



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



In the matter of:	)	
	)	
[Redacted]	)	ISCR Case No. 12-01653
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Eric H. Borgstrom, Esq., Department Counsel  
For Applicant: Sanjay Chaubey, Esq.

03/06/2014

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**Decision**

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FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guideline F (Financial Considerations) and B (Foreign Influence). Eligibility for access to classified information is granted.

**Statement of the Case**

Applicant submitted a security clearance application on November 14, 2011. On September 26, 2013, the Department of Defense (DOD) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines F and B. DOD acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by DOD on September 1, 2006.

Applicant received the SOR on September 30, 2013; answered it on October 19, 2013; and requested a hearing before an administrative judge. Department Counsel was ready to proceed on December 23, 2013, and the case was assigned to me on January 3, 2014. On January 7, 2014, the Defense Office of Hearings and Appeals

(DOHA) issued a notice of hearing, scheduling the hearing for January 14, 2014. I convened the hearing as scheduled. Applicant waived the 15-day notice required by Directive ¶ E3.1.8. Government Exhibits (GX) 1 through 4 were admitted in evidence without objection. Applicant testified and submitted Applicant's Exhibits (AX) A through O, which were admitted without objection. I kept the record open until January 31, 2014, to enable Applicant to submit additional documentary evidence. He timely submitted AX P through W, which were admitted without objection. Department Counsel's comments regarding AX P through V are attached to the record as Hearing Exhibit (HX) IV. (HX I, II, and III are discussed below under "Administrative Notice.") Department Counsel did not comment on AX W, but did not object to it. DOHA received the transcript (Tr.) on January 28, 2014.

### **Administrative Notice**

Department Counsel requested that I take administrative notice of relevant facts about Bangladesh. The supporting documents are attached to the record as HX I, II, and III. I took administrative notice as requested. The facts administratively noticed are set out below in my findings of fact.

### **Findings of Fact**

In his answer to the SOR, Applicant admitted SOR ¶¶ 1.a, 2.a, 2.b, 2.d, and 2.e. He denied SOR ¶¶ 1.b, 1.c, and 2.c. His admissions in his answer and at the hearing are incorporated in my findings of fact.

Applicant is a 54-year-old software developer employed by a defense contractor since October 2011. He has never held a security clearance.

Applicant was born in Bangladesh. He attended college in Bangladesh and received a bachelor's degree in engineering in July 1982, a master's degree in engineering in September 1986, and a master's degree in business administration in June 1995. He came to the United States with his wife and two children in November 1998 on an H-1B visa.<sup>1</sup>

Applicant worked as a software engineer for non-government employers from May 1999 to April 2004 and July 2004 to January 2010, when he was laid off. His employer paid him through March 2010. He worked intermittently as a part-time instructor at a business and computer technology school from February 2010 until August 2010. He was unemployed from August 2010 to October 2011, when he began his current job. (GX 1 at 14-15; Tr. 72.)

When Applicant was laid off, his annual income dropped drastically. His annual salary before being laid off was more than \$100,000 (Tr. 72.) His federal income tax

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<sup>1</sup> An H-1B visa is a non-immigrant visa that allows U.S. companies to employ foreign workers in specialized fields such as architecture, engineering, mathematics, science, and medicine.

return for 2011 reported gross income of \$12,701. (AX Q.) His return for 2012 reflected gross income of \$73,773 (AX R.) He testified that his annual salary when he returned to work in October 2011 was about \$80,000, significantly less than he had been earning before being laid off. (Tr. 74-75.) In April 2013, he submitted a personal financial statement, reflecting gross monthly income of about \$9,361 (about \$112,332 per annum); net monthly income of about \$7,562; expenses of \$5,280; debt payments of about \$3,644; and a net monthly remainder of about \$2,282. His gross monthly income includes about \$2,900 in rental income. (GX 2 at 38; Tr. 81.) He has about \$20,000 in his checking account. (Tr. 75.)

Applicant's performance appraisal for the period ending in March 2012 rated him as exceeding expectations in job knowledge, job performance, and initiative; and as meeting expectations in judgment, professional qualities, interpersonal relationships, communication, and leadership. (AX K.) His performance appraisal for the period ending in February 2013 rated him as exceeding expectations in job knowledge and initiative, and as meeting expectations in all other performance factors. (AX L.)

Applicant married a citizen of Bangladesh in June 1990. She is trained as a physician but is not practicing. (Tr. 39.) Two children, ages 22 and 17, were born in Bangladesh. Applicant obtained his "green card" in 2005. He, his wife, and their oldest son became U.S. citizens in September 2010. At the time, Applicant was jobless and could not afford the \$600 fee to apply for citizenship for their younger child, now their middle child. (Tr. 34.) Their middle child applied for U.S. citizenship in August 2013. (AX F; AX G at 1.) Their third child, age 13, is a native-born U.S. citizen.

Applicant's oldest son is a college graduate. Applicant paid his tuition without any student loans. (Tr. 41.) Applicant had no tuition expense for the last two years of college because his son had a campus job and was receiving scholarships. (Tr. 78.)

Applicant's mother and four of his five brothers are citizens and residents of Bangladesh. Two of his brothers live in Dhaka, the capital of Bangladesh, and his mother and two other brothers live in a small village outside Dhaka. (Tr. 87.) A fifth brother is a citizen of Bangladesh who came to the United States on an H-1B visa and is now a permanent resident of the United States. He married a U.S. citizen, has three children who are native-born U.S. citizens, and intends to become a U.S. citizen as soon as he completes the five-year residency requirement. One of Applicant's brothers in Bangladesh is a lawyer and the other is employed by an information technology company. His other two brothers in Bangladesh are employed by private businesses. (Tr. 37-38, 95.) Applicant has weekly telephone contact with his mother and brothers in Bangladesh. (GX 2 at 39.)

Applicant's wife has four brothers and five sisters. Two brothers are citizens and residents of the United States and married to U.S. citizens. One brother is a citizen and resident of the Netherlands and is married to a citizen of the Netherlands. One brother is a citizen and resident of Canada. Her sisters are citizens and residents of Bangladesh. (GX 2 at 39-40; Tr. 90-92.) In November 2011, she applied for a U.S.

immigration visa for one sister. (AX G at 8.) She has one brother-in-law, the husband of a deceased sister; and he and their daughter are citizens and residents of the United States. (GX 2 at 40; Tr. 91.)

Applicant has monthly contact with the three brothers-in-law who are citizens and residents of the United States and one brother-in-law who is a citizen and resident of the Netherlands. He has occasional contact with one brother-in-law who is a citizen and resident of Canada. He has contact about once a year with the sisters-in-law who are citizens and residents of Bangladesh. (GX 2 at 39-40.)

Applicant applied for an immigration visa for his mother in May 2012. (AX G at 2-3.) He testified that her application was recently approved, and he hopes that she can come to the United States in 2014. (Tr. 64-65.) He applied for immigration visas for his four brothers in Bangladesh in October 2011. (AX G at 4-7.)

Applicant traveled to Bangladesh to attend his father's funeral in 2006. He traveled to Bangladesh again for ten days in 2012, when his mother was seriously ill. He has not traveled outside the United States for any other occasions. (Tr. 35-36.)

Applicant purchased his current residence in 2005 for \$583,000, with a 20 percent down payment. (Tr. 43.) The loan was serviced by the creditor alleged in SOR ¶ 1.c until it was transferred to the creditor alleged in SOR ¶ 1.d. (AX S; AX U.) After Appellant was laid off, he used his savings to make the loan payments until October 2010. (Tr. 43-44.) He has not made any payments since November 2010. (GX 2 at 65; Tr. 72.) After he had exhausted his savings, he contacted the lender several times and requested a loan modification, but the lender sent the loan to a collection agency. He testified that he received loan modification offers in January and June 2012, but they were "false," because they were merely collection efforts. (Tr. 74.) On July 2012, he again requested a loan modification under the Home Affordable Mortgage Modification Program. In December 2013, he was notified that his loan would be modified after he made three monthly "trial period" payments of \$2,192, beginning in February 2014. (AX A.) The record closed before any of the trial payments were due. The loan modification will reduce his monthly payments by about \$1,400 per month. (Tr. 82-83.)

While Applicant was unemployed, he fell behind on the payments on a credit card account. His November 2011 credit bureau report (CBR) reflected a balance of \$20,831, with past-due payments totaling \$2,511. (GX 4 at 9.) He used this credit card to pay his son's college tuition while he was laid off. On July 20, 2012, he settled this debt for \$8,000. (AX B.) The November 2011 CBR reflects 12 other credit card accounts and charge accounts that remained current during his period of unemployment.

Applicant owns a rental apartment in Bangladesh worth about \$50,000. He acquired it before coming to the United States. It is managed by his brother who is a lawyer, and he uses the income to support their mother. Applicant receives no income from the property. He is trying to sell it, but has not been successful. (GX 2 at 18, 32; Tr. 53-56.)

Applicant also owns two rental apartments in the United States that he purchased in 2001 and 2003. (Tr. 56, 76.) He tried to sell one of them in 2005, when he bought his primary residence, but was unsuccessful. He did not attempt to sell them when he became unemployed in 2010. The rental income is sufficient to make the mortgage loan payments on both properties. (Tr. 77.) The payments on the mortgage loans on these properties remained current during Applicant's period of unemployment. (GX 4 at 10-11.)

Bangladesh is a parliamentary democracy with a unicameral legislature. Recent elections have been judged by international and domestic observers as generally free and fair, with isolated irregularities and sporadic violence. Bangladesh is committed to combating domestic and transnational terrorist groups, making it difficult for these groups to operate in or establish safe havens in the country. The government uses strategic communication to counter violent extremism, especially among youth. It provides oversight for madrassas and is developing a national curriculum and minimum standards of secular subjects to be taught in all primary schools. It works with imams and religious scholars to build public awareness against terrorism. It works with regional groups to combat money laundering, and it has enacted and implemented antiterrorism laws and strengthened its control of its borders and ports of entry.

In Bangladesh, official corruption and related impunity are persistent problems. Courts are slow and inefficient. Bangladesh has a high crime rate, but its crime rate is comparable to other world capitals and large cities. Property-related crimes such as fraud, pick-pocketing, robbery, carjacking, and burglary are the most common. General strikes and political demonstrations are common and sometimes violent. There have been no direct attacks on U.S. citizens or targeting of foreigners, but U.S. citizens and Westerners are at risk of being swept up in political demonstrations and violence.

The areas around Dhaka, the capital city, are generally safe. However, there have been incidents of kidnapping, narcotics smuggling, and ethnic clashes in the southeast part of the country, known as the Chittagong Hill Tracts. The administrative notice materials presented by Department Counsel do not reflect economic or military espionage against the United States or use of kidnappings or violence to gather sensitive U.S. information or technology.

### **Policies**

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to "control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the AG. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 92-1106 at 3, 1993 WL 545051 at \*3 (App. Bd. Oct. 7, 1993).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## Analysis

### Guideline E, Financial Considerations

The SOR alleges that Applicant has past-due mortgage loan payments totaling about \$99,000 (SOR ¶ 1.a), past-due credit card payments of about \$2,511 (SOR ¶ 1.b), and past-due mortgage loan payments totaling about \$47,684 (SOR ¶ 1.c). The evidence reflects that the debt alleged in SOR ¶ 1.c is included in the debt alleged in SOR ¶ 1.a. When the same conduct is alleged twice in the SOR under the same guideline, one of the duplicative allegations should be resolved in Applicant's favor. See ISCR Case No. 03-04704 (App. Bd. Sep. 21, 2005) at 3 (same debt alleged twice). I have resolved SOR ¶ 1.c in Applicant's favor.

The concern under this guideline 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.

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

The evidence concerning Applicant's delinquent mortgage loan and delinquent credit card account establishes two disqualifying conditions under this guideline: AG ¶ 19(a) (inability or unwillingness to satisfy debts) and AG ¶ 19(c) (a history of not meeting financial obligations). The following mitigating conditions are potentially relevant:

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;

AG ¶ 20(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;

AG ¶ 20(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; and

AG ¶ 20(d): the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

AG ¶ 20(f) (disputed debts), and AG ¶ 20(g) (unexplained affluence) are not relevant to this case.

AG ¶ 20(a) is not established. Applicant missed numerous payments on his home mortgage loan and a credit card account. Although he has been approved for a loan modification, he has not yet completed the trial payment period. The debts were not incurred under unusual circumstances making them unlikely to recur.

AG ¶ 20(b) is established. Applicant's loss of employment was a circumstance beyond his control, and he acted responsibly. He worked part-time as an instructor while seeking full-time employment. He notified his creditors of his unemployment and attempted to obtain a modification on his home loan. He remained current on 12 other credit card accounts and other financial obligations. He educated his son without incurring any indebtedness except for the credit card debt alleged in SOR ¶ 1.b, which is now resolved. He elected to keep his rental properties, because they were self-sufficient and produced \$2,900 per month in income. He persisted in his attempts to obtain a loan modification and was ultimately successful.

AG ¶ 20(c) is partially established. Applicant has not received counseling, but there are "clear indications" that his financial problems are being resolved.

AG ¶ 20(d) is established. Good faith means acting in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation. ISCR Case No. 99-0201, 1999 WL 1442346 at \*4 (App. Bd. Oct. 12, 1999). A security clearance adjudication is aimed at evaluating an individual's judgment, reliability, and trustworthiness. It is not a debt-collection procedure. ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010.) A person is not required, as a matter of law, to establish resolution of every debt alleged in the SOR. He or she need only establish a plan to resolve financial problems and take significant actions to implement the plan. The adjudicative guidelines do not require that an individual make payments on all delinquent debts simultaneously, nor do they require that the debts alleged in the SOR be paid first. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). Applicant resolved the credit card debt in July 2012. He persisted in his efforts to obtain a home loan modification, in spite of the lack of responsiveness by the original mortgage holder. Although he has not completed the trial payment period for his loan modification, his track record in discharging his other financial obligations makes it unlikely that he will fail to comply with the terms of his loan modification.



## **Guideline B, Foreign Influence**

The SOR alleges that Applicant's mother is a citizen and resident of Bangladesh (SOR ¶ 2.a); his five brothers are citizens of Bangladesh, and four of them reside in Bangladesh (SOR 2.b); his son is a citizen of Bangladesh and resides in the United States (SOR ¶ 2.c); and his two sisters-in-law are citizens and residents of Bangladesh (SOR ¶ 2.d). It also alleges that he owns an apartment in Bangladesh worth about \$50,000 (SOR ¶ 2.3)

The security concern under this guideline is set out in AG ¶ 6 as follows:

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.

When foreign family ties are involved, the totality of an applicant's family ties to a foreign country as well as each individual family tie must be considered. ISCR Case No. 01-22693 at 7 (App. Bd. Sep. 22, 2003). "[T]here is a rebuttable presumption that a person has ties of affection for, or obligation to, the immediate family members of the person's spouse." ISCR Case No. 01-03120, 2002 DOHA LEXIS 94 at \* 8 (App. Bd. Feb. 20, 2002).

Guideline B is not limited to countries hostile to the United States. "The United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States." ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004).

Furthermore, "even friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security." ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at \*\*15-16 (App. Bd. Mar. 29, 2002). Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. Nevertheless, the nature of a nation's government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, or the country is known to conduct intelligence operations against the United States. In considering the nature of

the government, an administrative judge must also consider any terrorist activity in the country at issue. See *generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006) (reversing decision to grant clearance where administrative judge did not consider terrorist activity in area where family members resided).

Four disqualifying conditions under this guideline are relevant to this case:

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 foreign exploitation, inducement, manipulation, pressure, or coercion;

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 country by providing that information;

AG ¶ 7(d): sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion; and

AG ¶ 7(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.

Four mitigating conditions under this guideline are potentially relevant:

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.;

AG ¶ 8(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;

AG ¶ 8(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

AG ¶ 8(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 disqualifying conditions set out in AG ¶¶ 7(a), (d), and (e) all require substantial evidence of a “heightened risk.” The “heightened risk” required to raise one of these disqualifying conditions is a relatively low standard. “Heightened risk” denotes a risk greater than the normal risk inherent in having a family member in a foreign country or under the control of a foreign government.

I conclude that the evidence does not establish the “heightened risk” under AG ¶¶ 7(a), (d), and (e) and the potential conflict of interest under AG ¶ 7(b). Terrorism is a concern in every country, including the United States, as demonstrated by the recent Boston Marathon bombings. Bangladesh has an aggressive anti-terrorism program, and the administrative notice materials indicate that terrorism is no greater threat in Bangladesh than it is in the United States. Bangladesh suffers from a high crime rate, official corruption, human rights abuses, and impunity of government officials. However, criminal activity is property-related and not a means of acquiring sensitive information. The crime rate is no greater than comparable national capitals or large cities elsewhere in the world.

Even though Applicant’s youngest son is a citizen of Bangladesh, AG ¶ 7(c) is not established, because his son lives in the family household, has applied to be a U.S. citizen, and poses no additional security risk to his family.

Assuming, *arguendo*, that any disqualifying conditions were established, I would conclude that they are mitigated. AG ¶¶ 8(a) and 8(b) are established, because the nature of the country involved and the activities of his family and in-laws are such that it is unlikely that Applicant would be placed in a position of having to choose between the interests of Bangladesh or any terrorist elements in Bangladesh and the interests of the United States. In the unlikely event that Applicant found himself facing a conflict of interest, I am confident that his deep and longstanding relationships and loyalties in the United States would cause him to resolve any conflict of interest in favor the U.S. interest. Applicant and his wife have lived in the United States since 1998. He, his wife, and two of their three children have been citizens since September 2010. He is deeply devoted to his wife and sons. He has sponsored his mother to immigrate to the United States. One brother lives in the United States and intends to become a U.S. citizen as soon as he satisfies the five-year residence requirement. Applicant owns his home and two rental properties in the United States. He has spent almost all of his professional life in the United States. He has visited Bangladesh only twice since 1998.

AG ¶ 8(c) is established for Applicant’s in-laws in Bangladesh with whom he has only annual contact. It is not established for his immediate family members and in-laws with whom he has more frequent contact.

AG ¶ 8(f) is established for Applicant's apartment in Bangladesh. He acquired it before coming to the United States. He has no emotional attachment to the property, and he does not receive any income from it. It has modest market value in comparison to his primary U.S. residence and his two rental properties in the United States.

### **Whole-Person Concept**

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. In applying the whole-person concept, an 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. An 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.

I have incorporated my comments under Guidelines F and B 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 a well-educated, mature adult who has spent his entire professional life in the United States. He was candid, sincere, and credible at the hearing. He persevered when he encountered unemployment and the resulting financial problems. He is now financially stable.

After weighing the disqualifying and mitigating conditions under Guidelines F and B, evaluating all the evidence in the context of the whole person, and mindful of my obligation to resolve close cases in favor of national security, I conclude Applicant has mitigated the security concerns based on financial considerations and foreign influence. Accordingly, I conclude he has carried his burden of showing that it is clearly consistent with the national interest to grant him eligibility for access to classified information.

### **Formal Findings**

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F (Financial Considerations): FOR APPLICANT

Subparagraphs 1.a-1.c: For Applicant

Paragraph 2, Guideline B (Foreign Influence): FOR APPLICANT

Subparagraphs 1.a-1.e: For Applicant

### **Conclusion**

I conclude that it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

LeRoy F. Foreman  
Administrative Judge