



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



In the matter of:	)	
	)	
[Redacted]	)	ISCR Case No. 15-08585
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Rhett Petcher, Esq., Department Counsel  
For Applicant: William S. Aramony, Esq.

07/26/2017

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**Decision**

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FOREMAN, LeRoy F., Administrative Judge:

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

**Statement of the Case**

Applicant submitted a security clearance application on July 16, 2014. On June 14, 2016, the Department of Defense Consolidated Adjudications Facility (DOD CAF) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines F (Financial Considerations) and B (Foreign Influence). The DOD CAF acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on September 1, 2006.<sup>1</sup>

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<sup>1</sup> Security Executive Agent Directive 4 (SEAD 4), was issued on December 10, 2016, revising the 2006 adjudicative guidelines. The SEAD 4 guidelines apply to all adjudicative decisions issued on or after June

Applicant answered the SOR on July 26, 2016, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on October 6, 2016, and the case was assigned to me on March 1, 2017. On March 8, 2017, Department Counsel amended the SOR to add an additional allegation under Guideline F (SOR ¶ 1.v). On March 16, 2017, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled for April 6, 2017. I convened the hearing as scheduled. Government Exhibits (GX) 1 through 6 were admitted in evidence without objection.

Applicant testified, presented the testimony of one witness, and submitted Applicant's Exhibits (AX) A through P, which were admitted without objection. I kept the record open until April 21, 2017, to enable Applicant to submit additional documentary evidence. He timely submitted AX Q through FF, which were admitted without objection. DOHA received the transcript (Tr.) on April 18, 2017.

Department Counsel requested that I take administrative notice of relevant facts about Sudan, and I took notice as requested.<sup>2</sup> I have also taken administrative notice of the relevant facts set out in AX O, P, BB, CC, DD, and EE.) The facts administratively noticed are set out below in my findings of fact.

### **Findings of Fact<sup>3</sup>**

The SOR alleges 21 delinquent debts, including deficiencies after automobile repossessions, multiple consumer debts, delinquent credit-card accounts, medical debts, and delinquent utility bills (SOR ¶¶ 1.a-1.u). It also alleges that Applicant filed a petition for Chapter 7 bankruptcy and his dischargeable debts were discharged (SOR ¶ 1.v). The delinquent debts alleged in the SOR are reflected in credit bureau reports (CBRs) from July 2014, November 2015, and October 2016. (GX 3, 4, and 5.) Applicant has numerous student loans, which are reflected in the July 2014 and November 2015 CBRs as deferred and as current in the October 2016 CBR. The student loans are not alleged in the SOR.

In his answer to the SOR, Applicant admitted the allegations in SOR ¶¶ 1.a-1.u. He did not admit or deny the allegations in SOR ¶¶ 1.v and 2.a-2.c. He admitted the allegation in SOR ¶ 1.v at the hearing. (Tr. 10.) His admissions in his answer and at the hearing are incorporated in my findings of fact.

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8, 2017. My decision is based on the guidelines in SEAD 4, referred to in this decision as "AG." The changes resulting from issuance of SEAD 4 did not affect my decision in this case.

<sup>2</sup> The request to take administrative notice includes citations to a report submitted by the Congressional Research Service (CRS). I have not considered the analysis by CRS in my administrative notice, because the record does not reflect that the findings and conclusions of the CRS have been adopted by the U.S. Department of State or any other executive agency.

<sup>3</sup> Applicant's personal information is extracted from his security clearance application (GX 1) unless otherwise indicated by a parenthetical citation to the record.

Applicant is a 40-year-old computer systems technician employed by a federal contractor since May 2014. He has worked for various federal contractors since February 2009. He received a security clearance from another U.S. Government agency in February 2009 and is seeking to continue it. (Tr. 6-7.)

Applicant was born in Khartoum, Sudan. He attended high school and college in Sudan. He came to the United States in December 1999, and he became a U.S. citizen in May 2005. He received a master's degree in business administration 2008 and a master's degree in accounting in 2013. (AX A-D.)

Applicant married a citizen of Sudan in 2003. After he became a U.S. citizen in 2005, he brought his wife to the United States. His wife is now a U.S. citizen. He and his wife have six children, of which the oldest is 13, and they are all U.S. citizens. (Tr. 85.)

Applicant's mother, five sisters, one brother, and father-in-law are citizens and residents of Sudan. His father is deceased. Applicant's mother lives in Khartoum, near the U.S. embassy. (Tr. 42; AX N.) One of his sisters lives with his mother, and neither is employed outside the home. His mother lived with him for about a year but returned to Sudan because she and Applicant's wife had difficulty living together. He has no contact with his father-in-law and virtually no contact with his siblings. His contact with them is limited to two telephone calls a year during the celebration of Eid, a Muslim holiday that occurs twice a year. (Tr. 87-89.) No one in his family, including his wife, knows what he does for the government. They know his educational background is in accounting, and they think he works as an accountant. (Tr. 141.)

When Applicant first came to the United States, he worked in a pizza restaurant and as a cashier in a gas station. He worked 10 to 12 hours a day, seven days a week. (Tr. 49-51.) In June 2006, he was hired as a special police officer, and he continued to work at the pizza restaurant. (Tr. 52.) He borrowed money to purchase two new cars, one for his wife and one for himself. He was able to make the payments until his employer cut back on overtime, which substantially reduced his income. In mid-2009, the lender repossessed the automobiles and sold them. The deficiencies after the repossessions resulted in the debts for \$23,529 (SOR ¶ 1.a) and \$12,220 (SOR ¶ 1.b). (Tr. 53-55.)

In February 2009, Applicant was hired by a federal contractor as a security officer, and he received a security clearance. Later that year, his father passed away, and he returned to Sudan for the funeral. He used his savings to pay for his father's funeral and his round-trip airfare to and from Sudan. He was terminated, because his employer required that an employee work for one year before taking time off. He was able to negotiate being rehired by the same employer, but he was required to attend two months of training without pay. In 2010, Applicant's mother-in-law passed away, and Applicant borrowed money to pay for her funeral expenses. During the same time period, Applicant's son incurred about \$2,200 in uninsured medical expenses and his wife had a miscarriage. His wife borrowed \$1,000 from her brother to help pay for the medical expenses. (Tr. 61-62.)

In 2011, Applicant's wife accidentally struck their nine-year-old son with a hot cooking tool while arguing with him. The child protective service office removed the child from the home, placed him in foster care for nine months, and jailed Applicant's wife for 30 days. Applicant incurred about \$5,000 in legal expenses and was required to pay child support of about \$980 per month to the foster parents. (GX 2 at 11-12; Tr. 58-59.) While his son was in foster care, he was diagnosed with attention deficient disorder. As a result, Applicant and his wife were required to attend classes to learn how to deal with his disorder. After attending the classes, Applicant volunteered to teach parents from different cultural backgrounds how to deal with troubled children. (Tr. 142-43.)

In 2010 and 2011, Applicant was struggling financially, but he was able to negotiate payment plans for some his debts. (Tr. 56-57.) In his answer to the SOR, he stated that he was making payments on the two delinquent automobile loans alleged in SOR ¶¶ 1.a and 1.b. He testified that he contacted the collection agency and asked why his balance was not reduced by his payments, and he was informed that he was being charged a high interest rate, and his only option was to settle the debt for a lump-sum payment. (Tr. 127-28.)

Between 2010 and 2014, Applicant contacted several debt-resolution companies, but he could not afford the fees and the large payments that they required to assist him. (AX Q.) In March 2014, he hired an online law firm to assist him, paying \$90 per month for the service. The law firm successfully challenged some adverse items in his credit record, but it did not resolve any debts. (Tr. 133; AX V, W, and X.) After receiving the SOR and talking with several colleagues, Applicant contacted a bankruptcy lawyer. (Tr. 68-69.) In October 2016, he filed a petition for Chapter 7 bankruptcy, and he received a discharge in January 2017. (GX 6.) All the debts in the SOR were included in the bankruptcy.<sup>4</sup>

Applicant completed the financial counseling required by the bankruptcy court. (AX E and F.) Although not required by the court, he has continued to meet with a financial counselor every three months to review his financial situation. (Tr. 140.)

Applicant's Chapter 7 bankruptcy included student loans totaling \$338,537. (GX 6 at 16.) He recognizes that his student loans were not discharged. However, he is now enrolled in a Revised Pay as You Earn Repayment (REPAYE) plan, under which his

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<sup>4</sup> In a bankruptcy filing, most debtors list potential creditors, even when the debt may have been resold or transferred to a different collection agent or creditor, to ensure notice, and reduce the risk of subsequent dismissal of the bankruptcy. If they fail to list some debts on the bankruptcy schedules, this failure to list some debts does not necessarily affect the discharge. Absent fraud, in a no-asset bankruptcy, all unsecured, nonpriority debts are discharged when the bankruptcy court grants a discharge, even if they are not listed on a bankruptcy schedule. See *Judd v. Wolfe*, 78 F.3d 110, 114 (3d Cir. 1996); *Francis v. Nat'l Revenue Service, Inc.*, 426 B.R. 398 (Bankr. S.D. FL 2010), but see *First Circuit Bucks Majority on Discharge of Unlisted Debt in No-Asset Case*, American Bankruptcy Institute, 28-9 ABIJ 58 (Nov. 2009).

monthly payment is zero until September 2017. The plan is renewable and will be recalculated each year based on Applicant's income. (AX T; AX U.)

Before Applicant began to have financial difficulties, he had eight credit cards, and he was using credit cards to make payments on credit-card accounts and make his car payments. (Tr. 127.) He now has two credit cards. (Tr. 64.) Instead of driving an expensive new car, he drives a car that he bought at an auction for \$800. (Tr. 72.) He has a second job as a security officer for a hospital on weekends. (Tr. 75.) He is financially stable but still on a tight budget. He recently borrowed \$900 from a friend to pay his rent, and he is repaying the loan. (Tr. 123.) He has \$700 in savings. (Tr. 136.) His employer has offered him several overseas positions as a security site coordinator, contingent on his clearance being continued. (Tr. 66-68; AX K-M, AA.) At the time of the hearing, his total monthly income was \$5,673 and his expenses were \$5,595. (AX I.) If he is able to accept the offer for an overseas assignment, his monthly income will increase substantially. (AX J.)

Applicant's program manager is a retired Army officer who has held a top secret clearance since 1983. He testified that he offered Applicant a position as a site security coordinator because Applicant's team leaders from previous assignments rated him highly and trusted him. (Tr. 146-47.) In April 2017, he offered Applicant a position for which the daily per diem is \$112. (AX AA.) However, at the hearing, he testified that if Applicant's clearance is continued he would be sent to a location where the per diem is \$58 per day. (Tr. 152.)

Applicant's supervisor for about five years submitted a statement acknowledging that Applicant has financial problems and family members in Sudan. Notwithstanding these issues, the supervisor, based on personal knowledge and reports from others, regards him as reliable, trustworthy, and a person with outstanding judgment. (AX FF.)

The United States established diplomatic relations with Sudan in 1956, after it gained independence from joint administration by Egypt and the United Kingdom. In 1967, after the start of the Arab-Israeli War, Sudan broke diplomatic relations with the United States. Relations were reestablished in 1972. In 1993, the United States designated Sudan as a state sponsor of terrorism, and that designation remains in effect. The United States suspended embassy operations in 1996 and resumed them in 2002.

In July 2011, after more than two decades of civil war, Sudan divided into two nations and South Sudan was formed following a referendum on secession. The two nations have continuing disputes about the border and the status and rights of each other's citizenry. In August 2015, the two nations signed an agreement to create a Transitional Government of National Unity to administer South Sudan until elections in 2018. In July 2016, fighting broke out between forces loyal to current and former country leaders, making prospects of restarting the peace process uncertain. Government forces have been accused of serious abuses against civilians during the fighting, including extrajudicial killings, enforced disappearances, looting, property destruction,

and sexual violence. On one occasion during the fighting, U.S. citizens were assaulted during an attack on a refugee camp and several women were raped. More than 2.7 million civilians have been displaced by the violence.

In October 2006, the United States imposed economic sanctions on Sudan because of its support for international terrorism, efforts to destabilize neighboring governments, and the prevalence of human-rights violations. In January 2017, the United States lifted the sanctions because of Sudan's reduction in offensive military activity, a pledge to maintain a cessation of hostilities, steps toward improvement of humanitarian access to Sudan, and cooperation with the United States on addressing regional conflicts and the threat of terrorism. Nevertheless, Sudan remains a violent and dangerous country. The U.S. Department of State has warned U.S. citizens to "avoid all travel to the Darfur region, Blue Nile, and Southern Kordofan states, and consider carefully the risk of travel in other areas of Sudan, due to the continued threat of terrorism, armed conflict, violent crime and kidnapping."

### **Policies**

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

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

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

Clearance decisions must be made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the

applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

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

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

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

## **Analysis**

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

The security concern under this guideline is set out in AG ¶ 18:

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 overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds . . . .

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person’s self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible,

unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Applicant's admissions and the documentary evidence submitted at the hearing establish the following disqualifying conditions under this guideline:

AG ¶ 19(a): inability to satisfy debts;

AG ¶ 19(b): unwillingness to satisfy debts regardless of the ability to do so;

AG ¶ 19(c): a history of not meeting financial obligations; and

AG ¶ 19(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.

The following mitigating conditions are potentially applicable:

AG ¶ 20(a): the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

AG ¶ 20(b): the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

AG ¶ 20(c): the individual has received or is receiving financial 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; and

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

AG ¶ 20(a) is partially established. Applicant's delinquent debts were numerous and recent. However, he has learned from his financial mistakes, and they do not cast doubt on his current reliability, trustworthiness, or good judgment.

AG ¶¶ 20(b) and 20(c) are established. When Applicant's financial problems began in 2009, he was working hard to support himself, but he was financially naïve and inexperienced. He also experienced several conditions beyond his control: his employer's cutbacks on overtime, the deaths of his father and his mother-in-law,



unexpected medical expenses, and legal expenses resulting from his wife's injury of one of their children. He initially was financially foolish and used credit cards to pay other debts. However, he soon recognized his financial responsibilities and began contacting creditors and trying to resolve some of his debts. He contacted several debt-resolution companies and hired an online law firm in an effort to resolve his delinquent debts. He eventually realized that his financial situation was hopeless, and he contacted a bankruptcy attorney and obtained a discharge of his delinquent debts. He knew that his student loans were not be discharged in bankruptcy, and he enrolled in a program that adjusts his payments to his income. He went beyond the financial counseling required by the bankruptcy court and has continued to receive financial counseling from a legitimate counselor recognized by the bankruptcy court. Although he is still on a tight budget, his financial situation is under control.

AG ¶ 20(d) is not established. Although bankruptcy is a lawful and sometimes prudent course of action, a bankruptcy discharge does not qualify as a good-faith effort to resolve delinquent debts. See ISCR Case No. 03-20327 (App. Bd. Oct. 26, 2006).

### **Guideline B, Foreign Influence**

The SOR alleges that Applicant's mother, five sisters, brother, and father-in-law are citizens and residents of Sudan (SOR ¶¶ 2.a-2.c). 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 maybe 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.

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

Furthermore, "even friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security." ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at \*\*15-16 (App. Bd. Mar. 29, 2002). Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. Nevertheless, the

nature of a nation's government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, or the country is known to conduct intelligence operations against the United States. In considering the nature of the government, an administrative judge must also consider any terrorist activity in the country at issue. See *generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006) (reversing decision to grant clearance where administrative judge did not consider terrorist activity in area where family members resided).

Two disqualifying conditions are relevant:

AG ¶ 7(a): 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; 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 classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information or technology.

AG ¶¶ 7(a) requires substantial evidence of a "heightened risk." The "heightened risk" required to raise this disqualifying condition is a relatively low standard. "Heightened risk" denotes a risk greater than the normal risk inherent in having a family member living under a foreign government. When family ties are involved, the totality of an applicant's family ties to a foreign country as well as each individual family tie must be considered. ISCR Case No. 01-22693 at 7 (App. Bd. Sep. 22, 2003).

Applicant admitted that his mother, siblings, and father-in-law are citizens and residents of Sudan. There is no evidence that Sudan targets the United States for economic or military intelligence. However, it has been designated as a state sponsor of terrorism, and the country is a violent, dangerous place, due to insurgent and terrorist activity and human rights abuses by government security forces. These conditions are sufficient to establish the "heightened risk" in AG ¶ 7(a) and the potential conflict of interest in AG ¶ 7(b).

The following mitigating conditions are potentially applicable:

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 United States;

AG ¶ 8(b): 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; and

AG ¶ 8(c): contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation;

AG ¶ 8(a) is not established. Even though Applicant's family members live in a relatively safe area near the U.S. embassy in Khartoum, the dangerous and unsettled conditions in Sudan preclude a finding that a potential conflict of interest is unlikely.

AG ¶ 8(b) is established. Applicant has lived in the United States for almost 18 years and held U.S. citizenship for more than 12 years. He has worked for federal contractors and held a security clearance for more than eight years. His wife and children are U.S. citizens. He wanted his mother to live with him in the United States, but was unsuccessful because of household conflicts between his mother and his wife. He has performed well in responsible assignments. He is respected and trusted by his supervisor and his project manager. I am satisfied that he would resolve any conflict of interest in favor of the United States.

AG ¶ 8(c) is not fully established. There is a rebuttable presumption that contacts with an immediate family member in a foreign country are not casual. ISCR Case No. 00-0484 at 5 (App. Bd. Feb. 1, 2002). Applicant has rebutted the presumption for his siblings, but not for his mother. There also is a rebuttable presumption that a person has ties of affection for, or obligation to, the immediate family members of the person's spouse. ISCR Case No. 01-03120, 2002 DOHA LEXIS 94 at \* 8 (App. Bd. Feb. 20, 2002); ISCR Case No. 09-06457 at 4 (App. Bd. May 16, 2011). Applicant has rebutted this presumption for his father-in-law.

### **Whole-Person Concept**

The ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. In applying the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(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.

I have incorporated my comments under Guidelines F and B in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines, but some warrant additional comment.

Applicant was candid, sincere, and credible at the hearing. He is enthusiastic about his work and proud of his accomplishments. He is deeply committed to his wife and children. He has learned valuable lessons from his financial mistakes. He is respected and trusted by his supervisors. After weighing the disqualifying and mitigating conditions under Guidelines F and E, and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns raised by his delinquent debts and his foreign family connections.

### **Formal Findings**

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

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

Subparagraphs 1.a-1.v:	For Applicant
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Paragraph 2, Guideline B (Foreign Influence):	FOR APPLICANT
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Subparagraphs 2.a-2.c:	For Applicant
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### **Conclusion**

I conclude that it is clearly consistent with the national security interests of the United States to grant continue Applicant's eligibility for access to classified information. Clearance is granted.

LeRoy F. Foreman  
Administrative Judge