



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



In the matter of: )  
)  
) ISCR Case No. 15-07665  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Mary Margaret Foreman, Esq., Department Counsel  
For Applicant: *Pro se*

02/23/2018  
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**Decision**  
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CREAN, Thomas M., Administrative Judge:

Applicant did not provide sufficient evidence to mitigate security concerns for financial considerations under Guideline F, foreign influence under Guideline B, and personal conduct under Guideline E. Applicant presented sufficient information to mitigate foreign preference security concerns under Guideline C. Eligibility for access to classified information is denied.

**Statement of the Case**

On September 26, 2012, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to obtain a security clearance required for employment with a defense contractor. (Item 3) A security investigator from the Office of Personnel Management (OPM) interviewed Applicant on September 3, 2015. (Item 4, Personal Subject Interview (PSI)) After reviewing the background investigation, the Department of Defense (DOD) could not make the affirmative findings required to issue a security clearance. On June 5, 2016, DOD issued a Statement of Reasons (SOR) to Applicant detailing security concerns for financial considerations under Guideline F, for foreign influence under Guideline B, for foreign preference under Guideline C, and for personal conduct under Guideline E. (Item 1) The action was taken under 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 in the DOD on September 1, 2006.

While this case was pending a decision, the Director of National Intelligence issued Security Executive Agent Directive 4, establishing National Security Adjudicative Guidelines for *Determining Eligibility for access to Classified Information or Eligibility to Hold a Sensitive Position* (AGS), which he made applicable to all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position. The new AGs supersede the September 1, 2006 AGs, and are effective on or after June 8, 2017. Accordingly, I have evaluated Applicant's security clearance eligibility under the new AGs.

Applicant answered the SOR on July 6, 2016. He denied the seven allegations under Guideline F, the five allegations under Guideline B, the two allegations under Guideline C, and the one allegation under Guideline E. He provided detailed information in support of his denials. He requested that the matter be decided on the written record. (Item 2) Department Counsel submitted the Government's written case on August 24, 2015. (Item 9) Applicant received a complete file of relevant material (FORM) on September 8, 2016, and he was provided the opportunity to file objections and to submit material to refute, extenuate, or mitigate the disqualifying conditions. Applicant did not file a response to the FORM. I was assigned the case on October 1, 2017.

### **Procedural Issues**

Applicant was advised in the FORM that the summary of the PSI (Item 4) was not authenticated and could not be considered over his objection. He was further advised that he could make any corrections, additions, or deletions to the summary to make it clear and accurate. He was additionally advised that if no objection was raised to the summary, the administrative judge could determine that he waived any objection to the admissibility of the PSI summary. Applicant did not respond to the FORM, so he did not raise any objection to consideration of the PSI. Since there is no objection by Applicant, I considered information in the PSI in my decision.

Department Counsel requested that I take administrative notice of relevant facts concerning Nigeria. The request and supporting documents are attached to the FORM as Item 8. Applicant did not object to the request or the facts. I took administrative notice as requested. The facts concerning Nigeria are set out below in my decision.

### **Findings of Fact**

After thoroughly reviewing the case file, I make the following findings of fact. Applicant is 48 years old. He was born in Nigeria in February 1970. He received most of his schooling in Nigeria. He received a bachelor's degree from a Nigeria university in July 1995. He also received an associate's degree from a United States university in

May 2011. He immigrated to the United States in August 1999. He worked as an automotive technician for various companies until September 2012, when he started work as a materials specialist for his present employer, a federal contractor. His e-QIP states that he is employed by the DOD contractor to work in Afghanistan at a United States-controlled air base. This is Applicant's first application to be granted eligibility for access to classified information.

Applicant married a United States citizen in April 2000 and they divorced in October 2010. They did not have any children. Based on his first wife's United States citizenship, Applicant became a United States citizen in November 2010. Applicant married his present wife, who was born in Nigeria, in June 2011. His present wife is a citizen of Nigeria but a resident of the United Kingdom. They have one child who also resides with applicant's wife in the United Kingdom. (Item 3, e-QIP, dated September 26, 2012; Item 4, PSI, dated September 3, 2015)

Under foreign preference, the SOR alleges that Applicant obtained a Nigerian passport in June 2011 after becoming a naturalized U.S. citizen. That passport does not expire until June 2016 (SOR 1.a).<sup>1</sup> The SOR also alleges that Applicant used his Nigerian passport in lieu of a U.S. passport to travel to Nigeria in 2011 and 2015, and to the United Kingdom in 2011. (SOR 1.b) Under foreign influence, the SOR alleges that his mother is a citizen of Nigeria (SOR 2.a), his three brothers are citizens and residents of Nigeria (SOR 2.b), his sister is a citizen of Nigeria (SOR 2.c), and his mother and father-in-law are both citizens of Nigeria. (SOR 2.d and 2.e) Under the financial considerations security concerns, the SOR lists and credit reports (Item 5, dated October 6, 2012, Item 6, dated August 18, 2015, Item 7, dated April 8, 2016) confirm the following delinquent debts: a credit card account in collection for \$6,095 for bank A (SOR 3.a); another account to a school in collection for \$4,693 (SOR 3.b); a credit card account in collection for \$4,646 for bank A (SOR 3.c); a telephone service account in collection for \$89 (SOR 3.d); a debt for a broken apartment lease in collection for \$224 (SOR 1.e); two telephone service accounts to different companies in collection for \$309 (SOR 1.f), and \$200 (SOR 1.g). The total amount of the alleged delinquent debt is \$16,256. Under the personal conduct security concern, the SOR alleges that Applicant failed to list his delinquent debts on his security clearance application. (SOR 4.a) Applicant denied all of the allegations with a detailed explanation. (Item 2, Response to SOR, dated July 6, 2016)

Applicant did not disclose that he possessed a foreign passport on his e-QIP. He noted that he was a dual citizen of the United States and Nigeria, and that he has not taken any action to renounce his Nigerian citizenship. He disclosed his possession of a foreign passport during the PSI. Applicant retained and subsequently renewed his Nigerian passport after becoming a United States citizen to facilitate his entry into Nigeria when he visits his family. He admits that he used his Nigerian passport in lieu of his United States passport when entering Nigerian as late as June 2016. He stated that he used his U.S. passport to enter the United Kingdom to visit his family. He did not

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<sup>1</sup> The date for the SOR is June 5, 2016. In his response to the SOR, Applicant indicates that the Nigerian passport has been renewed.

indicate a willingness to relinquish his Nigerian passport, but does state that he intends to continue to renew his Nigerian passport. He said he does not remember signing an agreement when he became a United States citizen to forget he was born in Nigeria and abandon his Nigerian citizenship. He notes that it is not worth the emotional and financial toll and stress to get a Nigerian visa with his United States passport when he travels to Nigeria. With his Nigerian passport, he can return to Nigeria without obtaining a Nigerian visa. (Item 3, e-QIP, dated September 26, 2012; Item 4, PSI, dated September 3, 2015)

In his security clearance application, Applicant notes that his mother was a citizen of Nigeria residing in the United States, and that his father was a citizen and resident of Nigeria. He does not mention his three brothers. He reports that his sister is a citizen and resident of Nigeria, and notes that his in-laws are citizens of Nigeria residing in the United Kingdom. (Item 3, dated September 26, 2012)

In the PSI, Applicant states that he has three brothers who are citizens and residents of Nigeria. Applicant reported that the brothers are a postal service worker, a truck driver, and a newspaper editor. In his response to the SOR, Applicant notes that his father passed away in 2014 and his mother is now a citizen and resident of the United States. He also reports that his brothers all own their own businesses and travel often to the United States. In his security clearance application and in his response to the SOR, Applicant notes that his sister is a citizen of Nigeria residing with her husband, a German citizen, in Germany. He also notes that his in-laws and his wife are citizens of Nigeria, but reside in the United Kingdom. Applicant talks to his brothers by phone approximately weekly to twice a month. He visited Nigeria in 2011, and did have contact with his brothers. (Item 4, PSI, dated September 3, 2015)

Two of Applicant's delinquent debts (SOR 3.a and 3.c) are credit card accounts owed to the same bank. Applicant notes he only has one account with the bank. All of the credit reports presented by the Government list two accounts with the bank. After making monthly payments, Applicant stopped receiving notices from the bank. When he called the bank, he was informed the debts had gone to collection. He never received any notices from the collection agency. He may not have received notices because his address had changed. As to the debt at SOR 3.b, Applicant explained that the debt was from a school he attended to become a real estate agent. When he was informed that additional courses were required, he requested a refund and planned to hire an attorney. In his response to the SOR, Applicant states he knows nothing about the debt, and someone must have stolen his personal information. If the creditor can prove he owes the debt, the creditor can contact him. He denies the debt at SOR 3.e concerning damage to an apartment, stating that the apartment management company is a cheat and rip-off and he would not pay them. He denies the telephone service debts at SOR 3.e, 3.f, and 3.g. He stated he makes enough in a year that he can pay the debts without any problem. Applicant did not present documents to verify that any debts had been paid or resolved. He states he did not list his debts on his security clearance application because he was not aware of the debts.

Nigeria is Africa's most populous country, largest producer of oil and its second largest economy. The people are roughly divided between Christian and Muslim. U.S. diplomatic relations with Nigeria have improved since the country made the transition from military to civilian rule in 1999. Nigeria is a major recipient of U.S. foreign aid, and an influential country in African politics.

Nigeria is a country of significant promise, but it also faces serious social, economic, and security challenges that have the potential to threaten the stability of both the state and the region. The country has faced intermittent political turmoil and economic crises since its independence. Political life has been scarred by conflict along ethnic, geographic, and religious lines. Corruption and misrule have undermined the authority and legitimacy of the state. Nigeria's human development indicators are among the world's lowest. A majority of the population suffers from extreme poverty, and there is social unrest, criminality, and corruption. Corruption is massive, widespread, and pervasive. Nigeria's political system rewards rather than punishes corruption.

The most serious human rights problems are committed by the military sect known, Boko Haram. They have conducted numerous attacks on government and civilian targets throughout the country, resulting in thousands of deaths, injuries, widespread destruction, forced internal displacement, and the flight of refugees to neighboring countries. In response to Boko Haram, the security forces perpetuate extra-judicial killings, and engage in torture, rape, arbitrary detention, mistreatment of detainees and destruction of property. The country also suffers from widespread societal violence, including ethnic, regional, religious violence, vigilante killings, and official corruption. Nigerian security forces, particularly the police, have been accused of serious human rights abuses.

Boko Haram, a violent Nigerian Islamist movement, has grown increasingly active and deadly in its attacks against government and civilian targets. In April 2014, Boko Haram kidnapped over 300 school girls. There have also been periodic attacks against foreign targets and growing ties to Al Qaeda. Boko Haram was designated a foreign terrorist organization in November 2013. The U.S. State Department warns U.S. citizens of the risks of travel to Nigeria and recommend that U.S. citizens avoid travel to parts of the country because of the security situation. Boko Haram will remain a threat to Nigeria and will continue its terror campaign.

In the coming years, the Nigerian government will confront a wide range of challenges, many of which are deeply rooted and have no "quick fix." The tasks include reviving a struggling economy, reining in corruption, and developing power, agriculture, and transportation systems. Kidnapping will remain a security concern, particularly from criminal elements orchestrating kidnappings for ransom.

## **Policies**

When evaluating an applicant's suitability for a security clearance, the 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, which must be considered 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 overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), 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.

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 for 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 safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

## **Analysis**

### **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. An individual who is financially irresponsible, may also be irresponsible, unconcerned, or careless in his obligations to protect 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. An individual who is financially overextended is at risk of having to engage in illegal or otherwise questionable acts to generate funds. (AG ¶ 18).

A person's relationship with his or her creditors is a private matter until evidence is uncovered demonstrating an inability or unwillingness to meet financial obligations. Absent evidence of strong extenuating or mitigating circumstances, an applicant with a history of serious or recurring financial difficulties is in a situation of risk inconsistent with the holding of a security clearance. An applicant is required to manage his or her finances in such a way as to meet financial obligations.

Adverse information in credit reports can normally meet the substantial evidence standard to establish financial delinquency. Credit reports confirm the delinquent debts listed in the SOR. This information is sufficient to raise security concerns under Financial Considerations Disqualifying Conditions AG ¶ 19:

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

Once the Government has established the adverse financial issue, the Applicant has the responsibility to refute or mitigate the issue. Based on the information provided by Applicant, I considered the following Financial Consideration Mitigating Conditions under 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;
- (b) the conditions that resulted in the financial problems 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 sources, such as a non-profit credit counselling service, and there are clear indications that the problem is being resolved or is under control; and

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

The mitigating conditions do not apply. Applicant's debts are numerous and are not resolved, so they are recent. Applicant did not provide information concerning financial counseling or participation in debt consolidation programs. Good faith means acting in a way that shows reasonableness, prudence, honesty, and adherence to duty and obligation. Applicant is not required to be debt-free nor must his plan require paying off all debts immediately or simultaneously. All that is required is that Applicant act responsibly given his circumstances. Applicant must establish that he has a reasonable plan to resolve financial problems, and that he has taken significant action to implement that plan. Applicant's plan must show a systematic method of handling debts, and Applicant must establish a meaningful track record of debt payment. A promise to pay delinquent debts is not a substitute for a track record of paying debts in a timely manner and acting in a financially responsible manner.

Applicant did not provide information to establish that he resolved the debts alleged in the SOR, or that he had a plan of how he will pay or resolve the debts. Applicant has been gainfully employed since September 2012, and he seems to have sufficient income to resolve his delinquent debts. Applicant did not establish that he acted reasonably under the circumstances. Applicant presented no evidence of debt payments or resolution of any debts. He did not develop or present plans to pay his delinquent debts. He did not provide documentation to show proof of payments, correspondence to or from the creditors to establish maintenance of contact, copies of debt disputes, evidence of attempts to negotiate payment plans, or other evidence of progress or resolution. There is no clear evidence that his debt problems have been resolved, so his finances are not under control. There is insufficient evidence to establish why Applicant was unable to make greater progress resolving his debts.

Applicant's ability to resolve his financial problems are within his means and control. Since he did not present a plan to resolve his financial problems or make an effort to pay or resolve his delinquent debts, he has not established a good-faith effort to pay his debts. His lack of reasonable and responsible actions towards his finances is a strong indication that he will not protect and safeguard classified or sensitive information. Applicant did not present sufficient information to mitigate financial security concerns.

## **Personal Conduct**

Personal conduct is a security concern because 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 and sensitive information. Of special interest is any failure to provide truthful and candid answers during national security investigative or adjudicative processes. (AG ¶ 15). Personal conduct is always a security concern because it indicates whether the person's past conduct justifies confidence that the person can be



trusted to properly safeguard classified or sensitive information. Authorization for a security clearance depends on the individual providing correct and accurate information. If a person conceals or provides false information, the security clearance process cannot function properly to ensure that granting access to classified or sensitive information is in the best interest of the United States Government.

While there is a security concern for a deliberate omission, concealment, or falsification of a material fact in any written document or oral statement to the Government when applying for a security clearance, not every omission, concealment, or inaccurate statement is a falsification. A falsification must be deliberate and material. It is deliberate if done knowingly and willfully with intent to deceive.

The SOR alleges that Applicant did not provide full, complete, and accurate information concerning the status of his finances. Applicant's failure to list his delinquent debts on his e-QIP raises a security concern under Personal Conduct Disqualifying Condition AG ¶ 16(a) (deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine eligibility or trustworthiness, or award fiduciary responsibilities).

Applicant denied that he intentionally withheld full, complete, and accurate information on his security clearance application. He did not list any delinquent debts on his e-QIP. Applicant had to know that he had credit card debt when he completed his e-QIP. The debts are large and not easy to forget and ignore. He may not have known all of the details of his financial situation, but he knew he had delinquent debt. Applicant's failure to list any delinquent debt on the e-QIP was deliberate with an intent to hide a true picture of his financial situation. His failure to provide the correct information obscured the full extent of his financial situation from adjudicators. I find Applicant deliberately failed to provide correct and accurate information concerning his debts on his e-QIP.

## **Foreign Influence**

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 interests 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. (AG ¶ 6)

The SOR alleges that Applicant's mother, three brothers, sister, and in-laws, are citizens and residents of Nigeria. Applicant has presented sufficient evidence that his

mother is now a U.S. citizen residing in the United States; that his sister is still a Nigerian citizen, but now resides in Germany with her husband; and his in-laws are still Nigerian citizens, but reside with Applicant's wife in the United Kingdom. These family members are no longer a security concern because of their change in status. Applicant's three brothers, as citizens and resident of Nigeria, remain a security concerns. Applicant talks by phone with each of his brothers approximately weekly to twice a month, and saw them on his last reported visit to Nigeria in 2011.

The threat of terrorist attacks in Nigeria is ongoing, and the U.S. Government warns that American interests could be the focus of such attacks. Because of terrorist threats, corruption, violence, and human rights violations, the security concerns in Nigeria are substantial. Nigeria has and continues to have dangerous and destabilizing terrorists' activities and has seen an increase in violence against civilians. There is a sense of violence creating unsafe and unstable conditions. These factors place a heightened risk of exploitation, inducement, manipulation, pressure, or coercion on Applicant because of the presence of his brothers in Nigeria.

In spite of his limited contact with his brothers, Applicant's brothers in Nigeria are a security concern because of violence and instability raising the following Foreign Influence Disqualifying Conditions under 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
- (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.

The mere existence of foreign relationships and contacts is not sufficient to raise the above disqualifying conditions. AG ¶¶ 7(a) and 7(b) requires substantial evidence of a "heightened risk." The "heightened risk" required to raise one of these disqualifying conditions 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. The nature of Applicant's contacts and relationships must be examined to determine whether it creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion. One factor that may heighten the risk in Applicant's case is the increased violence, human rights violations, and active terrorist activities in Nigeria. An applicant with foreign family ties to a country that presents a heightened risk has a heavy burden of persuasion to show that neither he nor the family members are subject to influence by that country. The totality of an applicant's family ties to a foreign country as well as each individual family tie must be considered. There is a risk presented because Applicant's brothers are citizens and residents of Nigeria, and Nigeria suffers

widespread societal violence, including ethnic, regional, and religious violence, as well as human rights violations including vigilante killings and official corruption.

I considered Foreign Influence Mitigating Conditions 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 United States;

(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

(c) contact or communication with foreign citizens is so casual or infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.

There is a rebuttable presumption that a person has ties of affection for or obligation to immediate family members. Applicant has contacts with his brothers in Nigeria by phone calls and infrequent visits. These facts show a close and continuing contact between Applicant and his brothers in Nigeria, and indicates that Applicant's sense of loyalty to the brothers is high rather than minimal.

Applicant's ties and sense of loyalty to the United States are not extensive. He has lived in the United States for 18 years, and has been a United States citizen for only eight years. His first wife was a United States citizen who sponsored him for his United States citizenship. His second wife and his child do not live in the United States, but in the United Kingdom. After receiving his U.S. citizenship, he renewed his Nigerian passport, and used that passport to enter and leave Nigeria. Applicant did not present sufficient evidence to establish that he lives an American way of life and calls the United States his home.

Applicant's brothers in Nigeria can place him in a position to have to choose between the interest of the brothers and the interests of the United States. Even if his family members are only ordinary citizens, the situation in Nigeria is such that through them Applicant can be vulnerable to exploitation, pressure, or inducement to provide protected information. His connection and loyalty to the United States is not so deep and longstanding that he can be expected to resolve any conflict of interest in favor of United States interests. Accordingly, Applicant has not met his heavy burden to show that his relationships with his brothers in Nigeria is not a security concern. I conclude Appellant has not mitigated security concerns for foreign influence.

## Foreign Preference

When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may provide information or make decisions that are harmful to the interests of the United States. Foreign involvement raises concerns about an individual's judgement, reliability, and trustworthiness when it is in conflict with U.S. national interests or when the individual acts to conceal it. *By itself*; the fact that a U.S. citizen is also a citizen of another country is not disqualifying without an objective showing of such conflict or attempt at concealment. The same is true for a U.S. citizen's exercise of any right or privilege of foreign citizenship and any action to acquire or obtain recognition of a foreign citizenship.

Applicant renewed his Nigerian passport after he became a United States citizen and receiving a United States passport. He used his Nigerian passport to enter and leave Nigeria, but used his United States passport for all other travel. He did not disclose his possession of the Nigerian passport on his e-QIP, but he did disclose it during the PSI.

This information raises the following disqualifying conditions under AG ¶ 10:

(b) failure to report, or fully disclose when required, to an appropriate security official, the possession of a passport or identity card issued by any country other than the United States; and

(c) failure to use a U.S. passport when entering or exiting the U.S.

Applicant has a current Nigerian passport that he uses to enter and exit Nigeria. Applicant received a Nigerian passport because he was born in that country giving him a reasonable and legitimate reason for maintaining possession of a Nigerian passport. He renewed the Nigerian passport because under Nigerian law as a dual citizen, he can ease his enter and exit of Nigeria by use of a Nigerian passport. Available evidence shows that he uses the Nigerian passport only to enter and exit Nigeria. On all other foreign travel, he uses his United States passport. Applicant's possession of a foreign passport under these circumstances does not indicate a conflict with U.S. national interests. He disclosed his possession of the Nigerian passport and he does not attempt to conceal that fact. While Applicant has not denounced his Nigerian citizenship, his mere possession of a Nigeria passport under the circumstances does not demonstrate any preference for Nigerian over the United States. His possession and use of the Nigerian passport under these circumstances is not in conflict with national security and does not pose a national security threat.

## Whole-Person Concept

Under the whole-person concept, an administrative judge must evaluate an applicant's eligibility for access to classified information by considering the totality of the

applicant's conduct and all relevant 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 access to classified information must be an overall common-sense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. In requesting an administrative determination, Applicant chose to rely on the written record. In so doing, he must sufficiently supplemented the record with relevant and material facts regarding his financial circumstances, foreign preference and influence, and personal conduct, and adequately articulate his positions, and provide facts to mitigate the security concerns. In short, the file as a whole does not contain sufficient information to mitigate foreign influence or personal conduct security concerns, as well as sufficient evidence to establish that he made adequate efforts to pay, settle, compromise, or otherwise resolve his delinquent accounts. He presented sufficient information to mitigate security concern over his possession and use of a Nigerian passport.

Overall, the record evidence leaves me with questions and doubts concerning Applicant's judgment, reliability, and trustworthiness. Applicant did not establish his suitability for access to classified information. For all these reasons, I conclude Applicant failed to mitigate the financial considerations, personal conduct, and foreign influence security concerns. He mitigated foreign preference security concerns. Eligibility for access to classified information is denied.

### **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 C:	FOR APPLICANT
Subparagraphs 1.a and 1.b:	For Applicant
Paragraph 2, Guideline B:	AGAINST APPLICANT

Subparagraph 2.a:	For Applicant
Subparagraph 2.b:	Against Applicant
Subparagraphs 2.c – 2.e:	For Applicant
Paragraph 3, Guideline F:	AGAINST APPLICANT
Subparagraphs 3.a – 3.g:	Against Applicant
Paragraph 4, Guideline E:	AGAINST APPLICANT
Subparagraph 4.a:	Against 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 access to classified information. Eligibility for access to classified information is denied.

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THOMAS M. CREAN  
Administrative Judge