



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



In the matter of:)
)
) ISCR Case No. 12-02016
)
)
Applicant for Security Clearance)

Appearances

For Government: Tovah A. Minster, Esq., Department Counsel
For Applicant: *Pro se*

03/27/2013

Decision

RIVERA, Juan J., Administrative Judge:

Applicant, a 1996 naturalized U.S. citizen, established longstanding relationships and loyalties in the United States. She mitigated the foreign preference concerns, and can be expected to resolve any conflict of interest in favor of the United States. Foreign influence concerns are also mitigated. Notwithstanding, she failed to mitigate the financial considerations security concerns. Access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on April 15, 2011. On September 5, 2012, the Department of Defense (DoD) issued Applicant a Statement of Reasons (SOR) listing security concerns under Guideline B (foreign influence), Guideline C (foreign preference), and Guideline F (financial considerations).¹ Applicant

¹ DOHA acted under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), implemented by the DOD on September 1, 2006.

answered the SOR on September 28, 2012, and requested a hearing before an administrative judge. The case was assigned to another administrative judge on November 29, 2012. It was reassigned to me on December 20, 2012.

The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on December 11, 2012, scheduling a hearing for January 16, 2013. At the hearing, the Government offered exhibits (GE) 1 through 4, which were admitted without objection. GE 4 was marked for identification and considered for administrative notice purposes. Applicant testified, and she submitted exhibits (AE) 1 through 3, which were received without objection. DOHA received the hearing transcript (Tr.) on January 28, 2013.

Findings of Fact

Applicant admitted the SOR factual allegations; however, she claimed that most of the debts were fraudulently opened by her husband in her name. (Answer to the SOR) Her admissions are incorporated in the findings of fact. After a complete and thorough review of the evidence of record, and having observed Applicant's demeanor and considered her testimony, I make the following findings of fact.

Applicant is a 42-year-old systems administrator working for a defense contractor. She was born in Iran to Iranian parents that practiced the Baha'i religion. Applicant testified that after the 1979 Iranian revolution, Baha'i followers were persecuted, tortured, and killed because they were not Muslims. They were afforded little opportunity for jobs, education, and to prosper in Iran. Applicant's father was an officer in the Iranian Army and he was fired from his position because of his religion. He was afraid for his family's life and welfare, and they fled from Iran into Pakistan. The family then emigrated to Canada in 1987. Applicant was 14 years old when she left Iran.

Applicant married her spouse in September 1988, and they immigrated to the United States. According to Applicant, her husband left Iran when he was 12-13 years old. His father was a practicing Baha'i, and he was arrested and executed. Applicant's husband was granted asylum, and is now a naturalized U.S. citizen. Applicant became a naturalized U.S. citizen in April 1996, and subsequently received a U.S. passport. She attended a U.S. university and was awarded a bachelor's degree in computer information systems in April 1997. Applicant and her spouse have two sons, ages 14 and 12, born in the United States. They separated in June 2012. (AE 2, AE 3)

Applicant worked as a homemaker until 2006, when she joined the workforce. She worked for a private company from March 2006 until November 2010, when she was hired by her current employer. This is Applicant's first security clearance application.

In about 2000-2001, the Iranian government encouraged Baha'i followers who had fled Iran without passports to apply for an Iranian passport so they could visit their relatives in Iran. Applicant and her mother requested Iranian passports in 2001, to visit Applicant's grandmother, four aunts, and other relatives living in Iran. Applicant explained that the Iranian government does not allow people born in Iran to enter Iran

unless they have an Iranian passport. Applicant's 2001 Iranian passport expired in 2006. She renewed it in 2008, to visit her relatives in Iran.

After immigrating to the United States in 1987, Applicant travelled to Iran in 2003, 2005, and 2008, to visit her relatives, all of whom are citizens and residents in Iran. During her visits, Applicant stayed in country for 30 days, and she resided with aunt A. Applicant has frequent contact with aunt A. Aunt A travelled to the United States in 2005 and 2010 to visit with Applicant and her mother. Aunt A lent \$10,000 to Applicant and her husband when they started to have financial difficulties in 2008. Applicant's separation agreement requires her husband to pay Applicant's mother \$20,000 and Aunt A \$10,000 upon the sale of the marital residence. (AE 3)

Applicant has infrequent contact with her grandmother because she is 86 years old and has difficulty communicating over the telephone due to her hearing problems. Despite this infrequent contact, Applicant has a sense of obligation and closeness to her grandmother. Applicant also has infrequent contact with her three other aunts residing in Iran. She talks to them approximately three times a year. Applicant also has extended family members from her father's side of the family who are resident and citizens of Iran. She has little contact with these relatives. Applicant's parents and sister are naturalized Canadian citizens residing in Canada.

At her hearing, Applicant repeatedly offered to surrender her Iranian passport and expressed her willingness to renounce her Iranian citizenship. She claimed she does not intend to travel to Iran again. She is willing to limit her telephonic contact with relatives in Iran to avoid security concerns. After her hearing, Applicant submitted documentary evidence showing that her Iranian passport expired in January 2013. Moreover, she surrendered her Iranian passport to her company's facility security officer. (AE 3) Applicant credibly stated that she does not have any loyalty for Iran because her father was fired from the Army, she was not allowed to attend school, and some of her relatives were tortured and executed.

Concerning her financial problems, Applicant testified that until she joined the work force in 2006, her husband of 23 years controlled their finances. She claimed that most of the debts alleged in the SOR are fraudulent credit card accounts opened by her husband in her name without her knowledge and permission. He used the credit cards to support his business, pay the mortgage, and their day-to-day financial obligations. She was aware that her husband opened three or four credit card accounts in her name, and she believed that he owed approximately \$20,000. She claimed that she was not aware of the remaining credit cards accounts opened in her name, or of the extent of the accumulated debt. Applicant did not find out about the extent of the credit card debt until she submitted her SCA and saw her credit report. (Tr. 50-51, 75)

Applicant's husband stopped paying the credit card debts in 2008, when his business partnership broke down and their home went into foreclosure. In 2009, Applicant and her spouse sold their \$1.5 million home in a short sale for \$1 million, and paid the bank the \$950,000 mortgage. After the short sale of her home, Applicant purchased another home with a business partner. Apparently, the property is titled only

in Applicant's name and her partner. Applicant's partner is an Iranian born, naturalized U.S. citizen that has been a U.S. resident for 35 years.

Applicant stated that she separated from her husband in June 2012 because of his financial mismanagement and his opening of fraudulent credit card accounts in her name. She testified that her husband filed a suit against his business partner to recover the illegal credit card charges. Contrary to Applicant's belief, the complaint indicates that Applicant's husband filed suit against his partner to recover \$360,000 he invested in the partnership. The suit does not allege that the partner open fraudulent credit card accounts on Applicant's name, or that the partner made fraudulent charges using Applicant's credit cards. (AE 3)

Applicant's credit reports show that all but two of the alleged SOR debts are her "individual" debts. (GE 2 and 3) Only two of the alleged SOR debts indicate Applicant was an "authorized user" on the credit card account. Applicant presented no evidence to show contact with creditors, payments made, or efforts to otherwise resolve her delinquent debts. She claimed that her husband was in control of the marriage finances, and he was supposed to pay for the debts.

Applicant intends to wait until the resolution of her husband's lawsuit against his partner to decide what course of action she will follow regarding her delinquent debts. She was advised by her attorney to file for bankruptcy protection. However, Applicant does not want to file for bankruptcy protection because these are not her debts - she did not the open credit card accounts or charged the money. Applicant believes that her husband intends to file for bankruptcy protection in the near future.

Although Applicant filed for separation from her husband in June 2012, she is not in charge of her own finances. Applicant is not financially independent from her husband, and she cannot live on her own. Applicant and her husband live in the same house. Applicant's monthly take home pay is \$4,600. She is required to turn over \$2,500 to her husband to pay for the mortgage and other expenses.

In her November 2012 separation agreement, Applicant agreed that she "shall be responsible for the credit card accounts in his or her sole name individually . . . that she shall indemnify and hold the other party harmless of any such account." (AE 3) Thus, Applicant conceded that all "individual" debts alleged in the SOR are her responsibility.

I take administrative notice of the following facts concerning Iran and its relations with the United States:

The United States has not had diplomatic relations with Iran since 1980, and nearly all trade and investment with Iran is prohibited. Iran has sought to illegally obtain U.S. military equipment and sensitive technology. Sanctions have been imposed on Iran because of its sponsorship of terrorism, its refusal to comply with international obligations on its nuclear program, it's efforts to acquire nuclear weapons and other weapons of mass destruction (WMD), and its dismal human rights record.

The United States has designated Iran as the world's leading state sponsor of terrorism. Iran provides critical support to non-state terrorist groups. Iran has sought to make the United States suffer political, economic, and human costs. Further, Iran has engaged in efforts to sow violence and undermine stability in Iraq and Afghanistan, including lethal support for groups that are directly responsible for U.S. casualties.

The government of Iran has committed numerous, serious human rights abuses against the Iranian people. Abuses include politically motivated violence and repression, including torture, beatings and rape; severe officially sanctioned punishments, including amputation and flogging; arbitrary arrests and detentions, often holding individuals incommunicado; little judicial independence and few fair public trials; severe restrictions on right to privacy and civil liberties, including freedoms of speech and the press, assembly, association, and movement; and monitoring the social activities of citizens, entering homes and offices, monitoring telephone conversations and internet communications, and opening mail without court authorization.

The Iranian government does not recognize dual nationality and will treat U.S. Iranian dual nationals solely as Iranian citizens. Iranian authorities have prevented a number of U.S. citizen academics, scientists, journalists, and others who travel to Iran for personal, cultural, or business reasons from leaving the country and in some cases have detained, interrogated, and imprisoned them. Iranian security personnel may at times place foreign visitors under surveillance; monitor hotel rooms, telephones and fax machines; and search personal possessions in hotel rooms.

Policies

Eligibility for access to classified information may be granted “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. The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

The AG list disqualifying and mitigating conditions for evaluating a person’s suitability for access to classified information. Any one disqualifying or mitigating condition is not, by itself, conclusive. However, the AG should be followed where a case can be measured against them, as they represent policy guidance governing access to classified information. Each decision must reflect a fair, impartial, and commonsense consideration of the whole person and the factors listed in AG ¶ 2(a). All available, reliable information about the person, past and present, favorable and unfavorable must be considered.

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant’s security clearance. The Government must prove, by substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. The

applicant bears the heavy burden of demonstrating that it is clearly consistent with the national interest to grant or continue his or her security clearance.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Thus, the Government has a compelling interest in ensuring each applicant possesses the requisite judgment, reliability, and trustworthiness of those who must protect national interest as their own. The “clearly consistent with the national interest” standard compels resolution of any reasonable doubt about an applicant’s suitability for access in favor of the Government. “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; AG ¶ 2(b). Clearance decisions are not a determination of the loyalty of the applicant concerned. They are merely an indication that the applicant has or has not met the strict guidelines the Government has established for issuing a clearance.

Analysis

Foreign Influence

AG ¶ 6 explains the security concern about “foreign contacts and interests” stating:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, [he or she] 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.

Applicant has foreign connections that present a potential risk of divided loyalties or undue foreign influence. Namely, Applicant’s grandmother, aunts, cousins, and other extended family members (including those on her parent’s and husband’s side of the family), are resident citizens of Iran. Four disqualifying conditions under AG ¶ 7 are potentially applicable:

(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 persons, 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 relationship with her and her husband's family members who are citizens and residents in Iran is sufficient to create "a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion," and a potential conflict of interest between Applicant's "obligation to protect sensitive information or technology and [her] desire to help" her relatives and friends living in Iran. She has close affection for her grandmother, aunts, and extended family members living in Iran. She communicates with one of her aunts (Aunt A) on a frequent basis. She travelled to Iran in 2001, 2005, and 2008, to visit with her family. Aunt A traveled to the United States to visit with Applicant, and her mother. Aunt A lent \$10,000 to Applicant. Applicant travelled to Iran even though she and her family fled Iran because of fear for their lives, and her knowledge that the Iranian government tortures and kills Baha'i practitioners.

The mere possession of close family ties with family living in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if an applicant has a close relationship with even one relative living in a foreign country, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information. See ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001).

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, the country is known to conduct intelligence collection operations against the United States, or the country has a significant problem with lawless elements or terrorists.

Iran is a country with interests inimical to those of the United States. It actively sponsors terrorism against the United States and its allies, and it has used violence to undermine the stability of Iraq and Afghanistan. The government of Iran sanctions abuse, violence, and repression against its own citizens. The U. S. State Department has warned of the danger of travel to Iran for U. S. citizens and those holding dual nationality with Iran. Iran does not recognize dual nationality, and it treats dual nationals as Iranian citizens.

There is no evidence that intelligence operatives from Iran or terrorists seek or have sought classified or economic information from or through Applicant or her family living in Iran. Notwithstanding, Applicant could be placed into a position where she might be forced to choose between loyalty to the United States and a desire to assist her family living in Iran. Her relationships with her family living in Iran create a potential conflict of interest. Her relationship with them is sufficiently close to raise a security concern about her desire to assist them by providing sensitive or classified information. Department Counsel produced substantial evidence of Applicant's contacts with her family living in Iran, raising the issue of potential foreign pressure or attempted exploitation. AG ¶¶ 7(a), 7(b), and 7(d) apply, and further inquiry is necessary about potential application of any mitigating conditions.

AG ¶ 8 lists six conditions that could mitigate foreign influence security concerns including:

- (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.;
- (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;
- (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;
- (d) the foreign contacts and activities are on U.S. Government business or are approved by the cognizant security authority;
- (e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country; 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.

Applicant left Iran at age 14 with her family. They were afraid for their lives because of their religious practices. After a 13-month stay in Pakistan, she immigrated to Canada in 1987. She married her husband and immigrated to the United States in 1988, at age 18. She became a naturalized U.S. citizen in April 1996, and has lived in

the United States for 25 years. During this period, Applicant and her husband have established relationships and loyalties in the United States. She has two U.S. born sons who are being raised as Americans.

There is no evidence to show that Applicant and her husband have any financial or proprietary interests in Iran. Nor is there evidence that Applicant and her husband have significant proprietary and financial interests in the United States. On the contrary, the evidence shows that Applicant and her husband have a significant debt, including a \$850,000 mortgage on their marital residence, and a substantial delinquent credit card debt. Applicant owns the marital residence in partnership with an Iranian born U.S. citizen.

Applicant has a strong affection and sense of obligation to her parents and sister living in Canada, who are dual nationals of Iran and Canada. Because most of Applicant's relatives are living outside of Iran, the security concerns are less. It is unlikely that the government of Iran will be able to use Applicant's relatives living outside of Iran to manipulate or coerce her.

Applicant's grandmother is 86 years old. Because of her grandmother's age and hearing problem, Applicant has infrequent contact with her. She has frequent contact with one or her aunts. Applicant promised to cut her contacts with her grandmother, aunt, and other relatives in Iran to minimize the security concerns. She also promised not to travel again to Iran, to surrender her Iranian passport, and stated her willingness to renounce her Iranian citizenship.

Considering the evidence as a whole, Applicant is not able to fully meet her burden of showing there is "little likelihood that [her relationships with her relatives, friends, and associates who are Iranian citizens and living in Iran] could create a risk for foreign influence or exploitation." AG ¶ 8(a) has limited applicability and does not mitigate the foreign influence concerns.

Applicant's relationship with the United States must be weighed against the potential conflict of interest created by her relationships with her family living in Iran. Although there is no evidence that Iranian government agents or terrorists have approached or threatened Applicant or her family living in Iran, she is nevertheless potentially vulnerable to threats and coercion made against her family living in Iran. Iran is a country with interests inimical to those of the U.S. It actively supports terrorism and is repressive to its own citizens. The U. S. State Department has warned of the danger of travel to Iran for both solely U. S. citizens and those holding dual citizenship with Iran.

A key factor in the AG ¶ 8(b) analysis is whether Applicant has "deep and longstanding relationships and loyalties in the U.S." Applicant has lived in the United States for the last 25 years. Applicant's husband, her parents, and sister are naturalized U.S. citizens. Her two sons were born in the United States. She attended college in the United States, and has worked for a U.S. contractor since November 2010. Applicant credibly stated that her loyalty is to the United States. She expressed her willingness to renounce her Iranian citizenship and surrendered her Iranian passport to her FSO.

Applicant's actions show that "[she] can be expected to resolve any conflict of interest in favor of the U.S. interest." AG ¶ 8(b) applies.

AG ¶ 8(c) applies to Applicant's extended family members living in Iran, except Aunt A and her grandmother. Their contact and communication is so casual and infrequent that there is little likelihood that it could create a risk of foreign influence. AG ¶ 8(d) does not apply because Applicant's contacts and relationships with his family in Iran are not on behalf of the U.S. Government. AG ¶¶ 8(e) and (f) are not raised by the facts in this case and do not apply.

Considering the evidence as a whole, Applicant's connections to her grandmother and one of her aunt's living in Iran are significant to her. She has established deep and longstanding relationships and loyalties in the United States and she can be expected to resolve any conflict of interest in favor of the United States. The mitigating information taken together is sufficient to fully overcome the foreign influence trustworthiness concerns under Guideline B.

Guideline C, Foreign Preference

AG ¶ 9 explains the trustworthiness concern about foreign preference stating:

When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.

AG ¶ 10 indicates four conditions that could raise a trustworthiness concern and may be disqualifying in this case:

(a) exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen or through the foreign citizenship of a family member. This includes but is not limited to:

- (1) possession of a current foreign passport;
- (2) military service or a willingness to bear arms for a foreign country;
- (3) accepting educational, medical, retirement, social welfare, or other such benefits from a foreign country;
- (4) residence in a foreign country to meet citizenship requirements;
- (5) using foreign citizenship to protect financial. or business interests in another country;
- (6) seeking or holding political office in a foreign country;

(7) voting in a foreign election;

(b) action to acquire or obtain recognition of a foreign citizenship by an American citizen;

(c) performing or attempting to perform duties, or otherwise acting, so as to serve the interests of a foreign person, group, organization, or government in conflict with the national security interest; and

(d) any statement or action that shows allegiance to a country other than the United States: for example, declaration of intent to renounce United States citizenship; renunciation of United States citizenship.

Applicant, an Iranian citizen, immigrated to the United States in 1988, and became a naturalized U.S. citizen in 1996. After becoming a U.S. citizen, Applicant requested an Iranian passport in 2001, and renewed her Iranian passport in 2008. She requested the Iranian passport to visit family members in Iran on three different occasions. Each time, Applicant stayed with the same aunt, and visited with her relatives for a 30 day period. Foreign preference disqualifying condition AG ¶ 10(a) is supported by the evidence. If these conditions are not mitigated they would disqualify Applicant from eligibility for a security clearance.

AG ¶ 11 provides six conditions that could mitigate the security concerns for foreign preference:

(a) dual citizenship is based solely on parents' citizenship or birth in a foreign country;

(b) the individual has expressed a willingness to renounce dual citizenship;

(c) exercise of the rights, privileges, or obligations of foreign citizenship occurred before the individual became a U.S. citizen or when the individual was a minor;

(d) use of a foreign passport is approved by the cognizant security authority;

(e) the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated; and

(f) the vote in a foreign election was encouraged by the United States Government.

In 2012, Applicant was made aware of the Government's foreign preference concerns raised by her possession of the foreign passport. Applicant's Iranian passport

expired in January 2013. She surrendered her expired Iranian passport to her FSO. Applicant also credibly expressed her willingness to renounce her Iranian citizenship. Applicant testified she does not intend to travel again to Iran. She is willing to reduce her contacts with her relatives in Iran to avoid any possible security concerns. Foreign preference mitigating conditions AG ¶¶ 11(b) and (e) apply and mitigate the trustworthiness concern.

Guideline F, Financial Considerations

Under Guideline F, the security concern is that 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. (AG ¶ 18)

Applicant has a history of financial problems that date back to 2007. Her financial problems continue to present as evidenced by the 19 delinquent debts alleged in the SOR, totaling over \$112,000. Considering the record as a whole, I find that the debts alleged in the SOR are Applicant's debts as established by the credit reports and Applicant's testimony. Applicant claimed many of the alleged delinquent credit card debts were not her debts. She claimed that her husband fraudulently established credit card accounts in her name, and used the credit to support his ailing business.

Applicant failed to present credible documentary evidence to support her claims. The credit reports show that most of the SOR debts were Applicant's accounts. Applicant failed to present evidence that she disputed the accounts alleged in the SOR, or that she brought legal action against her husband for fraudulently opening credit card accounts in her name without her permission. On the contrary, Applicant signed a November 2012 separation agreement in which she assumed responsibility for all her personal debts alleged in the SOR. (AE 3)

Two of the financial considerations disqualifying conditions apply: AG ¶ 19(a): inability or unwillingness to satisfy debts, and AG ¶ 19(c): a history of not meeting financial obligations.

AG ¶ 20 lists six conditions that could mitigate the financial considerations security concerns:

(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;

(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; and

(f) the affluence resulted from a legal source of income.

Applicant's evidence fails to fully establish the applicability of any mitigating condition. Her financial problems are ongoing. She has extensive delinquent debt, and she failed to show that she acted responsibly in addressing the resolution of her debts. AG ¶ 20(a) does not apply.

Applicant's husband's business downturn and her separation may be considered as circumstances beyond her control that contributed to, or aggravated, her financial problems. Notwithstanding, Applicant's evidence failed to show that she acted responsibly in her efforts to resolve her debts. Applicant started working in 2006. She presented little documentary evidence of payments made, contacts with creditors, or of efforts to resolve her delinquent debts. AG ¶ 20(b) applies, in part, but does not mitigate the financial considerations concerns.

AG ¶ 20(c) applies in part. Applicant did not present evidence that she participated in financial counseling; however, she retained the services of an attorney to help her consider filing for bankruptcy protection, and to resolve some of her marital separation concerns. Notwithstanding, it does not mitigate the financial considerations concerns. Considering the number of debts, the value of the debts, the aggregate total of the debts, and her lack of efforts to resolve her debts, I cannot find that there are clear indications that her financial problems are being resolved or under control.

Questions remain about Applicant's current financial situation and her ability and willingness to resolve her delinquent debts. Applicant has been employed from 2006 to present. She started working for her current employer in November 2010, and she has been fully employed thereafter. Considering her period of employment, she failed to provide a reasonable explanation for her failure to address her debts. Applicant's evidence shows she is not in charge of her financial situation. The evidence available is not sufficient to establish that Applicant has a track record of financial responsibility. AG ¶ 20(d) does not apply because Applicant failed to submit documentary evidence of good faith efforts to resolve her debts.

AG ¶ 20(e) does not apply, because there is little evidence that she disputed her delinquent debts. The remaining mitigating condition (AG ¶ 20(f)) is not applicable to the facts of this case.

Whole-Person Concept

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case, and under the whole-person concept. (AG ¶ 2(c))

Applicant immigrated to the United States in 1988, at age 18. She became a naturalized U.S. citizen in April 1996, and has lived in the United States for 25 years. During this period, Applicant and her husband have established relationships and loyalties in the United States. Her parents, sister, and her husband are naturalized Canadian citizens. She has two U.S. born sons who are being raised as Americans.

Applicant joined the workforce in 2006, and has been working for a defense contractor since November 2010. This is her first SCA. She surrendered her passport, is willing to renounce her Iranian citizenship, and promised to cut her contact with her aunt, grandmother, and other relatives living in Iran. Considering the evidence as a whole, her actions mitigate the foreign influence and foreign preference security concerns. She failed to establish a track record of financial responsibility and cannot mitigate the financial considerations concerns.

Formal Findings

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

| | |
|---------------------------|-------------------|
| Paragraph 1, Guideline B: | FOR APPLICANT |
| Subparagraphs 1.a, 1.b: | For Applicant |
| Paragraph 2, Guideline C: | FOR APPLICANT |
| Subparagraphs 2.a, 2.b: | For Applicant |
| Paragraph 3, Guideline F: | AGAINST APPLICANT |
| Subparagraphs 3.a-3.s: | Against Applicant |

Conclusion

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

JUAN J. RIVERA
Administrative Judge