DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 12-03666
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Philip Katauskas, Esquire, Department Counsel
For Applicant: *Pro se*

04/11/2013

Decision

O'BRIEN, Rita C., Administrative Judge:

Based on a review of the pleadings, testimony, and exhibits, I conclude that Applicant has mitigated the security concerns related to foreign preference, foreign influence, and financial considerations. Her request for a security clearance is granted.

Statement of the Case

On September 4, 2012, the Department of Defense (DOD) issued to Applicant a Statement of Reasons (SOR) that detailed security concerns under Guideline B (foreign influence), Guideline C (foreign preference), and Guideline F (financial considerations). This action was taken 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; and the Adjudicative Guidelines (AG) implemented by the DOD on September 1, 2006.

In her Answer to the SOR, signed and notarized on September 13, 2012, Applicant admitted all the allegations under the cited guidelines. The case was assigned to me on November 29, 2012. The Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing on January 7, 2013, and I convened the hearing as

scheduled on January 31, 2013. The Government offered five exhibits, which I admitted into evidence as Government Exhibits (GE) 1 through 5. Applicant testified, presented the testimony of two witnesses, and offered 21 exhibits, admitted into evidence as Applicant's Exhibits (AE) A through U.[1] DOHA received the transcript of the hearing (Tr.) on February 11, 2013.

Procedural Ruling

I take administrative notice of facts related to Cuba, included in eight U.S. Government documents provided by Department Counsel, and marked as Hearing Exhibit (HE) I. Applicant objected to the request for administrative notice, on the ground that the documents did not relate to her and were prejudicial. I overruled the objection and granted Department Counsel's request for administrative notice. (AE A; Tr. 87-90)

I also take administrative notice of facts related to Cuba, submitted by Applicant in 10 documents ("a" through "j"), and marked as HE II. Two of the documents were not legible. I held the record open, and Applicant timely submitted legible versions, which I attached to the illegible versions. The facts noticed are limited to matters of general knowledge, not subject to reasonable dispute, and are set out in the Findings of Fact.

Findings of Fact

Applicant's admissions in response to the SOR are incorporated as findings of fact. After a thorough review of the pleadings, Applicant's response to the SOR, and the evidence, I make the following additional findings of fact.

Applicant, 36 years old, was born in Cuba. She came to the United States in 2002, and became a naturalized citizen in December 2008. She married in 2006. Applicant and her husband have two children, who are one and four years old. She completed an associate's degree and a bachelor's degree at U.S. universities between 2004 and 2008. She worked in the financial arena from 2004 to 2011. Since August 2011, she has worked for a defense contractor. She is assigned to a federal agency as a financial intelligence analyst. Her supervisor rated her performance as excellent, and describes her as proactive, self-directed, and enthusiastic. (GE 1; AE G-I, N-Q; Tr. 99-117)

Foreign Influence

Applicant's mother is a 61-year-old citizen and resident of Cuba. She has been retired for more than 20 years from a position as assistant to a warehouse manager. Applicant has a close relationship with her, but they only speak for a few minutes about once per month, because of the expense of the telephone calls. Applicant also sends her money most months. Applicant's mother's immediate family, other than her ex-husband, lives in the United States. These family members include her brother—

[1] Applicant's cover sheet identifying each exhibit is marked HE III.

Applicant's uncle—who is a U.S. citizen who has lived in the United States for 20 years; her son; her two grandsons; and Applicant. (GE 1, 5; AE R, S; Tr. 36-37, 45)

Applicant's mother visited her in the United States in 2008 and 2010. She plans to move to the United States, and as of September 2012, she had sold approximately half of her assets in Cuba. On September 7, 2012, Applicant filed a Form I-130, Petition for Alien Relative, to apply for her mother's permanent residency in the United States. In October 2012, she received notice that the petition had been received, and she is awaiting approval. When her mother's request is approved and she arrives in the United States, she will be granted permanent status within approximately one year.[2] Applicant's mother has a cohabitant, with whom she has lived in Cuba since about 2000. Applicant's "stepfather" is a Cuban citizen. He is retired, and moved to the United States in November 2012. He will be eligible for legal U.S. permanent residency in October 2013.[3] Applicant's "stepfather" does not live in the same state as Applicant. Applicant's mother and "stepfather" plan to live together in the United States. Neither of them have connections with the Cuban government. (GE 5; AE B, E, F; Tr. 36-38)

Applicant's father, who is 71 years old, is a citizen of Cuba. He and Applicant's mother divorced in 1977, when Applicant was two years old, and she has not lived with him since then. He remarried, and lives in Cuba with his second wife, Applicant's stepmother. When Applicant was 13, her father moved to a different city in Cuba, 12 hours away from Applicant. After the move, she did not see him for two to three years at a time. She testified that she has "never been close to him." In her security clearance application, she listed emails about six times per year. They have brief telephone calls about three or four times per year on birthday or holidays. When he developed medical problems, she visited him in September 2012. Previously, she had not seen him in 13 years. Applicant testified that her maternal uncle is the male role model in her life, rather than her father. Applicant stated during her security interview that she has contact with her stepmother about four times per year regarding Applicant's father's health. She is a citizen and resident of Cuba. In her January 2012 security interview, Applicant stated that she sends about $500 per year to her stepmother. Her father and stepmother do not have connections with the Cuban government. (GE 1, 5; AE B, E; Tr. 38-40, 43-45, 82, 116)

Applicant has one brother, a 41-year-old citizen of Cuba. Applicant sponsored his immigration to the United States, and since July 2011, he has resided in the United

[2] According to the U.S. Citizenship and Immigration Services (USCIS), "To promote family unity, immigration law allows U.S. citizens to petition for certain qualified relatives to come and live permanently in the United States. Eligible immediate relatives include the U.S. citizen's . . . parent. Immediate relatives have special immigration priority and do not have to wait in line for a visa number to become available for them to immigrate because there are an unlimited number of visas for their particular categories." (HE II at "a")

[3] The Cuban Adjustment Act (CAA), PL 89-732, Nov. 2, 1977, as amended, allows Cuban citizens who have been admitted to the United States and resided in the United States for one year to become legal permanent residents. (HE II at "c")

States, but not in the same state as Applicant. He is applying to become a legal permanent resident. She has weekly telephone contact with her brother. Applicant also has a half sister, who is the daughter of Applicant's father and stepmother. She is a 28-year-old citizen-resident of Cuba. Applicant has contact with her once or twice per year, by telephone or email, regarding Applicant's father's health. (GE 1, 5; AE B; Tr. 41-43, 46)

Applicant's maternal uncle, a citizen and resident of the United States for 20 years, knew that Applicant wished to leave Cuba. When she was about 25 years old, he informed Applicant about a man he knew who was leaving Cuba by boat. She decided to leave Cuba with him, taking a coat and two pocket-sized bibles. She met with the person and they rowed about three miles into open waters, where they joined two other people in a sailboat. They sailed toward Florida, but storms blew them off course, and they eventually arrived in Mexico. Applicant worked her way to the U.S. border, and entered the United States. She surrendered to the border patrol and requested political asylum. She was held in detention for one week. Upon release, she lived with her maternal uncle. (GE 5; AE C, T, U; Tr. 64-69, 82-84)

Foreign Preference

When Applicant completed her security clearance application in December 2011, she possessed a Cuban passport that had expired in 1999, and a Cuban passport that was issued in November 2007, before she became a U.S. citizen. It was valid until November 2013.[4] In her September 2012 Answer to the SOR, Applicant stated she was willing to surrender or destroy her Cuban passports, and added, "I have been told by my FSO that I can provide it to her to ensure that it is not used until its expiration and at that time we will destroy it." (Answer; GE 5; AE D; Tr. 45-48, 76-80)

In September 2012, Applicant learned that her father's health was deteriorating. She asked her supervisor and the assistant FSO if traveling to Cuba to see a sick relative would present a security issue, and was advised that it would not. (Answer; AE J, K;[5] Tr. 57-60, 81-82, 116-117)

> When I decided to travel, I contact my employer, and I contact my security officer, and I was advised that that should not jeopardize my Top Secret clearance process, and based on that information, I--I--I went ahead and I make the arrangement for the travel.
>
> However, I was very specific, and I presented my situation. I was actually given a questionary [sic] form, the two of them, to be fill out immediately,

[4] At the hearing, Applicant was unsure of the date she obtained or renewed her valid Cuban passport. However, she provided her Cuban passports to the agent at her security interview, and I have used the date the agent reported in that interview. (GE 5)

[5] Applicant offered blank versions of the travel forms that she completed, but not the completed forms that she submitted to her security officer in 2012. (AE J, K)

> with all the traveling, on specifics, and all the traveling information. That, I fill it out, it could be available to you, if that is requested.
>
> But I immediately follow instructions. They knew about it. They knew all the specifics, all the reasons--right--had in advance. And they knew the reason why, and I specifically asked them, do you believe that me going to see my ill father would jeopardize my Top Secret clearance process, and their answer was no. (Tr. 58-59)

Applicant purchased her tickets and traveled to Cuba to see her father in September 2012. Cuban law requires a person of Cuban origin to enter or exit Cuba using a Cuban passport and she used her Cuban passport. Because Applicant did not hold a security clearance at the time, she was not required to provide information about her foreign travel. However, before her trip, she provided a copy of her itinerary to the security office, and submitted the foreign travel forms. (HE II at "e"; Tr. 59)

Applicant's FSO testified on her behalf. Along with being the FSO for Applicant's company, she is the director of corporate security for eight subsidiary companies, with approximately 1,500 cleared employees. Her staff processes the security clearance applications for all the cleared employees, including Applicant. The FSO was not aware of foreign travel forms Applicant submitted because such forms would be handled by her staff. She has held a top secret clearance for 29 years. Before becoming an FSO, she conducted investigations as a DOD special agent and as an industrial security specialist. (Tr. 119-139)

Applicant met with the FSO after she had purchased tickets for her trip. Applicant contacted her to ensure that her upcoming trip to Cuba would not jeopardize her application for a security clearance. The FSO explained the difference in foreign travel requirements between one who holds a security clearance and one who does not. She told Applicant that because she did not hold a security clearance, she was not subject to foreign travel requirements. She told Applicant that it was her decision about whether or not to make the trip. If Applicant held a security clearance, then she would advise her to surrender the foreign passport and "consider other alternatives." (Tr. 128-133) The FSO was questioned at the hearing:

> Q: And I thought she came to you, to ask if she should—if it was okay for her to go to Cuba in light of the fact that she was applying for a clearance.
>
> A: I think she did, and I said at that point it would not affect it. I think that was what we talked about. (Tr. 134-135)

Applicant also discussed her foreign passports with the FSO, who testified,

> Basically, we talked about the security clearance and I advised her that with my past experience, it's best to surrender it to your FSO, for them to have in safekeeping, because that's one of the mitigating factors for

obtaining a security clearance. And she did so, willingly brought it in and gave 'em to me. (Tr. 120)

The FSO confirmed that, in November 2012, following her trip, Applicant surrendered both her expired and her valid Cuban passports, that they were secured at Applicant's employer's location, and that DOD would be notified if Applicant requested the passports or left her employment. She reminded Applicant that if she requested return of the passports, it would adversely affect any security clearance she might be granted by DOD. Applicant has no intent to travel to Cuba in the future. The FSO also noted that Applicant is "a very good employee. My customer loves her." (AE D; Tr. 119-139)

Financial Considerations

Applicant and her husband lived several years in State A and had their first son there. They purchased a home in 2006, with a first mortgage of $333,000, and a second mortgage of $82,000. They were financially stable and current on their bills and mortgage payments. In 2010, Applicant's husband accepted a job transfer to State B, because State A's economy was faltering, it had been hard-hit during the financial crisis, and they were seeking improved professional opportunities and better schools for their son. After moving to State B, they were unable to sell their home in State A, and their efforts to rent it also failed. Because of the strain of paying rent in State B, and the mortgage in State A, they missed several mortgage payments. They sought a short sale, but their second-mortgage holder demanded terms that they could not meet. (GE 1, 5; AE B; Tr. 48-55, 101-117)

Applicant's July 2011 credit report shows that her other debts were not delinquent. However, on the advice of their attorney, she and her husband filed a Chapter 13 bankruptcy petition in July 2011. They completed the financial counseling course that was required for the filing, and met the $1,300 Chapter 13 monthly payments for about eight months. However, when their second son was born in January 2012, they were unable to keep up with both the increased expenses and the Chapter 13 payments. They converted to Chapter 7 in March 2012, and the case was successfully closed in June 2012. (GE 1, 3, 4, 5; AE B, C; Tr. 48-55, 101-117)

Applicant's January 2013 credit report shows the only negative accounts are related to their State A home loans. Numerous other accounts, opened as far back as 2002, are all current. In 2011, their gross income was approximately $147,000. Their bankruptcy petition dated April 2012, showed gross monthly income of approximately $13,000, or gross annual income of approximately $156,000. The evidence does not include other information on Applicant's and her husband's budget. (GE 4; AE L, M)

Applicant's husband testified. He is a naturalized U.S. citizen who was born in Cuba. His parents are citizens and residents of the United States. He came to the United States when he was three years old. He joined the U.S. Navy in 1990, and left the service about six years later. He is a branch manager for an investment company. He

testified that his wife is a hard worker, with a strong sense of integrity. She demonstrates good judgment and is committed to her beliefs. (GE 4; AE L, M; Tr. 101-117)

Administrative Notice[6]

Republic of Cuba (Cuba)

Since 1959, Cuba has been a totalitarian one-party state, which controls most aspects of Cuban life through the Communist party. The United States and Cuba have had a strained relationship since the early 1960s, when Fidel Castro forcibly took control of the Cuban government after several years of armed struggle. The government leadership transitioned peacefully to his brother Raul in 2006.

Cuba's history of human rights abuses include selective prosecution; denial of fair trial and freedom of speech; harsh prison conditions; beatings; intimidation and detention to prevent peaceful assembly; and abridgment of the right to change the government. Most human rights abuses were official acts performed at the direction of the government, and therefore, were committed with impunity.

In April 2012, the State Department noted that the Cuban government routinely employs repressive methods against internal dissent and monitors and responds to perceived threats to its authority. These methods include intense physical and electronic surveillance, and in some cases may involve detention and interrogation of both Cuban citizens and foreign visitors.

Since the 1960s, the United States has maintained a policy of isolation toward Cuba, implemented primarily through economic sanctions. It has also pursued a policy of support for the Cuban people, through U.S.-sponsored broadcasting and support of human rights activists.

In 1982, the U.S. Department of State designated Cuba a state sponsor of terrorism. The designation indicates that the country's government has repeatedly provided support for acts of international terrorism. Although the Cuban government maintained a public stance against terrorism and terrorist financing in 2010, as of July 2012, current and former members of the Basque Fatherland and Liberty (ETA) resided in Cuba. Press reports indicated that the government also provided medical care and political assistance to the Revolutionary Armed Forces of Colombia (FARC). However, reports also suggested that the government was trying to distance itself from ETA by failing to provide services such as travel documents. There was no indication that the Cuban government gave weapons or paramilitary training to either FARC or ETA.

Cuba does not recognize dual nationality. U.S. citizens who were born in Cuba are treated as Cuban citizens. In some cases, such persons may be required to obtain exit permission from the Cuban government in order to return to the United States.

[6] The information for administrative notice appears in the documents included in HE I and II.

Travel to Cuba by U.S. citizens is restricted by U.S. law, and travelers generally must obtain a license to travel. The State Department warns that activities of licensed U.S. travelers to Cuba could be subject to surveillance, and their contact with Cuban citizens monitored closely.

Policies

Each security clearance decision must be a fair and commonsense determination based on examination of all available relevant and material information, and consideration of the pertinent criteria and adjudication policy in the AG.[7] Decisions must also reflect consideration of the factors listed in ¶ 2(a) of the Guidelines, commonly referred to as the "whole-person" concept. The presence or absence of a disqualifying or mitigating condition does not determine a conclusion for or against an applicant. However, specific applicable guidelines are followed whenever a case can be measured against them as they represent policy guidance governing the grant or denial of access to classified information. In this case, the pleadings and the information presented by the parties require consideration of the security concerns and adjudicative factors addressed under Guidelines B, C, and F.

A security clearance decision is intended only to resolve whether it is clearly consistent with the national interest[8] for an applicant to either receive or continue to have access to classified information. The Government bears the initial burden of producing admissible information on which it based the preliminary decision to deny or revoke a security clearance for an applicant. Additionally, the Government must be able to prove controverted facts alleged in the SOR. If the Government meets its burden, it then falls to the applicant to refute, extenuate, or mitigate the Government's case.

Because no one has a "right" to a security clearance, an applicant bears a heavy burden of persuasion.[9] A person who has access to classified information enters into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a compelling interest in ensuring that each applicant possesses the requisite judgment, reliability, and trustworthiness of one who will protect the national interests as his or his 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.[10]

[7] Directive. 6.3.

[8] *See Department of the Navy v. Egan*, 484 U.S. 518 (1988).

[9] *See Egan,* 484 U.S. at 528, 531.

[10] *See Egan;* Adjudicative Guidelines, ¶ 2(b).

Analysis

Guideline B, Foreign Influence

AG ¶ 6 expresses the security concern under Guideline B:

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

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

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

The mere possession of close family ties to persons in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if only one relative lives in a foreign country and an applicant has frequent, non-casual contacts with that relative, this factor alone is sufficient to create the potential for foreign influence. Applicant has close ties to her mother, a citizen and resident of Cuba. She has a more distant relationship with her father, stepmother, and half sister, although she has sent money to them as well. They are citizens and residents of Cuba. The country in question must also be considered.[11] Cuba and the United States have had a hostile relationship for decades. Cuba has been designated a state sponsor of terrorism because it provides aid and support to terrorists. The government employs repressive methods against its citizens, including physical and electronic surveillance. Applicant's ties to family members in Cuba create a heightened risk of foreign exploitation and the potential for a conflict of interest. AG ¶¶ 7(a) and (b) apply.

[9] *See* ISCR Case No. 04-07766 at 3 (App. Bd., Sep 26, 2006) (the nature of the foreign government involved must be evaluated in foreign influence cases).

I have considered the mitigating conditions under AG ¶ 8, especially the following:

> (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; and
>
> (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.

Although Cuba represents a heightened risk of exploitation, Applicant's history does not indicate that it could constitute a potential conflict of interest for her. On the contrary, Applicant demonstrated that she chose the United States over Cuba by risking her life to leave the country. Although Applicant has a strong tie to her mother in Cuba, she applied last year to sponsor her mother's emigration to the United States and is awaiting approval. Applicant's mother has sold about half of her assets in Cuba in anticipation of the move. Her mother's cohabitant has already moved to the United States. He does not live in the same state as Applicant. He and Applicant's mother plan to live together once she arrives. After one year of residency, she will qualify for legal permanent resident status. Another immediate family member, her brother, no longer lives in Cuba, and has moved permanently to the United States. He will qualify for legal permanent resident status in October 2013. The male family member who has been her guide, her maternal uncle, is a 20-year citizen and resident of the United States. Applicant has not lived in Cuba for the past 11 years. She has established her life in the United States, where she received her college education, married, is raising two children, and works for the federal government. Given Applicant's history, I conclude she would resolve any conflict of interest in favor of the United States. AG ¶ 8(b) applies.

Applicant's ties to the few remaining family members in Cuba—her father, stepmother and half sister--are not strong. Her father and mother divorced when she was two years old**.** She saw her father only once every few years while she lived in Cuba. Although she visited her father in 2012, it was an emergency visit because of his deteriorating health. Before that visit, she had not seen him in 13 years, although she has sent them funds. Applicant has infrequent contact with her stepmother and half sister—her father's wife and daughter. I conclude that Applicant does not have the type of close relationship with them that would create a risk of foreign influence or exploitation. AG ¶ 8(c) applies to Applicant's relationship with her father, stepmother, and half sister.

Guideline C, Foreign Preference

The security concern under Guideline C, AG ¶ 9, states:

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.

Under AG ¶ 10, the following disqualifying condition is relevant:

(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. . .

Applicant possessed a foreign passport after she became a U.S. citizen in December 2008. AG ¶ 10(a)(1) applies.

AG ¶ 11 contains factors that can mitigate disqualifying conditions. I have considered all the mitigating conditions, especially the following:

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

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

In about September 2012, Applicant traveled to Cuba to visit her father, whose health was deteriorating. She used her Cuban passport because she could not enter or exit Cuba using her U.S. passport. She did not use her foreign passport for any other foreign travel after becoming a U.S. citizen.

In November 2007, before becoming a U.S. citizen, and before she applied for a security clearance, Applicant renewed her Cuban passport. She began her current job in 2011, and completed her first security clearance application. In September 2012, she learned that her father's health was deteriorating, and considered a trip to see him. Although she did not hold a security clearance at that point, she followed security procedures by advising her supervisor and her assistant FSO about the situation. She asked the assistant FSO if visiting a sick relative in Cuba would present a problem for obtaining a security clearance. She was told it would not. She also sought out her FSO. She was again informed that it was her decision, as she had no obligation to follow travel requirements because she did not possess a security clearance. She was again told it would not affect her application for a security clearance.

Following her trip, Applicant surrendered both the expired passport and the valid passport to her FSO. The FSO provided a letter stating that they are in the FSO's custody, and any future request for the passport would be reported to the DOD. AG ¶¶ 11(d) and (e) apply.

Guideline F, Financial Considerations

AG ¶18 expresses the security concern pertaining to financial considerations:

> 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 over-extended is at risk of having to engage in illegal acts to generate funds. . .

In 2010, Applicant was unable to either rent or sell her home because of the real estate market crisis in State A. The mortgage lender would not agree to terms that would allow Applicant to use a short sale. She was unable to meet her mortgage payments. The following disqualifying condition applies under AG ¶ 19:

> (a) inability or unwillingness to satisfy debts.

I have considered the conditions listed at AG ¶ 20 that can mitigate security concerns under the Financial Considerations guideline, especially the following:

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

Applicant established a history of timely payments on her mortgage and other debts. However, when she and her husband decided to move to state B for better opportunities, she was unable to sell her home, because of the mortgage crisis that hit State A particularly hard. She acted responsibly: she tried to obtain renters, and when that failed, she sought a short sale. When these efforts were unsuccessful, Applicant followed her attorney's advice and filed for bankruptcy. She completed financial counseling, and timely paid the $1,300 monthly Chapter 13 payments, until her second son's birth prevented her from keeping up with them. She converted to Chapter 7 and successfully completed the bankruptcy in 2012. Applicant did not ignore her financial obligations and acted responsibly in the face of major difficulties. Her recent credit report shows that the mortgage delinquency was Applicant's only financial difficulty between 2002 and 2013. Such an event is unlikely to recur, and does not raise

concerns about her current reliability, trustworthiness, or good judgment. AG ¶ 20 (a), (b), and (c) apply.

Whole-Person Concept

Under the whole-person concept, an administrative judge must evaluate an applicant's security eligibility by considering the totality of the applicant's conduct and all the relevant circumstances. I have evaluated the facts presented and have applied the appropriate adjudicative factors under the cited guidelines. I have also reviewed the record before me in the context of the whole-person factors listed in 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.

AG ¶ 2(c) requires that the ultimate determination of whether to grant a security clearance be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. Under the cited guidelines, I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case.

Applicant's only debts were two mortgage loans that she could not resolve because of the mortgage crisis in State A. She filed a bankruptcy petition, and received a discharge. She has no current delinquencies, and the mortgage issue is unlikely to recur. As to Guidelines B and C, such cases do not focus on an applicant's loyalty to the United States, and Applicant's loyalty in not in question. As to Applicant's family, her brother and maternal uncle live in the United States. Her mother plans to reside in the United States permanently with her family as soon as her application to immigrate is approved. The only remaining family members in Cuba will be those with whom Applicant has no deep and long-standing ties. She demonstrated her preference for the United States when she risked her life to leave Cuba. Applicant has surrendered her Cuban passport. Although she did not hold a security clearance at the time, she followed security requirements, by seeking the advice of her supervisor, assistant FSO, and FSO before traveling. She was advised that it would not be a concern. Applicant has strong ties to the United States through her education, her husband, her sons, and her employment. I conclude that she would resolve any conflict of interest in favor of the United States.

For all these reasons, I conclude Applicant has mitigated the cited security concerns. A fair and commonsense assessment of the available information bearing on

Applicant's suitability for a security clearance shows she has satisfied the doubts raised under the cited guidelines.

Formal Findings

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

Paragraph 1, Guideline B	FOR APPLICANT
Subparagraphs 1.a – 1.f	For Applicant
Paragraph 2, Guideline C:	FOR APPLICANT
Subparagraph 1.a	For Applicant
Paragraph 3, Guideline F	FOR APPLICANT
Subparagraph 1.a	For Applicant

Conclusion

In light of all of the foregoing, it is clearly consistent with the national interest to allow Applicant access to classified information. Applicant's request for a security clearance is granted.

RITA C. O'BRIEN
Administrative Judge