



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



In the matter of:)	
)	
-----)	ISCR Case No. 11-05329
)	
Applicant for Security Clearance)	

Appearances

For Government: Tovah Minster, Esquire, Department Counsel
For Applicant: *Pro se*

08/08/2012

Decision

MARSHALL, Jr., Arthur E., Administrative Judge:

On March 30, 2012, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (Financial Considerations) and Guideline B (Foreign Influence). 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) implemented by the DOD on September 1, 2006. In a response dated April 12, 2012, Applicant denied the allegations contained in the SOR and requested a hearing.

The case was assigned to another administrative judge for a video teleconference hearing on May 11, 2012, but transferred to me on May 30, 2012, due to Applicant's request to appear personally. The parties agreed to a June 28, 2012, hearing date. A notice to that effect was issued by DOHA on June 6, 2012. The hearing was convened as scheduled. Applicant testified, introduced one witness, and offered two documents, which were accepted into the record without objection as exhibits (Exs.) A-B. The Government offered four documents and a package constituting information for administrative notice. Those materials were accepted into the record without objection as Exs. 1-4 and Hearing Exhibit (HE) 1, respectively. Applicant, who appeared

at the hearing in person, but works abroad, was given 10 days to submit documents regarding the sole debt at issue under Guideline F. The transcript (Tr.) of the proceeding was received on July 6, 2012.

On July 11, 2012, the Government forwarded a package of materials from Applicant's mortgage lender to both Applicant and myself. The submission was made on behalf of Applicant. The Government forwarded the file without objection or comment. Receiving no additional comment from either party as of July 30, 2012, I accepted the package as Ex. C and the record was closed. Based on a review of the record as a whole, security clearance is granted.

Administrative Notice

The Government's Ex. HE-1 is a summary of facts about the Republic of Korea, commonly known as South Korea. The U.S. maintains cordial relations with South Korea, with which it maintains solid economic ties and in which the United States maintains a visible military presence. It is a highly developed, stable, democratic republic with shared powers between the president and the legislature. Under the U.S.-South Korea Mutual Defense Treaty, signed following the Korean War (1950-1953), the United States agreed to assist South Korea in the event of external aggression. More recently, in 2011, a significant free trade agreement was signed between the two nations. South Korea is the seventh-largest leading U.S. trade partner, ranking above such countries as France, Italy, and India. It has a modern economy where tourist facilities are widely available.

Tensions between South Korea and North Korea have not eased since the Korean War (1950-1953). The tensions between the two Koreas have increased over the past decade due to North Korea's nuclear program, tensions which similarly concern the United States. The United States believes that the question of peace and security on the Korean Peninsula is ultimately a matter for the Korean people to decide.¹

South Korea has had a history of collecting protected U.S. information. Although dated, the 1996 Interagency OPSEC Support Staff, *Intelligence Threat Handbook* (HE-1, Attachment IV), noted that South Korea has targeted the United States with intelligence gathering programs and has centered its collection on computer systems, aerospace technologies, and nuclear technologies. Its activities have included stealing information from databases maintained by the United States.²

¹ HE-1, Attachment II (U.S. Dep't of State, *Background Note: South Korea*, dated Apr. 12, 2012). It also notes that a dozen years ago, in 2000, South Korea was mentioned by the National Counterintelligence Center as one of the top 10 countries then engaging in foreign economic collection and industrial espionage.

² HE-1 at 2-3.

Findings of Fact

Applicant is a 39-year-old network engineer who was born in South Korea but moved to the United States in 1991. He became a naturalized U.S. citizen in 1997. Applicant is single and has no children. At the suggestion of his stepfather, he enlisted in the U.S. Army. He served in the U.S. Army for eight years before starting his present employment in 2008, after he received an honorable discharge. Applicant has a high school diploma. Due to his current work assignments, Applicant has mainly lived and worked in South Korea since 2004.

Applicant moved to the United States after high school at the invitation of his mother and stepfather, who were already living in the United States. Applicant's stepfather is a lifelong citizen and resident of the United States. Applicant's late mother was a naturalized U.S. citizen. They supported his decision to become a U.S. citizen.

In 2007, one of Applicant's two sisters immigrated to the United States and became a naturalized U.S. citizen. Her husband lives in South Korea due to work considerations. They have two children. Applicant speaks with this sister about once a month by telephone.

Applicant's other sister remains a citizen and resident of South Korea. This sister is married and has two children. They live about an hour away from Applicant's current workplace, which is located at or by a military facility. Applicant speaks with this sister on a monthly basis. From about 2008 to 2009, this sister visited Applicant's stepfather in the United States. For about six months during that time period, Applicant lived with this sister's husband in South Korea and commuted to work.³ None of Applicant's family members know what Applicant does for a living. Only his sister who resides in South Korea and her husband know that he has business ties on a base in South Korea.

Applicant, who lives on a U.S. base in South Korea, occasionally runs into an old classmate from his high school. Otherwise, Applicant generally does not seek out the company of the local citizenry. Applicant has no assets and maintains no bank accounts in South Korea.⁴ He currently earns a salary of \$53,000 and receives a housing allowance of about \$32,000. Other than the mortgage discussed below, he has no delinquent debts.⁵ He has always tried to follow the advice he received from his stepfather when he first came to the United States. That advice included the importance of always paying debts in a timely manner. Using that rule, Applicant formerly maintained a high credit score.

³ Tr. 29.

⁴ Tr. 30-31.

⁵ Tr. 40-41.

At issue in the SOR is a mortgage account that is in foreclosure status with a past-due amount of approximately \$337,000 and a total approximate balance of \$1,008,000. The obligation was seemingly created when Applicant was deemed to have become a cosigner in 2007 on a loan for the sister who resides in the United States. At the time, she was new to this country and did not have established credit. Applicant was happy to help his sister, but did not know the full amount of home she was purchasing.⁶

Applicant was unfamiliar with the process of purchasing and financing a home, but told his sister that she could use his name as a credit reference.⁷ He was working abroad at the time and was not monitoring her progress on buying a home. He never returned to the United States during this time frame to aid his sister in the acquisition of the property, nor was he ever in the United States between 2004 and the month of the 2012 hearing.⁸ The sister told their stepfather that she was going to use Applicant's "credit to help get" a house.⁹ It was later represented that she had obtained his power of attorney, thus enabling her to put his name on the loan application for the house purchase. Applicant's father credibly stated that Applicant apparently did not understand the definition of a power of attorney at the time.¹⁰

Applicant does not recall signing any paperwork regarding her loan or purchase, but later conceded that, given the facts, he "probably" did sign something because his sister had no credit history and yet she bought the house.¹¹ The record shows that Applicant has some difficulty with English legal terminology.¹² He believes he signed "kind of a simple paper doing something" that did not reflect "any kind of home address. . . ." ¹³ It was his general understanding that despite lending his name as a reference, his sister was to be responsible for making payments on the property. There is no evidence showing that he ever signed as a cosigner on the loan.¹⁴ He is willing to take responsibility for the debt if it is his.

⁶ Tr. 33.

⁷ See, e.g., Tr. 46.

⁸ Tr. 34, 39.

⁹ Tr. 45.

¹⁰ Tr. 46.

¹¹ Tr. 33-34, 39-40, 55-56.

¹² Tr. 57-59, 62.

¹³ Tr. 59-60.

¹⁴ Tr. 35.

In 2009 or 2010 Applicant's sister's husband decided not to join his wife and children in the United States. Consequently, he stopped sending her funds, including money for the mortgage payments and child support.¹⁵ In 2010, Applicant's stepfather was contacted by the lender at issue. He was surprised to discover that Applicant's name had been attached to his stepdaughter's mortgage, which was now past-due.¹⁶ She had not previously disclosed this fact to anyone.¹⁷ He confronted his stepdaughter, who stated, "Well, I, uh, uh, uh." and she mumbled, and she said, 'But [Applicant's] name ended up on the house.'¹⁸ The stepfather was irate with his stepdaughter for taking advantage of Applicant. He stated that in their conversation, "there was a lot of abusive language in it, [that's] how I felt, that she was hurting him by doing what she did. And I told her bluntly I thought she was ignorant and a bunch of things, because I knew it hurt him."¹⁹

Noting that Applicant did not understand the concept of a power of attorney, Applicant's stepfather advised his daughter that she was wrong to trade her brother's permission to be used as a credit reference with the use of his name on her mortgage application.²⁰ He has repeatedly told her, "You know, you could end up going to jail, because you put his name on the house. Even though you had something written, it was shady as how you got that authority to put his name there.' And I believe when she actually bought the house she never even signed his name, and said 'under power of attorney.'²¹ At the time of the hearing, however, neither Applicant nor his stepfather had copies of Applicant's sister's home loan application or any documents purporting to show that he had signed over his power of attorney to his sister.

Applicant's stepfather told his stepdaughter to contact the lender and resolve the situation. By that point, the stepdaughter was divorced and had no income, but she tried to work with the lender, then started working with a realtor to sell the home by late

¹⁵ Tr. 45.

¹⁶ Tr. 45-50.

¹⁷ Tr. 45-46.

¹⁸ Tr. 47.

¹⁹ Tr. 49-50. The stepfather further stated, "I let her know my true feelings of how I felt, that she betrayed her brother by doing that without letting him know what she was doing." Tr. 50.

²⁰ Tr. 55-56.

²¹ Tr. 56. This representation was later corroborated by the documents included in Ex. C, which were submitted by the lender after the hearing and reflect the stepdaughter's signature followed by "/POA" in the signature space for Applicant's signature. At most, the stepfather thinks Applicant signed a power of attorney, although the power of attorney contained in Ex. C is unsigned. However, he does not recall Applicant asking him about a power of attorney, noting that he would have advised Applicant against signing such an instrument. Tr. 57. To his stepdaughter's defense, the stepfather notes that her English skills are poor. He also suggests she may have been manipulated by the realtor. Tr. 62-64.

2010 or 2011.²² In the interim, Applicant learned from his stepfather in mid-2010 that his sister was not making payments on her mortgage.²³ He was not otherwise contacted by the lender directly. Not knowing he had been listed as a co-borrower on his sister's mortgage applicant, he had not had a reason to check his credit report. It is Applicant's credit report that serves as the basis for the allegation that he is a cosigner on the obligation.²⁴ When completing his September 2010 security clearance application (Ex. 1), Applicant explained that he was listed as the co-owner of the home at issue, but noted that his sister was the true owner of the property and that his role in the transaction was limited to helping her be approved for a loan. His sister wrote on behalf of Applicant that, "I have been responsible for the actual payment and maintenance [of the property at issue]. Before the loan was applied, my brother and I agreed that my brother would assist me to obtain the loan because I did not establish enough credit history for a jumbo loan."²⁵

To resolve the situation, Applicant's sister began trying to sell the home in 2010. It is Applicant's understanding that if she can sell the home, only the remaining difference will be considered to represent an outstanding balance. Applicant's Ex. B is a May 2011 real estate listing, indicating the property is for sale as a short sale. He does not have evidence of his sister's earlier listings, but affirms they were made.²⁶ To the best of his knowledge, she has not made any further payments on the loan.

After the hearing, Applicant requested the lender to forward the paperwork underlying Applicant's purported obligation on the home. It was forwarded to me without objection or comment by the Government and accepted as Ex. C.²⁷ The paperwork designates Applicant as the borrower. It correctly notes Applicant's 1973 birthdate and Social Security number, but incorrectly states a) that he is married; b) has a home telephone number and address in a state in which he has not resided; and c) he is a self-employed president of a company in a state in which he has neither worked nor lived.²⁸ It reflects Applicant's sister's name as being the name of Applicant's wife, even

²² Tr. 52-54.

²³ Tr. 35.

²⁴ Tr. 39.

²⁵ Response to the SOR, Sister's Letter, Attachment dated Sep. 10, 2010.

²⁶ Tr. 37.

²⁷ Ex. C (Loan Application, Legal Instruments, and Settlement Statement Package from Lender, mailed Jun. 30, 2012).

²⁸ Compare the supplied information to the information entered in Ex. 1 (Security Clearance Application, dated Sep. 9, 2009) at 10-12 of 59 and 18-26 of 59, indicating residence and employment either in a distant state or abroad.

though Applicant has never been married.²⁹ No reference is made to Applicant's sister's husband. It further affirms that Applicant intends to occupy the purchased residence as his permanent residence, despite his own lack of nexus to the state in which the property is located. No mention is made of Applicant's South Korean work site or his on-base housing in South Korea. The first three applications are unsigned. The fourth is undated and signed by Applicant's sister in the space designating Applicant as the borrower, noting that she was acting as "attorney in fact." That application is followed by a lawyer's representation that Applicant personally appeared before him to sign a certified statement on July 10, 2007, although there is no evidence Applicant was ever in that state or in the United States at that time.³⁰ The purported signature of Applicant on that document in no way resembles Applicant's signature on the Response to the SOR or Ex. 1, his security clearance application of September 9, 2010, following page 59 of 59 pages.

The next document from the lender is a "Power of Attorney for Purchase of Real Estate."³¹ It is in the form of a non-abstracted deed recorded by the county registrar. It identifies as the principal in the purchase of a property located at a street address in his sister's state. It gives a woman identified as Applicant's sister the power to act on his behalf in the acquisition of that specific property.³² It concludes that "by signing below, I acknowledge that I have received a copy of the Power of Attorney and I understand its terms."³³ The document is unsigned. However, a succeeding settlement statement in the lender's package is signed by Applicant's sister with the designation "POA" following her signature on the space provided for Applicant's signature.³⁴

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required 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

²⁹ Compare the name of Applicant's "wife" with his sister at Ex. 1 (Security Clearance Application, dated Sep. 9, 2009) at 34 of 56.

³⁰ Ex. C, *supra*, note 27, at 18.

³¹ Ex. C, *supra*, note 27, at 19.

³² It is noted that Applicant credibly testified that he did not sign a document for his sister reflecting the property's street address. Tr. 59-60.

³³ *Id.*

³⁴ Ex. C, *supra*, note 27, at 24.

judge's over-arching adjudicative goal is a fair, impartial, and commonsense decision. Under AG ¶ 2(c), this process is a conscientious scrutiny of a number of variables known as the "whole-person concept." All available, reliable information about the person, past and present, favorable and unfavorable, must be and are considered 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 my decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence submitted.

The Government must present evidence to establish controverted facts alleged in the SOR. 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. . . ." ³⁵ The burden of proof is something less than a preponderance of evidence. The ultimate burden of persuasion is on the applicant. ³⁶

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 an 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 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). "The clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials."³⁷ Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.³⁸ The decision to deny an individual a security clearance is not necessarily

³⁵ See *also* ISCR Case No. 94-1075 at 3-4 (App. Bd. Aug. 10, 1995).

³⁶ ISCR Case No. 93-1390 at 7-8 (App. Bd. Jan. 27, 1995).

³⁷ *Id.*

³⁸ *Id.*

a determination as to the loyalty of an applicant.³⁹ It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. Based upon consideration of the evidence, I find Guideline E (Personal Conduct) and Guideline B (Foreign Influence) pertinent to the case. Relevant disqualifying and mitigating conditions noted under those guidelines are discussed below.

Analysis

Guideline B – Foreign Influence

The concern under Guideline B is that 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. The adjudication 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 U.S. citizens to obtain protected information or is associated with a risk of terrorism. Conditions pertaining to this adjudicative guideline that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, are discussed in the conclusions below.

The United States and South Korea have maintained cordial relations since the end of the Korean War and have significant economic ties. They share security concerns regarding North Korea's nuclear program. While South Korea is known to collect protected information maintained by the United States in its computer systems and other technological sources, there is scant evidence of its applying pressure to, or targeting, either its citizens or those of the United States in its pursuit of protected information. Regardless, close scrutiny is warranted.

The SOR sets forth three allegations under this concern. Two of those allegations concern Applicant's sister and brother-in-law who are citizens and residents of South Korea. The third referenced Applicant's other sister and described her as a citizen of South Korea living in the United States. Applicant credibly explained that this sister is now a naturalized U.S. citizen. However, the situation regarding his first two referenced relatives is sufficient to raise Foreign Influence Disqualifying Conditions AG ¶ 7(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 exploitation, inducement, manipulation, pressure, or coercion*) and AG ¶ 7(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*

³⁹ Executive Order 10865 § 7.

country by providing that information). With disqualifying conditions raised, the burden shifts to Applicant to mitigate security concerns.

Applicant's sister and brother-in-law in South Korea live close to the base at which he works. They are aware that he has business there, but are unaware of the exact nature of his work. Incidental to his assignment so close to their residence, they have contact with each other about once a month. Applicant stayed at their home for about six months a few years ago while his sister was visiting their stepfather in the United States on a protracted visit. Other than that, he has no notable ties to South Korea except those extended through his employment with a U.S. defense contractor with a work facility connected to a base in that country.

In 1991, at the invitation of the U.S.-born stepfather and his naturalized U.S. citizen mother, Applicant made the decision as an adult to move from South Korea and become a U.S. citizen. At his stepfather's suggestion, he enlisted in the U.S. Army, where he was honorably discharged after eight years of service. Immediately after his discharge, he began working for a defense contractor at a facility on or near the base at which he had been deployed. His return to the United States for the 2012 hearing was his first visit since 2004. Otherwise, he has remained in South Korea, devoting his life to his work. He has spent most of his time in South Korea living on base. Despite his many years of military service in South Korea, there is no evidence that he has ever been approached by any individuals to compromise U.S. intelligence. His contact with everyday South Koreans is minimal.

Applicant is exceptionally close to his stepfather, who is a savvy, native-born U.S. citizen. His stepfather is highly influential in Applicant's life and Applicant has been quick to earn his elder's approval, this includes Applicant's having pursued a career in the U.S. Army. Applicant maintains monthly telephonic contact with his sister who is a citizen of the United States.

Applicant's relationship with his foreign sister and brother-in-law arguably has the potential of creating a risk for foreign influence, but that risk seems unlikely. These relations have been supportive of Applicant both during his years of U.S. Army service in South Korea and currently as an employee of a defense contractor. They do not know the nature of his work, but understand it is related to the U.S. military presence in South Korea. They are equally close to Applicant's U.S.-born stepfather, who holds a special influence on his late wife's children. They appreciate both Applicant's and the stepfather's allegiance to the United States. There is no evidence that either is involved in any efforts to collect U.S. protected information, or represent a branch of a foreign government. Their personal contact with Applicant is highly incidental to his being stationed on U.S. defense-related business in South Korea. Further, there is no evidence that either Applicant or his sister's family have ever been approached by foreign agents regarding the acquisition of classified U.S. information. These considerations do not outweigh Applicant's years of demonstrated allegiance to the United States, the U.S. Army, or his stepfather.

In light of the above, Foreign Influence Mitigating Condition AG ¶ 8(a) (*the nature of the relationships 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, or government and the interests of the U.S.*) and AG ¶ 8(b) (*there is no conflict of interest, either because the individual's sense of loyalty to 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*).

Guideline F – Financial Considerations

Under that guideline, failure or an 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.⁴⁰ Here, Applicant is shown as being indebted to a lender for a mortgage account that is in foreclosure status with a past-due amount owed. If true, Financial Considerations Disqualifying Conditions AG ¶ 19(a) (*inability or unwillingness to satisfy debts*) and AG ¶ 19(c) (*a history of not meeting financial obligations*) apply. With such conditions raised, it is left to Applicant to mitigate security concerns.

Applicant's hearing testimony as to how or what, if anything, he signed that might obligate him on his sister's defaulted home loan was inconsistent. Whether it was a reflection of cultural differences, linguistic nuances, poor memory, or a cavalier attempt to shoulder a familial obligation on his own, is unclear. What is clear is that Applicant was a highly credible witness who gave no indication of trying to defraud or mislead the Government in this case. The Government conceded that its only evidence that Appellant was obligated for this debt was his credit report. With the burden plainly on the Applicant in this case, and with his limited time in the United States to resolve this issue, he was given time to supplement the record with evidence concerning the underlying loan. That evidence was received directly from the lender and was left without additional comment by both parties.

Depending on how the question was posed, Applicant admitted or denied having signed various documents to help his sister purchase her home. His sister's declaration that she was responsible for the property's mortgage payments, and that Applicant only served to help her obtain her loan, lacked sufficient specificity to clarify the situation. His stepfather credibly offered that his stepdaughter had manipulated or had been used to manipulate his stepson's proffer to be a credit reference for the sister. The lender's documents shed light on the situation and strongly suggest that something dubious, if

⁴⁰ AG ¶ 18.

not patently fraudulent, was taking place in Applicant's sister's state while Applicant toiled in South Korea.

As noted above, inconsistencies in the loan application package abound. Applicant is listed as having been a resident and independent entrepreneur in his sister's state when he was plainly living and working for a defense contractor abroad. Applicant has always been single, but the application incongruously states that he is married – to his sister. His contact information is shown as being located in his sister's state. Only his name, Social Security number, and date of birth appear to be accurate. A power of attorney regarding the specified property for sale is unsigned and, therefore, of dubious legality. Only a short July 2007 certification that Applicant appeared before an attorney in Applicant's sister's state to sign a document or documents has a signature in Applicant's name. It has the potential of being the short letter or document Applicant thinks he may have signed; it is also the only form related to the loan in the lender's package that does not include a street address for the property. However, that signature does not appear to match those signatures Applicant applied to his response to the SOR or his security clearance application. Moreover, Applicant credibly testified that his appearance at the hearing was his first trip to the United States since 2004. In light of strong evidence that Applicant did not sign this certification, and in the absence of a signature bearing some resemblance to Applicant's own, this document also seems to be of dubious legality.

Despite his willingness to undertake any obligation he has incurred, Applicant was credibly sincere in his failure to recall signing a document that encumbered him with the debt at issue. Armed with the lender's offered materials and notes regarding these irregularities, the lender's paperwork provides a reasonable basis to dispute the attributed obligation to the three major credit reporting bureaus (Equifax, TransUnion, and Experian) on-line or by mail, and to dispute the attribution of that debt to him directly with the lender. Given the major discrepancies and apparent fictions included in the lender's application package, as well as Applicant's recent experience in this process regarding this unique situation, I find that Applicant has provided sufficient evidence to raise AG ¶ 20 (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*).

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). 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.

Applicant is a mature, highly credible, and straightforward man who came to this country after high school to be closer to his mother and his stepfather. He has been a loyal stepson and followed his stepfather's advice, from joining the U.S. military to paying his bills in a timely manner. As a result, he served honorably in the U.S. Army for eight years and, until recently, maintained good credit. Given his unique background and military experience in South Korea, he was offered a job upon his discharge in 2008 to work for a defense contractor in South Korea. While this recruitment has minimized the number of years he has actually lived in the United States, it has maximized his experience serving this country by utilizing his personal knowledge and unique experience.

Applicant maintains a relationship with a sister and brother-in-law in South Korea. They live near the U.S. Army base at which he lives and is employed. They know he has a working relationship with his former post, but do not know his actual business. Neither they nor third parties have ever approached Applicant concerning protected information. There is no evidence that they have any interest in acquiring such information from him. Rather, the facts show them to be regular citizens respectful of their American relatives.

Applicant had a solid credit score and good credit until a past-due mortgage with a total balance of \$1,008,000 was attributed to Applicant reported by a lender to the major credit reporting bureaus. While failing to use the appropriate financial industry terms regarding his support of his sister's acquisition of a home, Applicant has consistently maintained that he only helped her secure financing and did not endeavor to assume any financial obligation for her loan. Applicant's credible, but often linguistically imprecise, testimony was directly supported by his more articulate and savvy stepfather. After the hearing, they had the lender forward the documents related to the loan. The applications reveal false information regarding Applicant, ranging from profession to his home and work locations, information vital to a home loan application. They falsely state that he is married to his sister, with no mention of her now-former husband as her real spouse. The power of attorney presumably relied upon by his sister when she signed the application and settlement on his behalf is unsigned and unexecuted. Such evidence supports Applicant's initial statements that he never signed on as a co-borrower with his sister, despite his conclusion that perhaps he unknowingly had done so because her loan was approved. Now empowered with the lender's documents, Applicant and his stepfather can take appropriate corrective measures with the lender and the three leading credit reporting bureaus.

I have duly considered all the exhibits and relevant facts in this case. I find that Applicant's sister and brother-in-law in South Korea do not create a heightened risk of foreign exploitation, inducement, manipulation, or coercion, and do not pose a force that would realistically divide Applicant's loyalties to this country. Moreover, I find no evidence that Applicant has failed or is incapable of living within his means, honoring his debts, or is financially extended through any fault of his own. Rather, based on the

lender's own documents, I find that he was more than likely an unknowing victim in either an intentional or negligent case of fraud or mistake. Regardless, I find that Applicant has met his burden in mitigating security concerns. Clearance is granted.

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:	FOR APPLICANT
Subparagraphs 1.a:	For Applicant
Paragraph 2, Guideline B:	FOR APPLICANT
Subparagraphs 2.a-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. Clearance granted.

ARTHUR E. MARSHALL, JR.
Administrative Judge