



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



In the matter of:

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) ISCR Case No.15-05083  
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Applicant for Security Clearance

**Appearances**

For Government: Allison Marie, Esq. Department Counsel  
For Applicant: *Pro se*

07/18/2017

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**Decision**

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LYNCH, Noreen, A., Administrative Judge:

The Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant alleging security concerns arising under Guideline F (Financial Considerations) and Guideline B (Foreign Influence). The SOR was dated March 19, 2016. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Adjudicative Guidelines (AG) implemented in September 2006. Revised Adjudicative Guidelines were issued on December 10, 2016, and became effective on June 8, 2017.<sup>1</sup>

Applicant timely answered the SOR and requested a hearing. The case was assigned to me on October 19, 2016. A notice of hearing was issued on January 19,

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<sup>1</sup>In this case, the SOR was issued under Adjudicative Guidelines effective within the Defense Department on September 1, 2006. Revised Adjudicative Guidelines became effective June 8, 2017. My decision and formal findings under the revised Guidelines B and F would not be different under the 2006 Guidelines.

2017, scheduling the hearing for March 9, 2017. Government Exhibits (GX) 1-4 were admitted into evidence without objection. Applicant testified and submitted Applicant Exhibits (AX) A-F, which were admitted without objection. I kept the record open for additional submissions and Applicant timely submitted a packet of materials, which was marked as AX G. The transcript was received on March 20, 2017. Based on a review of the pleadings, testimony, and exhibits, eligibility for access to classified information is granted.

### **Procedural Issues**

Department Counsel requested that I take administrative notice of relevant facts about Somalia. The request and supporting documentation are in the record as Hearing Exhibit I. Applicant provided no objection. I took administrative notice as requested by Department Counsel. The facts administratively noticed are set out below.

### **Findings of Fact**

In his answer to the SOR, Applicant denied all allegations with the exception of SOR ¶¶ 1.c, 1.h, 1.k, and 1.l. He provided explanations for the allegations under Guideline F (Financial Considerations).<sup>2</sup> He admitted SOR allegations ¶¶ 2.a-2.e. and provided explanations.

Applicant is a 51-year-old program officer for a defense contractor. He has worked in the contracting field since 2004. (Tr. 18) In 1984, he received his undergraduate degree overseas. Applicant studied for his master's degree, but did not obtain his degree. He has worked for his current employer since 2016. Applicant worked as an independent contractor since 2011. In 2002, he obtained a security clearance from another U.S. Government agency, and he has held a public trust position since 2012. Applicant completed his security clearance application in January 2014. (GX 1)

### **Financial Considerations**

The SOR alleges 16 delinquent debts including charged-off accounts, collection accounts, and medical accounts, which total about \$15,000. It also alleges indebtedness to the Federal Government for a tax lien entered in 2012, in the approximate amount of \$87,429, which represents delinquent taxes for years 2006, 2007 and 2008.

Applicant stated that the delinquent debts stem from a time frame of 2005 until 2009, when he was working on a contract with a language service and the job was not steady. (Tr. 35) He was struggling to meet his obligations and at the same time, he had to go to Northern Somalia to take care of his very ill father who had lung cancer. He traveled from Somalia to Dubai so that his father could get proper treatment. His father

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<sup>2</sup>At the hearing, the Government withdrew SOR allegations ¶¶ 1.i, 1.l, 1.m, and 1.p. (Tr. 9)

died in 2012. Applicant was the only son who took the time and spent money to care for his ailing father. Applicant incurred travel expenses, etc, to take his father to a treatment center and help put him into a hospital. (Tr. 36) He helped his father financially. He believes that he spent about \$20,000 or more for his father's treatments. Applicant also had to support his own wife and three children. At the time, he was earning about \$80,000 a year. (Tr. 62) As a result, he incurred delinquent debt. Applicant took a part time job as a Uber driver to make additional income for about one year. Applicant is being sponsored for a position that will allow him to aid the U.S. military to fight terrorists overseas. (Tr. 59)

As to the 2011 tax lien (\$87,429) in SOR allegation 1.a, Applicant was not familiar with the reporting of income as a contractor using the IRS Form 1099. Applicant stated that the IRS reported Applicant's income as \$87,000, which was incorrect. The lien represents delinquent taxes for the years 2006, 2007, and 2008. Applicant disclosed the tax issue on his security clearance application. He contacted a private tax firm who in turn worked with the IRS. The original amount of tax owed was about \$12,000. (AX B, GX 1)

Applicant submitted official account transcripts from the IRS for the years 2007 to 2015. (AX G) The transcripts reflect that in 2012, Applicant had a payment arrangement with the IRS and also that many credits were given for penalty and interest over the years. (AX G) The tax experts obtained an offer in compromise for Applicant in 2016. (AX ) Applicant provided a letter from the IRS that he had a zero balance. (AX G)

Applicant contacted his creditors, but since many accounts had been sold to other agencies, he obtained the services of a credit repair firm, which disputed several non-SOR accounts for Applicant, as well as negotiated and verified the status of his alleged SOR accounts. (AX A) As to the delinquent debts alleged in SOR 1.b-1.q, Applicant provided documentation that the disputed accounts are no longer on his credit report. (AX A, AX C)

The 2016 credit bureau report in the file shows that Applicant has officially disputed various accounts and that he has other accounts with zero balance. He was credible when he stated that some were paid, but he could not find receipts due to the high volume of work-related travel. He will continue to work with the credit repair company to address and resolve the remaining issues.

Applicant submitted letters of recommendation from high level associates at the Department of State who worked with Applicant professionally. Each attests to his dedication and loyal work to the counter terrorism mission and public service. Applicant is described as having an uncanny ability to build rapport and collaborate with the government officials in Washington and key overseas embassies. Applicant's Deputy Coordinator has known him since 2011. He describes Applicant as a dedicated national security professional with an unwavering commitment to the mission. (AX D)

## Foreign Influence

The SOR alleges that Applicant's two brothers and a sister are citizens and residents of Somalia. He also has two brothers who are citizens of Somalia, but live in the United Arab Emirates (UAE). Applicant's spouse, and three children are living in the United States with him but are not yet U.S. citizens. Applicant acknowledged the existence of his relatives in Somalia, but denies that they create a risk of foreign influence.

Applicant, who was born in Somalia in 1966, came to the United States in 1998 via a refugee camp in Ethiopia. He left his country by force during the civil war to seek safety in the United States. He and his wife were granted asylum. Applicant's wife and three children live with him in the United States. The children were born in the refugee camp, but are not yet U.S. citizens. (Tr. 41) Applicant became a U.S. citizen in 2013. He does not consider himself a dual citizen. He formally denounced his Somalian citizenship. He holds a U.S. passport. Applicant has traveled the world for his employer. However, he has never traveled back to Somalia. (Tr. 54)

Applicant disclosed on his security clearance application that he has one sister and two brothers who are citizens and residents of Somalia. They live in the north of Somalia away from the southern area where the terrorists exist. He also has two brothers who are citizens of Somalia and are living in the UAE. None of them have knowledge of his work. None of them were in the military. He noted that they are not affiliated with any political organization. (Tr. 24)

Applicant noted that he has no foreign interests or real estate in Somalia. He has not provided financial support to any foreign national. He has had no foreign government contact. He did not serve in the Somali military. He also stated that he had no relatives associated with any foreign government.

When Applicant was questioned, he stated he could not be placed in a position of having to choose between the interest of his siblings or the Somali government and the interests of the United States. He left his country by force and has no desire to return. He also stated that he has such a longstanding relationship and loyalty to the United States that he can be expected to resolve any conflict of interest in favor of the United States. He stated his communications with his siblings is casual and infrequent. Applicant pledged to help the U.S. Government because he is grateful that the United States accepted him when he was a refugee. (Tr. 131) Not even Applicant's wife knows about his security clearance application.

Applicant submitted letters of reference from supervisors at another U.S. government agency. (AX D) Each attests to his dedication in the fight against counter violent extremism. He also presented many certificates of appreciation for his work abroad from the years 2004 onward. (AX E) He has individual photos with several U.S. presidents. (AX E )

## **Administrative Notice**

Somalia is a federal government, recently established in 2012 and recognized by the United States in 2013. The 1980s saw civil war in Somalia, which led to the collapse of the former central government in 1991, and the decision of the United States to close our embassy. Until a transitional government was established in 2004, various groupings of Somali factions fought to control the national territory, or portions thereof. In 2012, a political transition was completed, with the adoption of a provisional constitution, the election of a new president, the naming of a prime minister and cabinet. During his May 5, 2015 visit to Mogadishu, Secretary Kerry announced that the United States will begin the process of establishing a diplomatic mission in Mogadishu, but set no fixed time line for reopening the Embassy.

Human rights abuses in Somalia also include restrictions on freedom of the press, including the targeted killing of journalists and violence and discrimination against women and girls, such as rape and female genital mutilation. Life-threatening prison conditions, torture, arbitrary and politically motivated arrests and detention, government corruption, human trafficking, disappearances, conscription and use of child soldiers, and arbitrary interference with privacy, family, home and correspondence comprise some of the other human rights abuses in Somalia.

Somalia remained a terrorist safe haven, where members of al-Shabaab continue to plan and mount operations within Somalia and in neighboring countries, particularly in Kenya.

In addition to the threats posed by the Somali-based terrorist group, al-Shabaab, government security forces committed human rights abuses, and civilian authorities were unable to maintain control over these forces. More than 1.1 million civilians were internally displaced due to the conflicts and attacks. As late as 2015, there were notable terrorist attacks in Somalia. Although Somali security forces made some gains in early 2015, an inability to maintain consistent operations against them allowed al-Shabaab to develop and maintain new safe havens and to carry out attacks, both inside and outside of Somalia.

Somalia and the United States belong to a number of the same international organizations, including the United Nations, International Monetary Fund, and World Bank. The United States maintains regular dialogue with Somali officials and other key stakeholders in Somalia.

After a twenty-three year diplomatic absence in Washington, D.C., Somalia reopened its embassy on July 14, 2014. The Federal Government of Somalia also maintains a diplomatic mission in the United States in New York.

The United States supports the Somali Government as it implements “Vision 2016,” the Somali led state building agenda for completing a federal-state-formation process, holding a constitutional referendum, and preparing for democratic elections. The United States has also welcomed the African Union Mission in (AMISOM)

Somalia's success in driving the al-Shabaab terrorist organization out of strategically important population centers, and has underscored the continued U.S. commitment to support AMISOM and the Somali national forces in their responsibility of extending security throughout Somalia.

## **Policies**

When evaluating an applicant's suitability for a security clearance, an administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, they are applied in conjunction with the factors listed in the adjudicative process. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. Under AG ¶ 2(c), this process is a conscientious scrutiny of a number of variables known as the "whole-person concept." An 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.

The Government must present evidence to establish controverted facts alleged in the SOR. An applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ."<sup>3</sup> The burden of proof is something less than a preponderance of evidence.<sup>4</sup> The ultimate burden of persuasion is on the applicant.<sup>5</sup>

A person seeking access to classified information enters into a fiduciary relationship with the Government based on 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 classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

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<sup>3</sup> See also ISCR Case No. 94-1075 at 3-4 (App. Bd. Aug. 10, 1995).

<sup>4</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

<sup>5</sup> ISCR Case No. 93-1390 at 7-8 (App. Bd. Jan. 27, 1995).

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.”<sup>6</sup> “The clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials.”<sup>7</sup> Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such information.<sup>8</sup> The decision to deny an individual a security clearance does not necessarily reflect badly on an applicant’s character. It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense established for issuing a clearance.

## **Analysis**

### **Guideline F, Financial Considerations**

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

Failure 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 or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially over-extended is at a greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

AG ¶ 19 describes conditions that could raise a security concern and may be disqualifying:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so;
- (c) a history of not meeting financial obligations;

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<sup>6</sup> See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information), and EO 10865 § 7.

<sup>7</sup> ISCR Case No. 93-1390 at 7-8 (App. Bd. Jan. 27, 1995).

<sup>8</sup> *Id.*

(d) deceptive or illegal financial practices such as embezzlement, employee theft, check fraud, expense account fraud, mortgage fraud income tax evasion, expense account fraud, filing deceptive loan statements, and other intentional financial breaches of trust;

(e) consistent spending beyond one's means or frivolous or irresponsible spending, which may be indicated by excessive indebtedness, significant negative cash flow, a history of late payments or of non-payment, or other negative financial indicators;

(f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required;

(g) unexplained affluence, as shown by a lifestyle or standard of living, increase in net worth, or money transfers that are inconsistent with known legal sources of income;

(h) borrowing money or engaging in significant financial transactions to fund gambling or pay gambling debts; and

(i) concealing gambling losses, family conflict, or other problems caused by gambling.

The Government produced credible evidence to establish the delinquent debts and the 2011 tax lien. Consequently, the evidence is sufficient to raise disqualifying conditions ¶¶ 19(a), 19(c) and 19(f)

AG ¶ 20 provides conditions that could mitigate the 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, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the person has received or is receiving counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service; and there are clear indications that the problem is being resolved or is under control;



(d) the individual initiated and is adhering to 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;

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

(g) the individual has made arrangement with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Applicant had unsteady employment as an interpreter before his U.S. contracting work. He experienced periods of unemployment, which explains some earlier financial difficulty that he had. He helped his ill father in Somalia and incurred many expenses to do that. He contacted his creditors and then obtained the use of a debt repair company. He was not aware of some debt and he worked through the company to officially dispute some accounts. The government withdrew several SOR allegations with respect to the financial security concern. Applicant provided documentation that he worked with the IRS and that he does not owe any more in taxes. The situation was the result of a mistake on the amount of money he was making and no familiarity with Form 1099's. His current credit report shows many accounts in good standing. Mitigating conditions AG ¶ 20(a), (b), (c), (d), (e), and (g) apply.

## **Guideline B, Foreign Influence**

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

Foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests, or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U. S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

Three disqualifying conditions under this guideline are relevant. A disqualifying condition may be raised by “contact, regardless of method, with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure or coercion.” AG ¶ 7(a). In addition, AG ¶ 7(b) provides that “connections to a foreign person, group, government, or country that

create a potential conflict of interest between the individual's obligation to protect classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information."

AG ¶¶ 7(a) and 7(b) are raised by Applicant's relationship with his siblings who are citizens and residents of Somalia. His spouse and three children are not yet U.S. citizens and they reside with Applicant in the United States. AG ¶ 7(e) which provides that "shared 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" is raised.

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

Furthermore, "even friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security." ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at \*\*15-16 (App. Bd. Mar. 29, 2002). Finally, friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. Nevertheless, the nature of a nation's government, its relationship with the U.S., and its human rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, or the country is known to conduct intelligence operations against the U.S. In considering the nature of the government, an administrative judge must also consider any terrorist activity in the country at issue. See *generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006) (reversing decision to grant clearance where administrative judge did not consider terrorist activity in area where family members resided).

The Government submitted country summaries of Somalia. Record evidence places a burden of persuasion on Applicant to demonstrate that his relationship with his siblings living in Somalia does not pose a security risk. Applicant should not be placed in a position where he might be forced to choose between loyalty to the United States and a desire to assist his siblings living in Somalia.

I conclude that Applicant's ties are sufficient to raise an issue of a heightened risk of foreign exploitation, inducement, manipulation, pressure or coercion. This relationship with his relatives in Somalia creates a concern about Applicant's "obligation to protect sensitive information or technology" and his desire to help his siblings in Somalia.

The mere possession of close ties with a family member in Somalia 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 possibly result in the compromise of classified information. See *generally* ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case NO. 99-0424 (App. Bd. Feb. 8, 2001).

While there is no evidence that intelligence operatives, terrorists, or criminals from within Somalia seek or have sought classified or economic information from or through Applicant or his family, it is not possible to rule out such a possibility in the future. Applicant's wife and three children reside in the United States with him but are not yet U.S. citizens. The Government produced evidence to raise the potential of foreign pressure or attempted exploitation. AG ¶¶ 7(a), 7(b) and 7(e) apply, and further inquiry is necessary about potential application of any mitigating conditions.

Security concerns under this guideline can be mitigated by showing that "the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S." AG ¶ 8(a).

Security concerns under this guideline can also be mitigated by showing "there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, or allegiance to the group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest." AG ¶ 8(b).

AG ¶¶ 8(a), and 8(b), are applicable. Applicant's sisters and brothers have no connections to the Somali foreign government. Applicant maintains some contact with them, but he has not traveled to Somalia to visit them. Applicant's last contact with them was in 2011. He has no real contact with his sister. The amount of contacts between an applicant and relatives living in a foreign country are not the only test for determining whether someone could be coerced or influenced through their relatives.

AG ¶ 8(b) is applicable. Applicant expressed his loyalty to the United States. He is a naturalized citizen who has lived and worked in the U.S. since 1998. He has worked abroad for a U.S. contractor and has held a position of trust. The United States accepted Applicant as a refugee from Somalia, after he and his family lived in a refugee camp for years. A friendly relationship is not determinative, but it makes it less likely that a foreign government would attempt to exploit a U.S. citizen through relatives or associates in that country. I have also considered the ongoing situation in Somalia with an unstable government, extensive terrorist activities, and human rights issues. Even though Somalia is not a hostile country and its interests are not inimical to the United States, it is reasonable to consider that the situation and groups in Somalia could take an action that may jeopardize their friendly position with the United States. There are some indications that elements in Somalia could seek sensitive information from their citizens who have family in the United States.

Applicant has strong ties to the United States. He left Somalia via a refugee camp. He is a naturalized U.S. citizen and has been in the United States for the greater part of his life. He has worked with U.S. agencies in the area of antiterrorism missions. He is highly praised for his work. He has worked in the defense field for a number of years and has held a clearance and a position of public trust. He is a naturalized citizen who has spent about 19 years working in this country. His wife and children live with him in the United States. However, they are not U.S. citizens. He has no financial interests in Somalia. He has firm ties to the United States and considers it his home. He has never traveled to Somalia since coming to the United States.

Applicant's loyalty to the United States is such that he can be expected to resolve any conflict of interest in favor of the United States interest. Applicant has met his heavy burden to show that his siblings living in Somalia does not cause a security concern.

Applicant incurred financial debt and had a tax lien. He has resolved the tax issue and is working with a firm to resolve the debts that remain. He officially disputed debts and he has paid some. The government withdrew several of the SOR allegations regarding the financial issues. He worked in good faith with creditors and then with a company. He has a budget. He supported his family despite the fact that he took care of his ill father, who is now deceased. He has a retirement account and savings. Applicant now has steady employment and earns about \$107,000 a year. He does not have to depend on contracts. He attended credit counseling.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of an applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶2( d)

(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. As noted above, the ultimate burden of persuasion is on the applicant seeking a security clearance.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case, as well as the whole-person factors.

Applicant is 51 years old. He is an educated man who is a naturalized U.S. citizen. He was granted asylum in the United States. He has spent many years working on missions to fight terrorism. He has a wife and children with him in the United States. They are not yet U.S. citizens.

Applicant is a naturalized U.S. citizen who has lived and worked in the United States since 1998. His professional and personal life are in the United States. He worked for a defense company overseas. He stated that his four siblings in Somalia and the UAE would not present a conflict of interest for him. He has held a public trust position for a number of years and held a security clearance for a time.

Applicant chose to leave Somalia. He has no financial interests in Somalia. His career is in the United States. Although he has siblings in Somalia and has some familial ties to them, I am convinced that he will resolve any issues in favor of the United States.

There is no evidence any of the individuals at issue are involved with, or under scrutiny, by interests antithetical to the United States. His siblings do not know the specifics of his work. His wife does not know either.

Applicant helped his ill father and incurred debt. He was also on contract for years and did not earn a steady income. He traveled for work and was not aware of some debts. He did not understand the 1099 Form and the issue of taxes. He has now resolved that issue. He has a plan with the credit repair company to negotiate debts. Some have been officially disputed. He did not ignore his creditors.

After weighing the disqualifying and mitigating conditions under Guidelines F and B, and evaluating all the record evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns under both guidelines. Accordingly, I conclude that he has carried his burden of showing that it is clearly consistent with the national interest to grant him eligibility for access to classified information.

### **Formal Findings**

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

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraphs 1.a-1.q:	For Applicant
Paragraph 2, Guideline B:	FOR APPLICANT
Subparagraphs 2.a-2.e:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant a security clearance. Clearance is granted.

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NOREEN A. LYNCH  
Administrative Judge