



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



In the matter of:)
)
) ISCR Case No. 14-05606
)
)
Applicant for Security Clearance)

Appearances

For Government: Andrea Corrales, Esquire, Department Counsel
For Applicant: Ryan C. Nerney, Esquire

10/31/2016

Decision

HEINY, Claude R., Administrative Judge:

Applicant is a Sudan born, naturalized U.S. citizen. His siblings are citizens and residents of Sudan. He rebutted or mitigated the government's security concerns under foreign influence and also the personal conduct security concerns. However, he has collection accounts and a charged-off account totaling more than \$33,000 on which he has made no payments nor has he had contact with his creditors. He has not mitigated the financial considerations security concern. Eligibility for access to classified information is denied.

Statement of Case

Acting under the relevant Executive Order and Department of Defense (DoD) Directive,¹ the Defense Office of Hearings and Appeals (DOHA) issued a Statement of

¹ Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the adjudicative guidelines (AG) effective within the DoD on September 1, 2006.

Reasons (SOR) on April 22, 2015, detailing foreign influence, financial considerations, and personal conduct security concerns.

On June 5, 2015, Applicant answered the SOR and requested a hearing. On October 5, 2015, the Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing for the hearing to be convened on October 20, 2015. The hearing was not held as originally scheduled. On October 30, 2015, a Notice of Hearing was issued for the hearing convened on November 20, 2015. The hearing was held on November 20, 2015.

At the hearing, Government's Exhibits (Ex) 1 through 5 and Applicant's Exhibits A through J were admitted without objection. Applicant testified at the hearing. The record was held open to allow Applicant to submit additional information. One additional document marked by Applicant's counsel as Ex. N,² was admitted without objection. On December 2, 2015, DOHA received the hearing transcript (Tr.).

Request for Administrative Notice

Department Counsel submitted a formal request that I take administrative notice of certain facts relating to Sudan. The request and the attached documents were marked and admitted as Ex. 6. The facts administratively noticed are set out in the Findings of Fact, below.

Findings of Fact

In his Answer to the SOR, Applicant denied the factual allegations of the SOR. After a thorough review of the pleadings, exhibits, and testimony, I make the following additional findings of fact.

Applicant is a 57-year-old mechanic who has worked for a defense contractor since March 2015, and is seeking to obtain a security clearance. From March 2010 through February 2011, he was unemployed. (Ex. 1, Tr. 59) He was also unemployed from May 2014 until obtaining his current position in March 2015. (Tr. 37-38, 51) While unemployed, he received unemployment compensation, which was insufficient to meet all his financial obligations. (Tr. 51) His wife is a substitute teacher making \$200 to \$400 per month. (Tr. 52) His annual salary is approximately \$78,000, and his wife's income is an additional \$2,400, for an annual household income of more than \$80,000. (Tr. 84)

Friends, family, and coworkers who have known Applicant for long periods of time state he is honest, responsible, reliable, capable, trustworthy, dedicated, hard-working, meticulous, helpful, and he works well with other team members. (Ex. A) He has received numerous awards and certificates of appreciation for exceptional duty performance (Ex. F, J) He is dedicated to his family. (Tr. 20)

² Applicant's attorney marked the document as "N" even though Ex. K through M were never received or made part of the record.

Applicant was born and grew up on a farm in the Sudan. In 1996, he came to the United States, and in 2002, he became a naturalized U.S. citizen. (Ex. 1, Ex. B, Tr. 39) Applicant's wife is a naturalized U.S. citizen. Their five children are U.S. citizens having been born in the United States after Applicant became a naturalized U.S. citizen. The youngest of his children is 10 years old. (Tr. 53, 59) He is the owner of property in Sudan worth between \$5,000 and \$10,000. He has given his brother a power-of-attorney over the property and no longer considers it his property. He stated that he had "gifted" the property to his brother. (Tr. 44) He asserts he has no control over the property, and his brother can sell the property should his brother chose to do so.

Applicant's mother died in September 2014 and his father died in 1968. (SOR Response, Ex. 5, Tr. 39) Both his parents-in-law were citizens and residents of Sudan prior their deaths. His four brothers, two sisters, and his mother-in-law are citizens and residents of Sudan. His brothers work as an airport luggage manager, a manager for a contractor,³ a tax accountant, and a pharmacist. (Ex. 5) One sister is unemployed and the other was a telephone switchboard operator, but is no longer employed. (Ex. 5, Tr. 85) His father-in-law died in 2013, and he does not know if his mother-in-law is employed or by whom if she is employed. (Ex. 5, Tr. 42)

In his SOR Response, he asserts he has once-a-month contact with one brother and infrequent contact with his other siblings and in-laws. He talks with his other siblings one to four times a year and talks to his mother-in-law once or twice a year. (SOR Response) At the hearing, he stated he talks with his brothers and sisters, on average, twice a year with a maximum of three times a year. (Tr. 40, 41) In June 2008, from November 2008 through May 2009, June 2012 through August 2012, and June 2015 through August 2014,⁴ he visited Sudan with his family. (Ex. 5, Tr. 67, 68, 69) During his 2014 trip, he purchased seven airline tickets at \$1,200 each for the trip to Sudan. (Tr. 79, 80) During a May 2013 Personal Subject Interview (PSI), Applicant stated he would not renounce his Sudanese citizenship if asked because there was no reason to do so because he still had family in Sudan. (Ex. 5)

In April 2013, Applicant completed an Electronic Questionnaires for Investigations Processing (e-QIP). He answered "no" when questioned about delinquent accounts. Prior to completing the form, he did not consult his credit report. He did not list the delinquent accounts because he was unaware of them. (Tr. 50) Throughout the hearing, he had little recollection of his delinquent accounts or about his finances. He has one charged-off account (SOR 1.c, \$7,634) and eight collection accounts totaling approximately \$26,000. In his SOR Response, he acknowledges owing two of the SOR debts (SOR 1.b, \$146 and SOR 1.i, \$188). In his May 2013 PSI, he was asked about each of the nine delinquent SOR accounts. (Ex. 5)

³ Applicant does not know the name of the company employing this brother. (Ex. 6)

⁴ At the time of Applicant's visit his mother was sick, which was part of the reason for the trip. Applicant returned to the United States in August 2014, and his mother died in September 2014. (Tr. 87) He returned alone to Sudan after his mother's death to attend her funeral and stayed for four weeks. (Tr. 88, 89)

Applicant's April 2015 credit report lists two adverse accounts including the delinquent account listed in SOR 1.b (\$146). (Ex. E) Applicant's June 2015 personal financial statement (PFS) indicates his net monthly remainder (monthly income less monthly expenses). That PFS indicated his monthly expenses were \$1,378 more than his monthly income. (Ex. F) That PFS listed his monthly income as \$4,320. At the hearing, he stated his monthly salary was \$6,500 and was sufficient to satisfy his financial obligations. (Tr. 53) However, he also stated at the hearing that he did not know how much income he had left after paying his monthly obligations. (Tr. 79) His wife handles the household finances. (Tr. 80)

Approximately three weeks prior to the hearing, Applicant entered into an agreement with a financial and investment service to help him make corrections to his credit report. (Ex. H, I, Tr. 47) He did not engage the service earlier because he had to save the company's \$900⁵ fee. (Tr. 81, 90) He had received the April 22, 2015 SOR sometime prior to May 20, 2016, but waited until three weeks before the hearing to start addressing his delinquent accounts. Prior to the October 2015 meeting with the financial and investment service, he had not contacted any of his creditors. (Tr. 75) There is nothing in the record showing Applicant had any contact with his creditors at any time.

Although Applicant admitted owing the delinquent medical accounts listed in SOR 1.b (\$146) and the telephone service bill listed in SOR 1.i (\$188), he chose not to pay them. The medical bill and another telephone service delinquent debt (SOR 1.a, \$177) were deleted from one of the three major credit reports through the actions of the financial and investment service. (Ex. I) Two other accounts were also deleted, but no information was provided linking them to any of the delinquent SOR debts. If the credit counseling service tells Applicant the debt is valid, Applicant intends to pay the debt. (Tr. 49)

Applicant's May 2013 credit report lists an account (SOR 1.c, \$7,634) charged off in March 2007. It lists eight accounts that were satisfactorily being paid, five collection accounts with a zero balance, and eight collection accounts with amounts owing. Those collection accounts are the delinquent obligations listed as SOR 1.a (\$177, with an activity date of February 2008), SOR 1.b (\$146, with an activity date of June 2011), SOR 1.d (\$4,074), SOR 1.e (\$1,480), SOR 1.f (\$1,191), SOR 1.g (\$10,639, with activity date of February 2007), SOR 1.h (\$8,174, with activity date of September 2006), and SOR 1.i (\$188, with activity date of October 2008). (Ex. 5)

Applicant's May 2014 credit report lists two collection accounts, which total \$323. (Ex. 3) The collection accounts are the delinquent medical debt listed in SOR 1.b (\$146) and the telephone service collection listed in SOR 1.a (\$177). His September 2015 credit report lists four collection accounts, which total \$900, which includes SOR 1.b (\$146) and three other non-SOR collection accounts. (Ex. 2)

⁵ As of the hearing, Applicant had paid the company \$300 and agreed to pay \$300 per month for the next two months. (Tr. 90)

As of the hearing date, Applicant had paid nothing on his delinquent accounts nor was any documentation received following the hearing showing he had made payment on his delinquent accounts. On November 25, 2015, Applicant received an internet credit counseling session. (Ex. N) How long the session lasted, what was discussed, or what Applicant learned from the session is not in evidence. Applicant has a debit card, but does not have any credit cards. (Ex. 5) His vehicle's value is less than \$12,000. His 401(k) retirement fund has less than \$3,000 in it, and he owns no real estate in the United States. There is no indication he is not current on his rent, vehicle payments, or that he is receiving calls or letters from creditors.

Sudan

I take administrative notice of the following facts. The Northern government in Sudan is hostile to the United States. The Southern government is not. Sudan had seventeen years of civil war between 1955 and 1972. A peace agreement was signed in 1972 and lasted until January 1983, when civil war started again. In January 2005, a Comprehensive Peace Agreement was signed, establishing a new Government of National Unity and the interim Government of Southern Sudan.

A rebellion in Darfur resulted in the death of tens of thousands of persons and led to an estimated two million internally displaced persons in Sudan and 234,000 refugees in Chad. The Sudanese Government is complicit with the bombing, murder, and rape of innocent civilians in Darfur.

In August 1993, Sudan was designated by the U.S. Secretary of State as a state sponsor of terrorism. Sudan remains on the list even though it has aggressively pursued terrorist operations directly involving threats to U.S. interests and U.S. personnel in Sudan. The U.S. Government has received indications of terrorist threats aimed at American and Western interests in Sudan, to include suicide operations, bombings, or kidnappings. Sudan is under a partial U.S. embargo, with extensive trade restrictions on exports to Sudan. The U.S. Department of State warns U.S. citizens against all travel to Sudan.

The Government of Sudan's human rights record has remained poor, and there are numerous serious problems including genocide, extrajudicial and unlawful killings, torture, beating, rape, cruel and inhumane treatment by security forces, arbitrary arrest and detention, executive interference with the judiciary, denial of due process, infringement of rights to privacy, freedoms of speech, press, assembly, association, religion, and movement, the trafficking of persons, violence and discrimination against women and ethnic minorities, and forced labor. Government security forces continue to torture, beat, and harass political opponents. The government continues to arbitrarily arrest and detain people under the National Security Act.

Policies

When evaluating an Applicant's suitability for a security clearance, the administrative judge must consider the revised adjudicative guidelines (AG). In addition

to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an Applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's over-arching adjudicative goal is a fair, impartial and common sense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the Applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The Applicant has the ultimate burden of persuasion as to obtaining a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the Applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Foreign Influence

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a

foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism. (AG ¶ 6)

Applicant siblings and mother-in-law are citizens and residents of Sudan. In July 1996, Applicant came to the United States. In March 2002, he became a naturalized U.S. citizen.

Having considered all of the Foreign Influence disqualifying conditions, applicable conditions that could possibly raise a security concern are 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" and AG ¶ 7(b) "connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information," apply.

In every case where siblings live overseas, there is a risk of pressure on these relatives and through them upon the holder of a security clearance. Under the facts of this case, a heightened risk for exploitation, inducement, manipulation pressure, or coercion is substantiated because of the problems in the Sudan. However, Applicant has strong ties to the U.S. and few ties to Sudan. While his siblings live in Sudan, he lives with his wife and five children in the U.S. He has limited financial or property interests in Sudan. His brother has a power-of-attorney over the property Applicant owns in Sudan. His brother is free to sell the property. Applicant no longer considers the property to be his property.

Applicant's wife is a naturalized U.S. citizen. Their five children are U.S. citizens having been born after Applicant became a naturalized U.S. citizen. His ties with the U.S. are stronger than his ties with Sudan.

The heightened risk because he has siblings in Sudan has been mitigated under AG ¶ 8(a) "the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S." and AG ¶ 8(b) "there is no conflict of interest, either because the individual's sense of loyalty 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." He has monthly contact with one brother. His contacts with his other brothers, sister, and mother-in-law are one to four times a year.

None of Applicant's siblings are involved with organizations which seek to harm the United States. The Government of Sudan's human rights record has remained poor, and there are numerous serious problems including genocide, extrajudicial and unlawful killings, torture, beating, rape, cruel and inhumane treatment by security forces, and arbitrary arrest and detention.

There is little likelihood that Applicant will be placed in a position of having to choose between the interests of the U.S. and a foreign entity. Likewise, because of his ties and loyalty to the U.S., he would resolve any conflict of interest in favor of the United States.

Guideline F, Financial Considerations

Adjudicative Guideline (AG) ¶ 18 articulates the security concerns relating to financial problems:

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.

Additionally, an individual who is financially irresponsible may also be irresponsible, unconcerned, negligent, or careless in properly handling and safeguarding classified information. Behaving responsibly or irresponsibly in one aspect of life provides an indication of how a person may behave in other aspects of life.

A person's relationship with his creditors is a private matter until evidence is uncovered demonstrating an inability or unwillingness to repay debts under agreed upon terms. Absent evidence of strong extenuating or mitigating circumstances, an applicant with a history of serious or recurring financial difficulties is in a position of risk that is inconsistent with holding a security clearance. An applicant is not required to be debt free, but is required to manage his finances to meet his financial obligations.

Applicant owes more than \$33,000 on charged-off and collection accounts. Three of the delinquent obligations were less than \$200 each. Disqualifying Conditions AG ¶ 19(a), "inability or unwillingness to satisfy debts" and AG ¶ 19(c), "a history of not meeting financial obligations" apply.

Five Financial Considerations Mitigating Conditions under AG ¶¶ 20 are potentially applicable:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast

doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances;

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

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

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

Applicant's household income is more than \$80,000. He has known of the Government's concern about his finances since his May 2013 interview when he was confronted about each of the SOR delinquent obligations. In April 2015, the SOR reasserted the Government's concern about his delinquent obligations. He has paid none of the debts even though three of them are less than \$200 each. He took no action on his debts until three weeks prior the hearing when he contacted a company to assist him in addressing his debts. He asserts he waited so long after receiving the SOR because he did not have sufficient funds to pay the company's fee. At the time of the hearing, he had paid the company only \$300 of the \$900 fee and had agreed to make two monthly payments of \$300 each. Having taken six months to save up \$300, there is little to provide confidence that he will be able to address the remainder of the SOR delinquent obligations.

In more than two and a half years since first learning of the Government's concern about his delinquent accounts he has paid nothing on his debts. During that time he did not contact his creditors. He appeared to have little knowledge about his finances and the payment of his debts. Although his wife manages the household's finances, he did not act reasonably when he failed to take more active participation in those finances in preparation for the hearing.

None of the mitigating factors for financial considerations fully extenuate the security concerns. By failing to pay his delinquent obligations, he has failed to act responsibly under the circumstances. He has had some periods of unemployment in the past, but has had sufficient opportunity to address his financial delinquencies. Failing to pay the debts casts doubt on his current reliability, trustworthiness, and good judgment. In November 2015, he received financial counseling, but provided no information about the nature of the counseling, the amount of time involved in the counseling, or what he

learned from that counseling. There are no repayment plans in place to address the delinquent debts. The mitigating conditions listed in AG ¶¶ 20(a) through (d) do not apply.

The mitigating condition listed in AG ¶ 20(e) does not apply because Applicant did not dispute the obligations. When questioned during his May 2013 interview, he stated he did not recognize the accounts or know anything about the accounts. He has had no contact with his creditors. AG ¶ 20(e) requires not only a debt be disputed, but there must also be documentation substantiating the basis of the dispute or providing evidence of action to resolve the debt, and Applicant has failed to provide that evidence.

Personal Conduct

Under Guideline E for personal conduct, the concern is that conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified information. In addition to those general matters, of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process. A statement is false when it is made deliberately (knowingly and willfully). An omission of relevant and material information is not deliberate if, for example, the person genuinely forgot about it, inadvertently overlooked it, misunderstood the question, or genuinely thought the information did not need to be reported.

On Applicant's April 2013 e-QIP, he answered "no" when questioned about delinquent obligations. He stated he had not reviewed his credit report before he completed his e-QIP. Had he checked his May 2013 credit report, it would have revealed the delinquent SOR debts. However, by May 2014 his credit report listed only two delinquent accounts totaling just over \$300. Having observed Applicant, I believe he was not attempting to hide or misrepresent his adverse financial record. Applicant has refuted the allegation that he intentionally failed to disclose requested financial information on his 2013 e-QIP.

Whole Person Concept

Protection of our national security is of paramount concern. Security clearance decisions are not intended to assign guilt or to impose further punishment for past transgressions. Rather, the objective of the adjudicative process is the fair-minded, commonsense assessment of a person's trustworthiness and fitness for access to classified information. In reaching this decision, I have considered the whole person concept in evaluating Applicant's risk and vulnerability in protecting our national interests. I considered the totality of Applicant's family ties to the Sudan and the heavy burden an Applicant carries when he has family members in the Sudan. (did you want to mention the other concerns? Or just the foreign influence issue here?)

Under the whole person concept, the Administrative Judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of the Applicant's

conduct and all the circumstances. The Administrative Judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept.

Applicant's communications with his siblings living in the Sudan are very limited. While danger certainly exists for all who go to or reside in Sudan, Applicant's siblings and mother-in-law are in no greater danger than any other individual living and working in Sudan. I find that there is little potential for Applicant to be pressured, coerced, or exploited because of his siblings living in Sudan.

Applicant's annual household income is approximately \$80,000. He has made no payment on his delinquent obligations even those three which were less than \$200 each. He has been aware of the Government's concern about his delinquent debts since his May 2013 interview when he was specifically confronted about each of his delinquent accounts now listed in the SOR. Additionally, the April 2015 SOR put him on notice of the Government's concern about his delinquent accounts. He has not contacted his creditors. He provided no information regarding his past efforts to address his delinquent debt and has failed to establish repayment agreements to address the delinquent debts.

Applicant's response to the delinquent accounts is that he does not recognize them or know anything about them. The only action he has taken was three weeks before he hearing, he contacted a financial and investment company to assist him with the delinquent accounts. He showed little knowledge of what the company is to do for him. He has also attended financial counseling in November 2015, but failed to provide any information as to the extent of this counseling or what was learned from the counseling.

Applicant has failed to mitigate the security concerns arising from his financial considerations. His lack of knowledge about his finances lends credence to his declaration that he did not deliberately fail to disclose information about his finances. The personal conduct security concerns are mitigated.

The issue is not simply whether all his debts are paid—it is whether his financial circumstances raise concerns about his fitness to hold a security clearance. See AG ¶

2(a)(1). Applicant appears to have little knowledge about his finances. Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant did not mitigate the security concerns arising from his delinquent financial obligations, but did mitigate the foreign influence and personal conduct security concerns.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of true reform and rehabilitation necessary to be eligible for a security clearance. The determination of an individual's eligibility and suitability for a security clearance is not a once in a lifetime occurrence, but is based on applying the factors, both disqualifying and mitigating, to the evidence presented. Under Applicant's current circumstances, a clearance is not warranted. In the future, if Applicant has paid his delinquent obligations, established compliance with a repayment plan, or otherwise substantially addressed his past-due obligations, he may well demonstrate persuasive evidence of his security worthiness.

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, Foreign Influence: FOR APPLICANT

Subparagraphs 1.a – 1.e: For Applicant

Paragraph 2, Guideline F: AGAINST APPLICANT

Subparagraphs 2.a – 2.i: Against Applicant

Paragraph 3, Personal Conduct: FOR APPLICANT

Subparagraph 3.a: For Applicant

Conclusion

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

CLAUDE R. HEINY II
Administrative Judge