. He did not list two people he knows who live in the United States, but are citizens of Afghanistan. He stated one of them he did not disclose because he is a U.S. citizen. However, he did not become a citizen until April 2010, after he completed the SCA. It was learned that this person was actually his former brother-in-law. The other person was the former brother-in-law's mother.<sup>14</sup>

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<sup>10</sup> Tr. 69-76; GE 2.

<sup>11</sup> Tr. 76-81; GE 2.

<sup>12</sup> Tr. 82-84, GE 2.

<sup>13</sup> Tr. 85-91; Department Counsel did not present evidence on the assault alleged in SOR ¶1.h because it was outside of the seven-year period for disclosure.

<sup>14</sup> Tr. 92-98.

Applicant stated he did not understand the questions. He has nothing to hide. He did not intentionally do anything wrong. He is straight-forward. He did not have enough time to answer the questions. He is sorry.

I find that throughout the entire hearing Applicant was consistently evasive. His testimony lacked candor and credibility.

## **Afghanistan**<sup>15</sup>

Afghanistan is located in southwestern Asia and borders Pakistan, Iran, and Russia. It has been an independent nation since 1919, after the British relinquished control. A monarchy ruled from 1919 until a military coup in 1973. Following a Soviet-supported coup in 1978, a Marxist government emerged. In 1979, Soviet forces invaded and occupied Afghanistan. A resistance movement eventually led to an agreement known as the Geneva Accords, signed by Afghanistan, Pakistan, the United States, and the Soviet Union, which ensured Soviet forces withdrew by February 1989. The resistance party was not part of the Accords and refused to accept it. A civil war ensued after the Soviet withdrawal. In the mid-1990s, the Taliban rose to power largely due to anarchy and the existence of warlords. The Taliban sought to impose extreme interpretation of Islam and committed massive human rights violations. The Taliban also provided sanctuary to Osama Bin-Laden, Al Qaida, and other terrorist organizations.

After the September 11, 2001 terrorist attacks, demands to expel Bin-Laden and his followers were rejected by the Taliban. U.S. forces and a coalition partnership commenced military operations in October 2001 that forced the Taliban out of power in November 2001. The new democratic government took power in 2004, after a popular election. Despite that election, terrorists including Al-Qaida and the Taliban continue to assert power and intimidation within the country. Safety and security are key issues, because these terrorists target United States and Afghan interests by suicide operations, bombings, assassinations, carjacking, assaults, and hostage taking. At this time, the risk of terrorist activity remains extremely high. The country's human rights record remains poor and violence is rampant.

Civilians continue to bear the brunt of the violence and increased attacks. Despite the loss of some key leaders, insurgents have adjusted their tactics to maintain momentum following the arrival of additional U.S. forces. It is suspected that the Taliban was most likely responsible for suppressing voter turnout in the August 2009 elections in key parts of the country. The Taliban's expansion of influence in northern Afghanistan since late 2007 has made the insurgency a country-wide threat.

Afghan leaders continue to face the eroding effect of official corruption and drug trade. Criminal networks and narcotics constitute a source of funding for the insurgency in Afghanistan. Other insurgent groups and anti-coalition organizations also operate in Afghanistan. Insurgents have targeted Non-Government Organizations, journalists,

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<sup>15</sup> HE I

government workers, and United Nations workers. Instability along the Pakistan-Afghan frontier continues to provide Al-Qaida with leadership mobility and the ability to conduct training and operational planning, targeting Western European and U.S. interests. The United States Department of State has declared that the security threat to all American citizens in Afghanistan remains critical as no part of the country is immune to violence.

## **Pakistan**<sup>16</sup>

Pakistan is a parliamentary federal republic in South Asia. It is a low-income country, with a population that is 97 percent Muslim. It has a coalition government. Pakistan was one of only three countries to recognize the Taliban regime of Afghanistan, after September 11, 2001. However, Pakistan reassessed its relations with the Taliban and pledged support to the United States and the international coalition in Operation Enduring Freedom, which aimed at removing the Taliban from power. Despite this support, members of the Taliban are known to be in the Federally Administered Tribal Areas (FATA) of Pakistan and in the Balochistan Province, which borders Iran and Afghanistan. The leaders of the Taliban operate openly in Pakistan. Extremists led by the Pakistani Taliban (Tehrik-i-Taliban “TTP”) commander and other Al-Qaida extremists have re-exerted their hold over areas in the FATA and the North West Frontier Province (NWFP). Taliban financing, which crosses the border of Pakistan to Afghanistan, has allowed the insurgency in Afghanistan to strengthen its military and technical capabilities.

The security situation in Afghanistan worsened in 2008, including an increase in Al-Qaida’s presence to levels unseen since 2001-2002, driven in part by insurgent access to safe havens in western Pakistan through the porous Afghan-Pakistan border. Although Al-Qaida’s core organization in the tribal areas of Pakistan was under greater pressure in 2009 than in 2008, it remained the most dangerous component of the larger Al-Qaida network. In early 2009, the FATA in Pakistan continued to provide vital sanctuary to Al-Qaida and a number of foreign and Pakistan-based extremist groups. Al-Qaida exploits the permissive operating environment to support the Afghan insurgency, while also planning attacks against the United States and Western interests in Pakistan and worldwide. Together with the Afghan Taliban and other extremist groups, Al-Qaida uses this sanctuary to train and recruit operatives, plan and prepare regional and transnational attacks, disseminate propaganda, and obtain equipment and supplies.

The Pakistani government has a poor human rights record. Reported human rights violations include extrajudicial killings, torture and rape by security forces, lack of judicial independence, arbitrary arrest, widespread corruption, disappearance and imprisonment of political opponents, and trafficking in women and children. As of February 2009, the government maintained domestic intelligence services that monitored political activists, suspected terrorists, the media, and suspected foreign intelligence agents. The Department of State warns U.S. citizens of the risks of travel to

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<sup>16</sup> *Id.*

Pakistan in light of threats of terrorist activity. Since 2007, American citizens have been kidnapped for ransom or other reasons. Credible reports indicated that authorities routinely intercepted and opened mail without requisite court approval, and monitored mobile phones and electronic messages.

## **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are 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, these guidelines are applied 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and 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 safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that 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 F, Financial Considerations**

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

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 concerns. I have considered all of the disqualifying conditions under AG ¶ 19, and the following are potentially applicable:

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

Applicant has three delinquent debts totaling approximately \$95,872 that were charged off or in collection, and not paid. I find there is sufficient evidence to raise these disqualifying conditions.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered the following mitigating conditions under AG ¶ 20:

- (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;



(c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

The line-of-credit debt listed in SOR ¶ 1.a is charged off. It appears Applicant is attempting to negotiate a modification with the assistance of an attorney. He is waiting for approval on his loan modification request. Applicant provided documentary proof that the debt in SOR ¶ 1.c belongs to his brother and he is an authorized user, but not responsible for paying the account. I find AG ¶ 20(e) applies to these debts. There is sufficient proof that the debt in SOR ¶ 1.b belongs to Applicant. He has not provided persuasive evidence to the contrary. Applicant's debt is recent and unpaid. He did not provide evidence that his failure to pay this debt was due to conditions beyond his control. There is no evidence he received counseling, made a good-faith effort to pay it, or that there are clear indications the problem is being resolved or is under control. I find AG ¶¶ 20(a), 20(b), 20(c), and 20(d) do not apply

### **Guideline B, Foreign Influence**

AG ¶ 6 expresses the security concern regarding foreign influence:

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.

AG ¶ 7 describes conditions that could raise a security concern and may be disqualifying. I have considered all of them and especially considered the following:

(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;

(b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information;

(d) sharing living quarters with a person or person, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion; and

(e) a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign operated business, which could subject the individual to heightened risk of foreign influence or exploitation.

Applicant's sister is a citizen of Afghanistan and a resident of Pakistan. He has some contact with her. Applicant's father, a citizen of the United States, resides with Applicant and has substantial financial interests in Afghanistan. These contacts create a heightened risk of foreign influence, exploitation, inducement, manipulation, pressure or coercion because of the human rights records in Afghanistan and Pakistan. In addition, The U.S. State Department warns of the dangers for Americans in both countries. I find the above disqualifying conditions apply.

I have also analyzed all of the facts and considered all of the mitigating conditions for this security concern under AG ¶ 8 and especially considered the following:

(a) the nature of the relationship with foreign persons, the country in which these persons 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 and interests of the U.S.;

(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 interests in favor of the U.S. interests;

(c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation; and

(f) the value or routine nature of the foreign business, financial , or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual.

The mere possession of a close personal relationship with a person who is a citizen and resident of a foreign country is not, as a matter of law, disqualifying under Guideline B. However, depending on the facts and circumstances, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information. Applicant's contact with his sister is more than casual. The countries in question are Pakistan and Afghanistan. These countries pose dangers to Americans and are known for their poor human rights records. I cannot find AG ¶ 8(a) applies. I found Applicant's testimony to be so evasive and lacking in candor and credibility that I cannot find that he can be expected to resolve any conflict of interests in favor of U.S. interests. I find AG ¶ 8(b) does not apply. I am also convinced that his contact with his sister is more than casual and sufficiently frequent that it is likely to create a risk for foreign influence. Therefore, I find AG ¶¶ 8(b) and 8(c) do not apply. Applicant's father, who lives with him, has a large financial interest in Afghanistan. He has this interest with many family members who still live there. Although it is unclear if Applicant would inherit this interest, the fact that his family owns it could potentially make him vulnerable to manipulation or pressure, due to his father's interest. I find AG ¶ 8(f) does not apply.

### **Guideline E, Personal Conduct**

AG ¶ 15 expresses the security concern pertaining to personal conduct:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

The following will normally result in an unfavorable clearance action or administrative termination of further processing for clearance eligibility: (a) refusal, or failure without reasonable cause, to undergo or cooperate with security processing, including but not limited to meeting with a security investigator for subject interview, completing security forms or releases, and cooperation with medical or psychological evaluations; (b) refusal to provide full, frank and truthful answers to lawful questions of investigators, security officials, or other official representatives in connection with a personnel security or trustworthiness determination.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. I have specifically considered:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment

qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities;

(b) deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative;

(d) credible adverse information that are not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information. This includes but is not limited to consideration of: . . . (3) a pattern of dishonesty or rule violations; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as (1) engaging activities which, if known, may affect the person's personal, professional, or community standing.

Applicant failed to cooperate with investigators when he refused to sign a release for his financial information. He failed to cooperate with investigator when he stated he did not wish to discuss the incarceration of his nephew. Applicant provided false information on his SCA when he listed his sister's children as his own. Applicant deliberately omitted from his SCA his sister, who is a citizen of Afghanistan and resident of Pakistan. Applicant deliberately failed to disclose his former brother-in-law and his mother who were citizens of Afghanistan at the time. Applicant was aware he had debts that were past due more than 90 days and delinquent over 180 days, but failed to disclose them. I find the above disqualifying conditions apply to Applicant's personal conduct and false statements.

The guideline also includes conditions that could mitigate security concerns arising from personal conduct. The the following mitigating conditions under AG ¶ 17 potentially apply:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by improper or inadequate advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security clearance process. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;

(f) the information was unsubstantiated or from a source of questionable reliability; and

(g) association with person involved in criminal activity has ceased or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Applicant failed to cooperate with investigators when he refused to sign a financial disclosure release and when he failed to discuss information about his nephew's incarceration. Applicant falsified information on his SCA about the identity of the mother of the children living in his house, whom he claimed as his own. Applicant denied he refused to cooperate, but his testimony was not credible. Applicant put false information on his SCA. He denied he knew the identity of the mother of the children that were living with him, which was false. Applicant claimed he made a mistake when he did not disclose the citizenship of his former brother-in-law and his mother. He also claimed he made a mistake when he failed to disclose that his sister was a citizen of Afghanistan and resident of Pakistan. I did not find him credible, and I conclude he intentionally failed to disclose this information. I also find Applicant intentionally failed to disclose information about his finances. Applicant did not correct his falsification before being confronted with the facts. There is no evidence that his omissions and falsifications were caused by improper advice. The offenses are not minor and the behavior is not infrequent, but rather repeated. Applicant denied he refused to cooperate, despite the contradictory evidence. Applicant has not taken steps to reduce his vulnerability. I have carefully considered all of the mitigating conditions and conclude none 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 the 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 F, B, and E in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment. Applicant refused to cooperate during the security investigation processing. He refused to release information about his finances. It appears he is not responsible for a credit card debt that his brother is the owner of and he is an authorized user. However, at his hearing, Applicant claimed not to know who the credit card belonged to. He has a charged off line of credit regarding his mortgage that he is attempting to modify. Applicant was aware of its status but did not disclose this to investigators. Applicant falsified his SCA when he listed children as his own when they were his sister's. Although he may have been attempting to protect the dignity of his sister, he continued to be uncooperative when he was asked about his nephew's incarceration. After listening to Applicant's testimony, observing his demeanor, and reviewing the record, I do not believe his testimony was truthful. He repeatedly changed his answers, evaded the questions, or was nonresponsive. Overall, the record evidence leaves me with serious questions and doubts about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the Financial Considerations, Foreign Influence, and Personal Conduct 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 F:	AGAINST APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	For Applicant
Paragraph 2, Guideline B:	AGAINST APPLICANT

Subparagraphs 2.a-2.b:	Against Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraphs 3.a-3.j:	Against Applicant

**Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is denied.

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Carol G. Ricciardello  
Administrative Judge