

DATE: August 25, 2006

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 04-06386

## **APPEAL BOARD DECISION**

### **APPEARANCES**

#### **FOR GOVERNMENT**

James B. Norman, Deputy Chief Department Counsel

#### **FOR APPLICANT**

*Pro Se*

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On April 15, 2005, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision--security concerns raised under Guideline B (Foreign Influence), pursuant to Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On February 15, 2006, after the hearing, Chief Administrative Judge Robert Robinson Gales granted Applicant's request for a security clearance. Department Counsel timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Department Counsel raised the following issue on appeal: whether the Chief Administrative Judge erred by concluding that Applicant had successfully mitigated the government's security concerns regarding Applicant's immediate family members in Syria. We reverse the Chief Administrative Judge's decision to grant the clearance.

### **Whether the Record Supports the Administrative Judge's Factual Findings**

A. The Administrative Judge made the following pertinent findings of fact:

Applicant is a 48-year-old employee of a defense contractor.

Applicant was born in 1957 in the Syrian Arab Republic (Syria), a country now included on the U.S. Department of State's list of State sponsors of terrorism, and whose interests may be inimical to the United States. It is an authoritarian regime with virtually absolute authority in the hands of the President, and has been under martial law since 1963. Syria's human rights record is poor. Syria permits a number of terrorist groups within its borders to openly oppose U.S. policies in the Middle East, and American citizens traveling in the country are cautioned to remain vigilant because U.S. interests and citizens might be targeted.

On May 11, 2004, President Bush signed Executive Order 13338, *Blocking Property of Certain Persons and Prohibiting the Export of Certain Goods to Syria*, implementing sanctions, in accordance with the *Syria Accountability and Lebanese Sovereignty Restoration Act of 2003*, prohibiting the export to Syria of U.S. products other than food or medicine. The U.S. Government recalled its Ambassador to Syria in February 2005, and as of October 2005, the Ambassador had not returned.

During 1957-1978, while residing with his family, including three sisters and three brothers, Applicant exercised the rights and privileges of a citizen of Syria. In March 1978, he moved to the United States. He enrolled at a U.S. university in September 1978, and eventually, in June 1996, was awarded a BSCE degree. In December 1981, he married his first wife, a native-born U.S. citizen, and in June 1985, they were divorced. He married his second and current wife, another native-born U.S. citizen, in November 1992. They have three native-born children, and reside in the U.S.

After residing in the U.S. for about seven years, in June 1985, Applicant became a naturalized citizen of the U.S. At the time he took his oath of allegiance and was granted his new citizenship, Applicant renounced any foreign allegiance. Nevertheless, Applicant considers himself to be a dual citizen of Syria. He had been issued a Syrian passport prior to becoming a U.S. citizen, but allowed it to expire and never considered having it renewed. He possesses a valid U.S. passport.

Considering himself a model U.S. citizen, Applicant contributes to his national, state, and local governments. He has served jury duty, votes in all elections, and is active socially and civically in his community. He and his wife own a residence and a vacation property in the U.S., and do not own any property outside the U.S.

Applicant's mother is deceased. He considers himself close to the remaining members of his immediate family, his father, sisters, and brothers, all of whom are citizens of Syria and still reside there. His father, born in 1933, was in wholesale produce, but is now retired, and resides part of the year in Syria, and a greater part of the year in the U.S. with Applicant. He possesses a "green card," and hopes to learn enough English to enable him to become a naturalized U.S. citizen.

Applicant's oldest brother, born in 1965, is married, with five children. His wife is a homemaker. This brother owns a company, with 20-25 employees, that manufactures children's clothing. They do not correspond by letter or e-mail, but do try to speak with each other by telephone every couple of weeks. His middle brother, born in 1965, is married, with two children. His wife is a homemaker. This brother is a physician in internal medicine in a private clinic and laboratory. They speak periodically on a less frequent basis than with his oldest brother. He previously applied for an immigrant visa to practice his specialty in the U.S. The visa was approved about the time he was to get married, so his application was placed into a lower priority. Applicant's youngest brother, born in 1971, is married, with one child. His wife is a homemaker. They speak periodically.

Applicant's oldest sister, born in 1959, is divorced, and unemployed. She is supported by their father and one older brother. His middle sister, a homemaker born in 1963, is married to a paper products salesman, and they have four children. His youngest sister, age unspecified, is a homemaker married to another paper products salesman, and they have four children.

All of Applicant's siblings have completed immigration applications. None of them are politically active in Syria; they do not work with the government; they are not agents of a foreign power; and, they are not involved with the ruling Arab Socialist Ba'ath Party. Furthermore, no member of his family has ever been visited by agents of the Syrian government, and there has been no effort to intimidate them to influence his actions.

After he initially arrived in the U.S., Applicant did not return to Syria for a lengthy period of time. However, commencing in about 1992, he has generally traveled there every two years, except when he had health issues, and one year when he returned on two occasions in the same year.

Applicant was previously employed as a principal professional by a U.S. company in the U.S. from January 1993 until April 2003. He has been employed as a senior project engineer by a U.S. government contractor since April 2003. His work on particular subcontracts required that he travel overseas to Iraq and Afghanistan on a number of occasions in support of the war on terror. The President of his current employer has known Applicant for five years, personally attests to his character, and supports his application for a security clearance.

## B. Discussion

The Judge's findings of fact are not challenged on appeal.

## Whether the Record Supports the Administrative Judge's Ultimate Conclusions

An Administrative Judge is required to "examine the relevant data and articulate a satisfactory explanation for" the decision "including a 'rational connection between the facts found and the choice made.'" *Motor Vehicle Mfrs. Ass'n of the United States v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 43 (1983) (quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)). The Appeal Board may reverse the Administrative Judge's decision to grant, deny, or revoke a security clearance if it is arbitrary, capricious, or contrary to law. Directive ¶ E3.1.32.3. Our scope of review under this standard is narrow, and we may not substitute our judgment for that of the Administrative Judge. We may not set aside an Administrative Judge's decision "that is rational, based on consideration of the relevant factors, and within the scope of the authority delegated to the agency. . ." *Motor Vehicle Mfrs. Ass'n*, 463 U.S. at 42. We review matters of law *de novo*.

The Board has previously noted that an applicant with immediate family members living in a country hostile to the U.S. has a heavy burden to show that those family ties do not pose a security risk. *See, e.g.* ISCR Case No. 03-09053 at 4 (App. Bd. Mar. 29, 2006). Here, Department Counsel argues that there is insufficient evidence to support the Chief Administrative Judge's conclusion that Applicant's Syrian family members are not in a position to be exploited by the Syrian government, and his overall favorable clearance decision. The Board finds Department Counsel's argument to be persuasive.

In this case, the Administrative Judge found that Applicant's Syrian family members were not in a position to be exploited by Syria because they "keep a generally low profile in Syria and are not politically active" and "[i]n nearly 50 years, the Syrian government has never indicated any interest in their activities or in their relationship with Applicant," (1) and concluded that those facts justified a favorable application of Guideline B Mitigating Condition 1. (2) That conclusion is not sustainable. The favorable facts recited by the Judge either do not readily suggest refutation, extenuation, or mitigation or have low probative value. *See, e.g.*, ISCR Case No. 04-00109 at 5 (App. Bd. July 13, 2006); ISCR Case No. 02-22461 at 12-13 (App. Bd. Oct. 27, 2005). None of the circumstances cited by the Judge would present a serious obstacle to Syria (which the Judge noted had an authoritarian regime, a poor human rights record, and harbored a number of terrorist groups that were openly opposed to the U.S. and might target U.S. citizens and interests) from exercising control over Applicant's resident family members in order to coerce, exploit, or pressure Applicant. *See, e.g.*, ISCR Case No. 04-03720 at 4 (App. Bd. June 14, 2006); ISCR Case No. 04-02181 at 5 (App. Bd. June 7, 2006); ISCR Case No. 03-10955 at 3 (App. Bd. May 30, 2006).

In his decision, the Administrative Judge found that Mitigating Condition 3 (3) had only been established with respect to some of Applicant's family members and, therefore, could not fully mitigate the government's security concerns. The Judge's favorable application of Mitigating Condition 5 (4) was erroneous--given that the SOR contains no allegation, and there was no evidence to indicate, that Applicant had a foreign financial interest under Disqualifying Condition 8. (5) Mitigating Condition 5, by itself, would not mitigate the security concerns raised by Applicant's foreign family ties. *See, e.g.*, ISCR Case No. 03-24428 at 4 (App. Bd. May 3, 2006). Accordingly, the remainder of the Judge's favorable conclusions are insufficient to support his overall decision, so his application of Mitigating Condition 1 is harmful error that cannot be corrected by remand.

### Order

The Administrative Judge's favorable security clearance is REVERSED.

Signed: Jean E. Smallin

Jean E. Smallin

Administrative Judge

Member, Appeal Board

Signed: William S. Fields

William S. Fields

Administrative Judge

Member, Appeal Board

### **Separate Opinion of Member Mark W. Harvey**

I agree with the opinion of my colleagues that the evidence of record supports the Chief Administrative Judge's findings of fact, and that the Chief Judge correctly concluded that Guideline B Disqualifying Condition (DC) 1<sup>(6)</sup> was established as a security concern.

I respectfully disagree with my colleagues' discussion of Guideline B Mitigating Conditions (MC) 1<sup>(7)</sup> and 5<sup>(8)</sup> and the decision to reverse the Chief Judge's decision to grant Applicant's clearance. I would remand the case to the Chief Judge to provide him an opportunity to take corrective action and to determine whether applicant's should receive a clearance under the "whole person" analysis.

#### **I. LEGAL ERROR.**

##### **A. Guideline B, Mitigating Condition 1.**

With respect to MC 1, the Judge concluded:

None of Applicant's immediate family members are associated with the Syrian government or any intelligence services or organizations. His brothers and brothers-in-law are all employed in private non-governmental businesses or enterprises, and his sisters and sisters-in-law are either full-time homemakers or divorced and unemployed. These facts, when considered in light of the nature of the government in Syria--an authoritarian regime which seemingly supports and apparently provides safe haven for terrorist groups, and whose interests may be inimical to the United States--renders an analysis involving the adjudicative guidelines and the various applicable conditions set forth therein more difficult. His family members keep a generally low profile in Syria and are not politically active. In nearly 50 years, the Syrian government has never indicated any interest in their activities or in their relationship with Applicant. If past experience is significant in forecasting future conduct, it appears the Syrian government is disinterested in Applicant and his family.

The majority reasoned that the Chief Judge could not favorably apply MC 1 because the relevant conclusions do "not readily suggest refutation, extenuation, or mitigation or have low probative value." (Majority Opinion at 4). The Board has previously indicated that excessive emphasis on the lack of evidence of governmental attempts to exploit Applicant's relatives is error. *See* ISCR Case No. 02-22461 at 4-5, 10 (App. Bd. Oct. 27, 2005). The Chief Judge, however, explicitly recognized multiple factors in his analysis and application of MC 1. By prefacing his observation about the disinterest of the Syrian government with the limiting clause, "If past experience is significant in forecasting future conduct," the Chief Judge was signaling that the probative value of the absence of such information was limited.

Evidence of foreign attempts to influence a particular Applicant would be highly probative. However, the absence of such evidence is relevant, but of relatively low probative value. Until the Applicant in this case receives a security clearance, Syria has no "known incentive to exploit Applicant's relationships." *See Id.* at 10 (Judge Ra'anani dissenting). Although not dispositive, the Syrian government's lack of interest in Applicant's family together with his family's lack of connection to the Syrian Government does tend to mitigate or reduce foreign influence security concerns. As such, the Chief Judge's conclusions about MC 1 do not constitute legal error.

##### **B. Guideline B, Mitigating Condition 3.**<sup>(9)</sup>

(2) In regard to MC 3, the Chief Judge concluded:

Applicant's contact with his family varies. It is clear his contacts with his father, and to a certain extent, his brothers, are frequent and planned, thus negating the applicability of [MC 3] but the same cannot be said for his relationship with his sisters. With respect to them, I find [MC 3] is applicable.

The majority opinion did not find error, and I join in that finding. The Chief Judge was merely making an observation that Applicant's lack of contact with his sisters living in Syria provided some mitigation, but he did not conclude that MC 3 was established.

### **C. Guideline B, Mitigating Condition 5.**

For MC 5, the Chief Judge stated:

Applicant's interests in the U.S. are substantial. His wife and three children are native-born U.S. citizens, residing in the U.S. Applicant owns no property overseas, but does own two properties in the U.S. His bank accounts and retirement accounts are in the U.S. These facts fall within [MC 5].

The majority determined that MC 5 could not be favorably applied because "the SOR contains no allegation, and there was no evidence to indicate that Applicant had a foreign financial interest under Disqualifying Condition 8. [\(10\)](#)" (Majority Opinion at 4-5). The favorable application of MC 5 does not depend on whether DC 8 is alleged in the SOR. Applicant has no property in Syria, therefore MC 5 applies because Guideline B security concerns are reduced by this circumstance. Under the facts of this case, however, favorable application of MC 5 alone, does not overcome or extinguish all security concerns. *See* ISCR Case No. 03-24428 at 4 (App. Bd. May 3, 2006) (stating the Judge should consider Applicant's foreign financial ties in conjunction with his foreign family ties and the record as a whole).

### **D. Whole person analysis.**

Although the Chief Judge did not mention "whole person" in his decision, after he discussed DC 1, MCs 1, 3 and 5 in his Conclusion section, he stated:

Based on the evidence, I conclude the security concerns manifested by the government, in this instance, are largely unfounded. Notwithstanding the nature of the government in Syria, I find that Applicant's immediate family, considering their citizenship and residency status, do not constitute an unacceptable security risk. Their continuing personal relationship is viewed in positive terms, having no security significance. Thus, in light of the evidence presented, I conclude Applicant has, through evidence of extenuation and explanation, successfully mitigated and overcome the government's case under Guideline B.

Department Counsel assert [\(11\)](#) that the Chief Judge's conclusion that Applicant's relationship had "no security significance" was arbitrary, capricious or contrary to law. In ISCR Case No. 03-24933 at 4 (App. Bd. July. 28, 2006), the Appeal Board commented as follows about a similar issue:

Department Counsel persuasively challenges the Administrative Judge's conclusion that Applicant's ties and contacts with his parents in Syria have "no security significance" (Decision at p. 9). The Administrative Judge's statement that Applicant's continuing relationship with his parents in Syria "[has] no security significance" is inconsistent with the Judge's conclusion that Department Counsel had established its case under Guideline B (Decision at p. 8), and the Judge's conclusion that the residence and citizenship of Applicant's immediate family members "are clearly of security concern under Foreign Influence Disqualifying Condition 1" (Decision at p. 9), and runs contrary to the Judge's recognition of the record evidence showing Syria has an authoritarian government and is a country identified by the U.S. State Department as being involved with state-sponsored terrorism (Decision at pp. 6 and 9). . . .

Under Guideline B, the closer the Applicant's personal relationships with those who are citizens and residents of a foreign country hostile to the United States, the greater the potential for exploitation or improper influence. *See* ISCR 99-0601 at 5 (App. Bd. Jan. 30, 2001); ISCR 99-0511 at 10-11 (App. Bd. Dec. 19, 2000) noting foreign influence situations can involve both coercive and noncoercive means of influence).

In ISCR Case No. 02-22461 at 8 (App. Bd. Oct. 27, 2005), the Board stated:

An Administrative Judge must apply pertinent Adjudicative Guidelines disqualifying and mitigating conditions. However, a Judge's obligation to apply pertinent provisions of the Adjudicative Guidelines does not override the Judge's obligation to evaluate an applicant's security eligibility in light of the "whole person" concept. Accordingly, the mere presence or absence of an Adjudicative Guideline disqualifying or mitigating condition is not solely dispositive of a case. Even if there is an Adjudicative Guideline disqualifying or mitigating condition that is applicable, a Judge must consider the applicable disqualifying or mitigating condition in light of the record evidence as a whole and any pertinent general factors, and decide what weight can reasonably be given to the applicable disqualifying or mitigating condition. And, if a Judge reasonably concludes that particular Adjudicative Guidelines disqualifying or mitigating conditions do not apply to the specific facts of a case, the Judge still must evaluate the applicant's security eligibility under the general factors of Directive [para.] E2.2.1 (which refers to the "whole person" concept). (internal citations omitted)

A Judge has the responsibility when viewing the evidence "to weigh the evidence as a whole and decide whether the favorable evidence outweighs the unfavorable evidence or vice versa." ISCR Case No. 03-03974 at 4 (App. Bd. Apr. 20, 2006). The Chief Judge's conclusion about the lack of security significance of Applicant's personal relationships with his family living in Syria is contrary to the Directive,<sup>(12)</sup> and as such is "contrary to law." See ISCR Case No. 03-24933 at 2 (App. Bd. July 28, 2006) (citing Directive ¶ E3.1.32.3) (indicating Board must determine whether conclusions of Judge are "contrary to law").

## II. HARMLESS ERROR.

Having concluded that the Chief Judge made a legal error, I must next determine whether under all the facts and circumstances of this case, the error is harmless. Department Counsel had a strong case for denial of Applicant's security clearance.<sup>(13)</sup> I therefore conclude the legal error may have influenced the Chief Judge's decision. Accordingly, I conclude that this error was not harmless.

## III. REMEDY.

Having determined that harmful or prejudicial error occurred, I must determine an appropriate remedy. This involves consideration of whether "the nonappealing party made a persuasive argument for how the Administrative Judge's decision can be affirmed on alternate grounds; and [whether] the Administrative Judge's decision should be reversed or remanded if it cannot be affirmed." ISCR Case No. 03-09053 at 5 (App. Bd. Mar. 29, 2006). In this case, Applicant did not file a response to Department Counsel's brief.

Remand, rather than reversal, is appropriate for those legal errors that can be corrected on remand. Reversal implicitly requires the Board to determine that a "Judge's clearance decision is not sustainable and the identified errors cannot be remedied on remand." See ISCR Case No. 03-22861 at 3 (App. Bd. June 2, 2006); ISCR Case No. 03-09053 at 5 (App. Bd. Mar. 29, 2006). Moreover, the Board has remanded Guideline B cases under similar circumstances. See e.g., ISCR Case No. 02-17369 at 3 (App. Bd. May 23, 2006); ISCR Case No. 02-21927 at 6 (App. Bd. Dec. 30, 2005), but see ISCR Case No. 03-09053 at 5 (App. Bd. Mar. 29, 2006) (reversing without explaining why identified errors could not be corrected on remand).

Remand is consistent with the approach of the Federal Courts. "The Supreme Court has cautioned that when an agency has not considered all relevant factors in taking action, or has provided an insufficient explanation for its action, the appropriate course for a reviewing court ordinarily is to remand the case to the agency." *Ward v. Brown*, 22 F.3d 516, 522 (2d Cir. 1994) (citing *Florida Power & Light Co. v. Lorion*, 470 U.S. 729, 744 (1985)) (The Circuit Court's remand included modification of the District Court's order, which erroneously limited the discretion of the Veteran's Administration on remand).

When the Board reverses a case because of legal error, instead of remanding the case with instructions, the Board substitutes its judgment on the ultimate disposition of the clearance for that of the Judge. In Applicant's case, the Chief Judge observed the Applicant's testimony, and evidently determined he was credible and not a security risk.<sup>(14)</sup> As such, the majority's decision to reverse is effectively a determination that the findings of fact, regardless of analysis, could never support approval of Applicant's clearance. Stated differently, any decision on remand to approve a



clearance, based on the facts found by the Chief Judge would be arbitrary, capricious or an abuse of discretion.

This is not a case where approval of a clearance would be arbitrary and capricious regardless of the analysis. The "arbitrary and capricious standard is extremely narrow, and allows the [Judge] wide latitude in fulfilling [his] obligation. It is not for the [Appeal Board] to substitute [its] judgment for that of the [Judge]. (internal citations omitted)." *United States Postal Service v. Gregory*, 534 U.S. 1, 6-7 (2001) (For readability, "Appeal Board" is substituted for "reviewing court" and "Judge" is substituted for "agency").

The Appeal Board's standard of review requires a determination of whether the Administrative Judge "examine[d] the relevant data and articulate[d] a satisfactory explanation for [his or her] action including a 'rational connection between the facts found and the choice made.'" *Motor Vehicle Mfrs. Assn. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 158 (1962)). In reviewing that explanation, the Appeal Board "must 'consider whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment.'" *Id.* (citation omitted).

Having determined that the Chief Judge erred, the Appeal Board should not attempt itself to make-up for the deficiencies of the Chief Judge. *Id.* Nor should the Appeal Board "supply a reasoned basis for the [Judge's] action that the [Judge himself] has not given." *Id.*

Reversal under the abuse of discretion standard includes an unwarranted presumption that the Chief Judge on remand will fail to: (1) examine the relevant evidence; (2) consider relevant factors or important aspects of the case; (3) explain his conclusions; (4) include a rational connection between the facts found and the choice made; (5) include an adequate explanation of his decision. *See* ISCR Case No. 97-0435 at 5 (App. Bd. July 14, 1998) (listing characteristics of an arbitrary and capricious decision). Nor should the Board presume that he will make a clear error in judgment, or that his decision will be "so implausible that it cannot be ascribed to a mere difference of opinion." *Id.* The Chief Judge should be given an opportunity to take corrective action. Accordingly, I dissent from the Majority Opinion that reversal is the appropriate remedy in this case.

Signed: Mark W. Harvey

Mark W. Harvey

Administrative Judge

Member, Appeal Board

1. Decision at 9.

2. Directive ¶ E2.A2.1.3.1 ("A determination that the immediate family member(s), spouse, father, mother, sons, daughters, brothers, sisters), cohabitant, or associate(s) in question are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person(s) involved and the United States").

3. Directive ¶ E2.A2.1.3.3 ("Contact and correspondence with foreign citizens are casual and infrequent").

4. Directive ¶ E2.A2.1.3.5 ("Foreign financial interests are minimal and not sufficient to affect the individual's security responsibilities").

5. Directive ¶ E2.A2.1.2.8 ("A substantial financial interest in a country, or in any foreign-owned or -operated business that could make the individual vulnerable to foreign influence").

6. Directive ¶ E2.A2.1.2.1 ("An immediate family member or person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country.")

7. Directive ¶ E2.A2.1.3.1 ("A determination that the immediate family member(s), spouse, father, mother, sons,

daughters, sisters), cohabitant, or associate(s) in question are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person(s) involved and the United States").

8. Directive ¶ E2.A2.1.3.5 ("foreign financial interests are minimal and not sufficient to affect the individual's security responsibilities").

9. Directive ¶ E2.A2.1.3.3 ("contact and correspondence with foreign citizens are casual and infrequent").

10. Directive ¶ E2.A2.1.3.8 ("A substantial financial interest in a country, or in any foreign-owned or -operated business that could make the individual vulnerable to foreign influence").

11. Department Counsel notes that the Chief Judge erred in the same manner in ISCR Case No. 03-24933 (App. Bd. July. 28, 2006), commenting that the Chief Judge failed "to follow th[e] logic and guidance provided in ISCR Case No. 03-24933" which resulted in "harmful, reversible error." (Brief at 11). The Chief Judge did not have an opportunity to apply the Appeal Board's decision in ISCR Case No. 03-24933 because it was issued several months after the Chief Judge issued his opinion in this case.

12. *See* ISCR Case No. 03-09053 at 2 (App. Bd. Mar. 29, 2006) (indicating if a Judge's decision is contrary to the directive, it is a legal error).

13. Four significant factors weigh against granting a clearance: (1) Applicant had multiple, immediate family relationships with citizens and residents of Syria; (2) Applicant has frequent contacts with those same family members, including annual visits to Syria; (3) It would be easy for Syria to connect those family members to Applicant because of his frequent contacts with them; and (4) Syria's conduct and politics make it more likely that Syria would attempt to exploit Applicant's family to pressure Applicant. Several significant factors tend to mitigate the security concerns, such as Applicant's very strong familial and financial ties to the United States. *See* ISCR 02-21927 (App. Bd. Dec 30, 2005) (stating "Applicant's ties to the United States constituted evidence that the Administrative Judge was entitled to consider," but noting such ties to the United States do not eliminate security concerns), as well as the other mitigating circumstances as previously discussed.

14. A Judge is given less deference on appeal when he does "not have an opportunity to evaluate Applicant's credibility in the context of a hearing." ISCR Case No. 03-09053 at 4 (Appeal Bd. Mar. 29, 2006).