



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



In the matter of: )  
 )  
 REDACTED ) ISCR Case No. 19-00446  
 )  
 Applicant for Security Clearance )

**Appearances**

For Government: Carroll J. Connelley, Esq., Department Counsel  
For Applicant: Eric A. Eisen, Esq.

11/13/2019

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**Decision**

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MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant, a dual citizen of the United States (U.S.) and his native Egypt, worked for a defense contractor in the United Arab Emirates (UAE) from May 2014 to November 2016. His parents, one of his brothers, and his grandmother currently reside in Egypt, while his other two siblings are U.S.-Egyptian dual citizens currently residing in the U.S. Applicant intends to remain in the U.S. While concerns of foreign preference are mitigated, he does not have such deep and longstanding ties to the U.S. to overcome his close family ties to Egypt. Foreign influence security concerns persist. Clearance is denied.

**Statement of the Case**

On May 6, 2019, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing security concerns under Guideline B, foreign influence, and Guideline C, foreign preference. The SOR explained why the DOD CAF was unable to find it clearly consistent with the national interest to grant or continue security clearance eligibility for him. The DOD CAF took the action under Executive Order (EO) 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 *National Security Adjudicative Guidelines for Determining Eligibility*

*for Access to Classified Information or Eligibility to Hold a Sensitive Position (AG) effective within the DOD on June 8, 2017.*

Applicant responded to the SOR on May 30, 2019, and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On August 19, 2019, counsel for Applicant formally entered his appearance. On August 21, 2019, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On August 28, 2019, I scheduled a hearing for September 25, 2019.

At the hearing, two Government exhibits (GEs 1-2) and four Applicant exhibits (AEs A-D) were admitted in evidence without objection. Applicant testified, as reflected in a transcript (Tr.) received on October 10, 2019. At the Government's request and without objection from Applicant, I agreed to take administrative notice of several facts pertinent to Egypt and to the UAE, as set forth in respective requests for administrative notice pertaining to Egypt and the UAE dated July 25, 2019. I informed the parties that after reviewing the source material relied on by the Government, I may administratively notice additional facts that I consider to be relevant and material to a timely assessment of the political landscapes in those countries pursuant to my responsibilities and in accord with Appeal Board precedent set forth in ISCR Case No. 05-11292, dated April 12, 2007. Applicant was offered an opportunity to propose facts for administrative notice, which he declined. The facts administratively noticed are set forth below.

### **Findings of Fact**

The SOR alleges under Guideline B that Applicant's father is a U.S.-Egyptian dual citizen, who resides in the UAE and is employed as a civilian contractor for the UAE military (SOR ¶ 1.a); that Applicant's mother (SOR ¶ 1.b), one of his brothers (SOR ¶ 1.c), and his grandmother (SOR ¶ 1.g) are U.S.-Egyptian dual citizens residing in Egypt; that Applicant's other brother (SOR ¶ 1.d) and his sister (SOR ¶ 1.e) have dual citizenship with Egypt and the U.S.; that Applicant's cousin is a dual citizen of Egypt and Canada residing in Canada (SOR ¶ 1.f); and that Applicant's friend is an Egyptian citizen residing in the UAE (SOR ¶ 1.h). Under Guideline C, Applicant is alleged to have expressed divided loyalty between the U.S. and Egypt during his August 8, 2017 security interview (SOR ¶ 2.a), and to have been employed by a foreign defense company that supports the UAE military from about May 2014 to November 2016 (SOR ¶ 2.b).

When Applicant responded to the SOR allegations, he admitted the Guideline B allegations. In a detailed response, he explained that his father had retired two months prior from his work as a pediatrician in the UAE and was in the process of returning to Egypt. He also indicated that his parents intend to move to the U.S., but currently have family obligations in Egypt in that Applicant's mother is his grandmother's caregiver. Applicant stated that his siblings in the U.S. show no interest in moving from the U.S. Applicant explained that his friend in the UAE (SOR ¶ 1.h) is a childhood friend from Egypt, but they have no ongoing relationship and have had no direct communication in over three years. As for the foreign preference concerns, Applicant denied that he has

divided allegiance. He admitted his previous employment for a defense contractor in the UAE, but indicated that his work was not contrary to the interests of the U.S. (Answer.)

After considering the pleadings, exhibits, and transcript, I make the following findings of fact:

Applicant is a 33-year-old senior software engineer, who began working for his current employer, a defense contractor, in December 2016. He subsequently left the employment of the company only to return (Tr. 62, 80), although the dates of his break in employment are not in evidence.

Applicant was born into a well-educated, upper-middle-class Egyptian family. (Tr. 33-34.) His parents were both physicians then living in their native Egypt. As an officer in Egypt's military, Applicant's maternal grandfather served a diplomatic posting in the U.S. in the late 1970s, and Applicant's mother attended graduate school in the U.S. (GEs 1-2; Tr. 55-58.) Applicant's mother may have acquired her U.S. permanent-residency status around that time, although Applicant does not know for certain when she obtained her "green card." (Tr. 30.)

In early summer 1986, Applicant moved with his parents and his then only sibling, a brother born in 1984, to the UAE for his father's job at a UAE military hospital. (GE 2.) On a date not clear in the record, his mother became employed at the same hospital. (Tr. 27.) Within a few years of their move, Applicant's parents had two more children: a daughter born in Egypt in 1988, and a son born in the UAE in 1990. (GE 1.)

Applicant attended private school in the UAE where the instruction was in the German language. (Tr. 25.) In 1995, when Applicant was nine or ten years old, his mother resigned from her employment in the UAE and moved with her children back to Egypt. Applicant's father stayed in the UAE working as a pediatrician. Applicant's mother became a medical professor at an Egyptian university. (GE 2; Tr. 27.) Applicant's friends were of the same social and economic class as he in Egypt's segmented society. (Tr. 33-34.)

Applicant and his family went to the UAE, about twice yearly during month-long school breaks, to visit his father. During his childhood, Applicant also visited the U.S. a few times. (GE 2.) After the terrorist attack of September 11, 2001, Applicant's parents became naturalized in the U.S. Applicant asserts that he and his siblings obtained U.S. citizenship as minors through their mother, and that he became a U.S. citizen in December 2001. (Tr. 31-32.)

Applicant attended college in Egypt from September 2004 to July 2009. For a couple of weeks in summer 2009, Applicant visited his father in the UAE. His father was employed by a company contracted to provide medical services for the UAE military. (AE B.) In August 2009, Applicant came to the U.S. for graduate school. He was 23 years old and had dual citizenship with the U.S. and Egypt. He did not register with the U.S. Selective Service because he was unaware of the requirement. (GE 2; Tr. 59-60.) He

spent the holiday break from December 2009 to January 2010 and the summer break from June 2010 to August 2010 in Egypt. He earned his master's degree in December 2010 in signals processing and artificial intelligence. (GE 1; Tr. 43.) Applicant went to Egypt for a month in early 2011 and then returned to the U.S. to seek employment. Applicant renewed his U.S. passport in January 2011 for another ten years. He used his U.S. passport for foreign travel, including on several trips to Egypt. Applicant also held an Egyptian passport until 2012. (GEs 1-2.)

From June 2011 to May 2014, Applicant was employed as a software-development engineer for a small start-up communications company in the U.S. While in that job, he submitted his Egyptian passport to his employer to obtain a clearance and was apparently told his passport would be shredded. He does not know whether it was destroyed. (GE 2.) After over two years in the job, Applicant began a job search for financial and career development reasons. He concentrated on jobs in the U.S., but after his father passed around his resume in the UAE, he received and accepted a lucrative job offer in the UAE at double his then salary and tax free. (Tr. 45).

In May 2014, Applicant moved to the UAE for a job as a network security engineer with a UAE-based contractor that provided human resources services for the UAE military. To Applicant's knowledge, the UAE government and not a corporate board made the decisions for the company. (Tr. 79-80.) Applicant's duty location was on a military base in the UAE, and he worked on unclassified projects. Applicant lived with his father rent free. Under the sponsorship of the UAE-based company, Applicant obtained a UAE resident permit that was valid from May 2014 to May 2016. He renewed the resident permit in May 2018, but it was cancelled in November 2016, when he left the UAE for the U.S. (GEs 1-2.) Applicant met an American woman in the UAE with whom he began a relationship that led him, along with a desire to start a new life here, to return to the U.S. They dated for awhile in the U.S. but eventually grew apart. (Tr. 45-47.)

In early December 2016, Applicant began working for his current employer in the U.S. He was placed on a program that was understaffed, and according to Applicant, his productivity saved the company "hundreds of thousands of dollars." (Tr. 74.)

On December 8, 2016, Applicant completed and certified to the accuracy of a Questionnaire for National Security Positions (SF 86). He disclosed that he holds dual citizenship with Egypt and the U.S., and explained that he was naturalized in the U.S. through his mother. He added that he obtained his U.S. passport in December 2001 and that he currently held only his U.S. passport, having "submitted" his Egyptian passport to a previous employer to obtain a security clearance in 2012. Under both the employment and foreign military service sections, Applicant listed his employment with the UAE-based contractor from May 2014 to November 2016 on a UAE military base. He explained that he worked as a contractor in an information technology division of the UAE military where he "was responsible for providing Information Security recommendations and Systems architectures to maintain confidentiality, integrity, and availability of UAE [military] computer systems." (GE 1.)

Applicant disclosed the Egyptian-U.S. dual citizenship of his parents and siblings. He detailed that he had contact by telephone or electronic means (including online video chat) weekly with his father in the UAE and daily with his mother in Egypt; quarterly contact with his brother in Egypt; and contact by telephone or electronic means (texting) daily with his brother and weekly with his sister in the U.S. In response to an inquiry into any close or continuing contacts with other foreign nationals in the last seven years with whom he was bound by affection, influence, common interest, or obligation, Applicant reported that he has averaged weekly contact by telephone or text with a cousin with Canadian-Egyptian dual citizenship residing in Canada. Applicant listed his foreign travel in the last seven years, including to Egypt while he was living in the UAE to visit family or friends in September 2014, May 2015, July 2015, July 2016, and October 2016. (GE 1.)

On August 8, 2017, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). Applicant indicated that he acquired his U.S. citizenship and passport in 2001, even though he continued to live in Egypt until August 2009. Applicant stated that he has considered the U.S. his home since coming here in 2009 for graduate school. Applicant explained that, because he earned his bachelor's degree from an accredited engineering program in Egypt he is eligible for an Egyptian pension of less than \$30 per month when he eventually retires. He denied ever voting in an Egyptian election, any employment in Egypt, and any service in Egypt's military, explaining that his status as a dual citizen with the U.S. disqualified him from Egypt's military-service requirement. About his dual passports, Applicant could not recall whether he had used his first U.S. passport issued in 2001, as he would have used his Egyptian passport when he was living in Egypt, but he asserted that he used his U.S. passport exclusively since August 2009. He denied any intention to reapply for an Egyptian passport. When asked where his ultimate loyalty lies, Applicant responded that his loyalty is to his work, and because he studied in the U.S. and his career is here, his loyalty is to the U.S., *i.e.*, he finds value in his work, and he is loyal to his employer in performing his job with quality. (Tr. 66-67.) He acknowledged that it was hard to say where his loyalty lies, because he had not lived in any one place for a long time. However, he expressed a sense of belonging in the U.S.; that his "concepts and work ethic" align with the U.S. Applicant denied any sense of obligation to any foreign country, including Egypt, but admitted he is tied to his family in Egypt. (GE 2.) He testified that he would not divulge any sensitive information regarding his work for the U.S. military without proper approval. (Tr. 67.)

About his work as a contractor for the UAE military on a UAE military base, Applicant explained that he had "constant contact" with foreign government and military employees, but his interactions with them were solely professional. He had both military and civilian supervisors. (Tr. 64-65.) Although the UAE government investigated his background for an identity card to enter the military installation and to grant him the UAE equivalent of a security clearance, he did not handle any classified information in his work. He told the OPM investigator that he left the job in the UAE, which paid him \$140,000 a year, because he disliked the attitude among workers to take it easy and not work very hard. He closed a bank account that he had in UAE when he left the country and transferred \$180,000 to \$190,000 to the U.S. While Applicant was living in the UAE, he

mainly socialized with his father and with a group of friends from the U.S. whom he met in the UAE, including his then girlfriend. Applicant updated his foreign travel since completing his SF 86, disclosing that he had traveled with his girlfriend to Iceland for tourism in January 2017 and to Canada to visit his cousin in May 2017. Applicant denied any unusual encounters during any of his international travels. (GE 2.)

Applicant emailed the OPM investigator a copy of all of the pages of his U.S. passport issued in January 2011. The passport bore stamps that confirmed that he used his U.S. passport for his international travel, including to enter and exit the UAE on various dates between May 2014 and December 2015. As of August 2017, his U.S. passport contained 11 arrival stamps and nine departure stamps for Egypt. (GE 2.) Applicant traveled to Egypt most recently for three weeks in March 2019, using his U.S. passport. (Tr. 72.)

Applicant's father's employment contract with the UAE-based company expired on January 1, 2018, but his residency permit in the UAE was renewed to maintain continuation of service in the UAE through March 24, 2019. On February 27, 2019, the UAE-based company reconfirmed the termination of his employment contract due to a restructuring. Applicant's father's "Labour Card," which was issued to him as a U.S. passport holder and which authorized his employment in the UAE, was cancelled, and his employment ended on March 24, 2019. Applicant's father currently holds a U.S. passport issued in December 2011 that is valid for ten years. (AE B.) Applicant's father moved back to Egypt sometime between late May 2019 and September 2019. (Tr. 36.) Applicant has had weekly contact on average with his father, although their contact has been less frequent lately. (Tr. 70.)

Applicant has daily contact with his mother, and monthly to once every two months contact with his grandmother, who "divides her time up on 22 cousins." (Tr. 71-72.) Applicant testified that his parents intend to retire to the U.S., but his mother currently is the primary caregiver for her mother in Egypt. (Answer; Tr. 37-38.) The record does not indicate whether Applicant's mother is retired from her position as a university professor. Applicant's parents, grandmother, and his mother's sisters all live in the same building in Egypt. (Tr. 33, 37-38.) Applicant's mother spent two to three months in the U.S. in 2017, approximately six months in 2018, and four to five months in 2019. (Tr. 39.) She stays with Applicant when she is in the U.S. (Tr. 76.) His father came to the U.S. in 2018 for about a month. (Tr. 40, 77.)

Applicant's older brother attended an American high school in Egypt. He obtained his college degree in Egypt and initially worked as a construction engineer. (Tr. 29, 35.) He quit his job and was unemployed for about two years. At least part of that time, Applicant's father was home in Egypt and not working overseas. (Tr. 36.) Applicant's brother became a software engineer. As of September 2019, Applicant's brother was working in the information-technology sector in Egypt and living with Applicant's parents. (Tr. 36.) Applicant is in contact with his brother a few times every couple of months. (Tr. 71.)

Applicant's younger brother has resided in the U.S. continuously since 2009, and he works in the financial industry. Applicant's sister is currently employed as a data analyst for an insurance company in the U.S. She earned her master's degree in statistical modeling in the U.S. in 2018. Applicant visits his siblings in the U.S. whenever he can. (GE 2; Tr. 34-35.)

Applicant's cousin in Canada had owned an electronics shop, but as of August 2017, he was starting an online sales business. Applicant sees his cousin about twice a year in person, and has averaged weekly contact with him by phone or text. (GE 2.)

Applicant's childhood friend from Egypt has been a longtime resident of the UAE. Applicant and his friend had regular contact in childhood but sporadic contact thereafter until Applicant moved to the UAE in 2014. This friend, who worked for a U.S.-based company in the UAE, socialized with Applicant three or four times in the UAE. They have had no contact other than a single text message since Applicant returned to the U.S. in 2016. (GE 2.)

After the SOR was issued, Applicant was removed from his program at work in May 2019 and transferred to unclassified work. (Tr. 75.) On May 30, 2019, Applicant executed a written statement of loyalty to the U.S. in which he renounced any allegiance to a foreign state. (AE A.) He denied any loyalty to Egypt, although there is no evidence that Applicant has notified Egyptian authorities of an intention to relinquish his Egyptian citizenship. In response to the SOR, Applicant acknowledged his concern for his immediate family, but indicated:

Respectfully, if the remote and speculative possibility of my being placed in a position of choosing between Egypt and the U.S. there is no choice; I would have no loyalty to Egypt. I proudly admit I would have concern for my close family and think that if I did not, well that might be the greater concern with respect to who I am. But short of even more remote scenarios of kidnappings etc., I just don't see how that would happen given who they are and their lack of knowledge of my job responsibilities. If it did, I would rely on the systems and process of the government I have sworn to protect to do what must be done. (Answer.)

Applicant does not see a future for himself in Egypt, largely because of the rampant corruption there. (Tr. 41-42.) When asked at his hearing whether he would consider moving to Egypt or the UAE for a job, Applicant responded, as follows:

Doubt it. . . . because I wouldn't — I don't need to. I, the job market's great, here, right now . . . it will just be another source of instability. And I wouldn't know where I would end up next in my life, but most likely, here. I wouldn't — unless i got another great job offer in the UAE that pays, somehow, but I don't see that happening. (Tr. 77-78.)

Applicant's financial assets, including about \$47,000 in banking deposits, \$16,538 in his employer's investment plan, and \$213,000 in other retirement and investment accounts, are solely in the U.S. (AE C; Tr. 50.) Applicant consulted with a real estate professional in his area in regard to purchasing a residence, but he continues to rent because of the uncertainty about his clearance and possible job loss. (AE C; Tr. 51-52.) For the last year, he has assisted his sister while she was having chemotherapy treatments. Applicant has been dating a medical student for the past year-and-a half. (Tr. 53.)

Applicant submitted character reference letters on his behalf from a friend, two co-workers, and a neighbor. The friend has known Applicant for the last five years. They first became acquainted in November 2014, while she was employed as a special education teacher in the UAE. Applicant was someone she looked to for advice and guidance in navigating in the UAE and its culture. She returned to the U.S. in August 2016. When Applicant moved back to the U.S., he stayed in this friend's guest room while apartment hunting. He paid his bills on time. This friend considers Applicant to be a sincere, thoughtful, and dependable friend. (AE D.)

A software engineer for Applicant's employer met Applicant two years ago. They did not work on the same projects, but they share similar work and sports (soccer) interests. They have contact outside of work a couple of times per week. This friend/co-worker is aware that Applicant's sister underwent chemotherapy treatments; that Applicant assumed the responsibility of caring for her without hesitation or complaint; and that Applicant provides emotional support for his mother. According to this friend, Applicant stands out for his empathy, responsibility, and reliability. He has no hesitation in recommending Applicant for a position that requires integrity and reliability. (AE D.)

A senior software engineer with a secret clearance met Applicant in November 2017 when the co-worker began working for Applicant's employer. Applicant "went out of his way to help [him] and make sure things went smoothly." While they were assigned to the same team, Applicant handled some of the most difficult problems professionally and with success. This co-worker described Applicant as an asset to their work and to the soccer team that they joined together in 2018. Applicant attended his wedding, and this co-worker and his wife have developed a close friendship with Applicant. They have learned through experience that Applicant is a thoughtful and sincere person. (AE D.)

A neighbor of Applicant's attests that Applicant has been a consistently polite, thoughtful, and kind neighbor. The neighbor and her spouse have had the pleasure of meeting Applicant's sister and mother when they have visited him, although their interactions with them have been limited to small, polite conversations. The neighbor believes Applicant can be relied on to abide by his commitments. (AE D.)



## Administrative Notice

After reviewing the source documents relied on by the Government, and considering Applicant's position about issues in Egypt, including that known terrorist activity targeting tourists in Egypt "has less than nothing to do with this case" (Tr. 16), I have taken administrative notice of the facts set forth in the Government's July 25, 2019 requests and incorporate them by reference in this decision. For additional background information regarding the two countries relationships with the U.S., I have reviewed the U.S. State Department's respective Bilateral Relations Fact Sheet, issued for Egypt on September 20, 2019, and for the UAE on September 13, 2018. Of particular note are the following salient facts.

Egypt is a constitutional republic governed by an elected president and unicameral legislature. Challengers to Egypt's incumbent President al-Sisi withdrew before recent presidential elections in March 2019, some citing political pressure or unfair competition. Some challengers were arrested for alleged violations of candidacy prohibitions for military personnel. Domestic and international organizations expressed concern that government limitations on association, assembly, and expression severely constrained broad participation in the political process. Egypt's parliament approved a state of emergency after an April 2017 terrorist attack on Coptic churches. Egypt was under a government-declared state of emergency for all of 2018. Illegal demonstrations have occurred in Egypt which have turned volatile. The U.S. State Department's Office of Diplomatic Security's *Egypt 2019 Crime & Safety Report: Cairo* indicates that illegal demonstrations have been quashed by Egyptian authorities in a relatively short time, but that, because of the volatility of past demonstrations, peaceful demonstrators and even bystanders may be subject to questioning, detention, arrest, and conviction for participating in or proximity to unauthorized demonstrations.

In 2018, Egypt's most significant human rights issues included arbitrary or unlawful killings, including by government forces or its agents and non-state terrorist groups; forced disappearances; torture, arbitrary arrest and detention; arbitrary or unlawful interference with privacy; undue restrictions on free expression, the press, and the Internet; substantial interference with the rights of peaceful assembly and freedom of association; restrictions on political participation; and arbitrary arrest and targeting of LGBT persons and other minority groups. Government officials enjoyed a measure of impunity for human rights abuses.

In 2017 and 2018, terrorist organizations, including some affiliates of the self-proclaimed Islamic State (ISIS) terrorist group, carried out deadly attacks on government, civilian, and security targets in Egypt, including on places of worship. While Egyptian authorities investigated terrorist attacks and prosecuted alleged perpetrators, the U.S. State Department's current travel advisory for Egypt is Level 2 – exercise increased caution – due to terrorism. U.S. citizens are advised against travel to the Sinai Peninsula (with the exception of travel to Sharm El-Sheikh by air) or the Western Desert due to terrorism. The U.S. warns that terrorist groups may attack with little or no warning, targeting tourist locations, transportation hubs, markets or shopping malls, and local

government facilities, and that there is a considerable risk of terrorist attacks in urban areas, including Cairo, despite a heavy security presence. On May 20, 2019, the U.S. State Department issued a security alert on reports of a roadside bomb attack on a tourist bus resulting in injuries in the area of the museum complex near the pyramids in Giza. Cairo is reported to be at considerable risk of terrorism.

The U.S. seeks to maintain its traditionally close ties with Egypt. Promoting a stable, prosperous Egypt, where the government protects the basic rights of its citizens, continues to be a core objective of U.S. policy. Since 1980, the U.S. has provided Egypt with over \$40 billion in military assistance in furthering the strategic partnership and regional stability, and \$30 billion in economic assistance. Two-way trade in goods between the U.S. and Egypt totaled \$7.5 billion in 2018. American firms are active in most sectors of Egypt's economy, including oil and gas exploration and production, financial services, manufacturing, construction, telecommunications, information technology, and the restaurant and hospitality industry. Egypt and the U.S. belong to some of the same international organizations, such as the United Nations, International Monetary Fund, World Bank, and World Trade Organization.

The UAE is a federation of seven semi-autonomous emirates, six of which merged to form the UAE in 1971. A seventh emirate joined in 1972. The rulers of the seven emirates constitute the Federal Supreme Council, the UAE's highest legislative and executive body. The emirates are under patriarchal rule with political allegiance defined by loyalty to tribal leaders, leaders of the individual emirates, and leaders of the federation. A limited, appointed electorate participates in periodic elections for a partially elected Federal National Council, which has legislative review authority.

Significant human rights abuses in the UAE in 2018 included allegations of torture in detention, arbitrary arrest and detention by government agents; government interference with privacy rights; undue restrictions on free expression and the press, including censorship; substantial interference with the rights of peaceful assembly and freedom of association; and the inability of citizens to choose their government in free and fair elections. The government did not permit workers to join independent unions and did not effectively prevent physical and sexual abuse of foreign domestic servants and other domestic workers.

In 2015, the UAE became part of a Saudi-led coalition to counter the 2014 overthrow of the legitimate government in Yemen by militias and other forces loyal to the former Yemeni president. In 2018, UAE forces continued an active military role in Yemen and UAE forces allegedly abducted, detained, and tortured individuals as part of counterterrorism efforts in southern Yemen.

The UAE is a vocal and active participant in counterterrorism efforts at both the regional and international levels. Terrorist organizations exploited the UAE's position as a regional and global financial and transportation hub in 2017. Except for well-regulated free trade zones specifically established for financial activities, free trade zones varied in their compliance with and supervision of anti-money laundering and countering the

financing of terrorism international best practices. Exploitation by illicit actors of money transmitters remained a significant concern. Between 2005 and 2016, several companies and individuals have shipped restricted U.S. goods, dual-use, military and electronic components and Internet technology through the UAE and UAE-owned businesses to Iran and Syria in violation of U.S. export controls and sanctions regulations.

Law enforcement in the UAE has effectively demonstrated the capacity to detect, deter, and prevent terrorism in the UAE. The U.S. State Department's current travel advisory for the UAE is Level 1 – exercise normal precautions, although U.S. citizens in the UAE are advised to exercise a high level of security awareness because of the possibility of terrorist attacks against U.S. citizens and interests in the Gulf and Arabian Peninsula. Terrorist organizations continue to plan attacks against Western targets, using a variety to tactics, including suicide operations, assassination, kidnapping, hijacking, and bombing. Rebel groups in Yemen have expressed an intention to attack neighboring countries, including the UAE, using missiles and unmanned aerial systems (drones). U.S. citizens are encouraged to maintain a high level of vigilance in the UAE.

The UAE plays an influential role in the Middle East and is a key partner for the U.S. in the region. The U.S. and the UAE enjoy strong bilateral cooperation on a full range of issues, including defense, nuclear non-proliferation, trade, law enforcement, energy policy, and cultural exchange. The UAE hosts more U.S. Navy ships than any other foreign country, and the U.S. provides export and border security assistance to the UAE. More than 1,000 U.S. firms operate in the UAE and many use the UAE as its regional headquarters from which to conduct business throughout the Middle East, North Africa, and parts of Asia. The UAE and the U.S. belong to some of the same international organizations, including the United Nations, International Monetary Fund, World Bank, and World Trade Organization.

## **Policies**

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to 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 overall 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 national security eligibility will be resolved in favor of the 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 to obtain 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 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. Section 7 of EO 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *a/so* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline B: Foreign Influence**

The security concern relating to the guideline for foreign influence is articulated in AG ¶ 6:

Foreign contacts and interests, including but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way that is 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.

Applicant’s parents, maternal grandmother, and older brother are currently residents of their native Egypt. His parents and sibling have dual citizenship with the U.S. and Egypt while his grandmother is an Egyptian citizen. Applicant’s other siblings are dual citizens of the U.S. and Egypt currently living and working in the U.S. Among Applicant’s

many cousins, the SOR alleges foreign influence concerns only about a cousin with Canadian-Egyptian dual citizenship residing in Canada.

A person is not automatically disqualified from holding a security clearance because he has relatives or friends living in a foreign country. Contacts and connections to foreign citizens are potentially disqualifying if they present a heightened risk under AG ¶ 7(a) or create a potential conflict of interest under AG ¶ 7(b). Those disqualifying conditions provide:

(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 or technology.

The "heightened risk" denotes a risk greater than the normal risk inherent in having a family member living under a foreign government. The nature and strength of the family ties or other foreign interests and the country involved (*i.e.*, the nature of its government, its relationship with the United States, and its human rights record) are relevant in assessing whether there is a likelihood of vulnerability 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 on, the foreign government; or the country is known to conduct intelligence operations against the United States. Moreover, in considering the nature of the foreign government, the administrative judge must take into account any terrorist activity in the country at issue. *See generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006). A heightened level of scrutiny is warranted when an applicant has a close relationship with relatives who reside in a country where elements hostile to the United States and its interests operate somewhat freely. *See generally* ISCR Case No. 12-05092 at 5 (App. Bd. Mar. 22, 2017.)

Alleged foreign influence concerns related to the UAE have largely been overcome by Applicant's father's retirement from his employment in the UAE and his return to Egypt, although foreign influence concerns raised by Applicant's father's ties to Egypt persist. There is no ongoing relationship between Applicant and his childhood friend who resides in the UAE. Applicant's contact with this friend since November 2016 has been limited to a text message. 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," applies in mitigation of this relationship.

Egypt is not known to target the U.S. for classified information or to conduct intelligence operations against the U.S. or its citizens. The two countries have traditionally

had close ties, and promoting a stable, prosperous Egypt, where the government protects the basic rights of its citizens, continues to be a core objective of U.S. policy. Since 1980, the U.S. has provided Egypt with over \$40 billion in military assistance in furthering the strategic partnership and regional stability, and \$30 billion in economic assistance. Nonetheless, a heightened risk exists because of the closeness of Applicant's family ties; Egypt's uneven human rights record; and the documented safety issues for residents of Egypt because of terrorism. It is unclear whether his mother, a medical professor at an Egyptian university, was or is employed directly by the Egyptian government. Nothing about her career in Egypt had military, security, or intelligence implications, and there is no evidence that his mother was or is politically involved. Her position as an academic and medical professional makes it more, rather than less, likely that she would be known to the Egyptian authorities. However, the issue under Guideline B is not whether an applicant's immediate family members in a foreign country are of interest to a foreign government or entity based on their prominence or personal situation. The issue is whether an applicant's foreign ties and contacts create a potential vulnerability that a foreign power or terrorists could seek to exploit in an effort to obtain unauthorized access to classified or sensitive information. See ISCR Case No. 03-24933 (App. Bd. July 28, 2005).

It is conceivable that undue influence or pressure could be brought to bear on Applicant through his understandably close ties to his immediate family. Applicant has daily contact with his mother, and she stays with him in his apartment for months at a time when she is in the U.S. Applicant is known to provide emotional support for his mother. Applicant has averaged weekly contact with his father. Applicant lived with his father rent free while working in the UAE. Applicant has monthly contact or less with his grandmother and older brother in Egypt, but he sees them when he is in Egypt, including as recently as March 2019. Furthermore, there exists an indirect risk of undue foreign influence because of his grandmother's and brother's ties to his parents. AG ¶¶ 7(a) and 7(b) apply.

Concerning his siblings in the U.S., Applicant tries to see them when he can. He has almost daily contact with his brother. He cared for his sister while she was undergoing chemotherapy treatments. As dual citizens living in the U.S., there is little risk that they can be directly pressured, but there is a possibility of undue foreign influence through them and their concern for their parents, grandmother, and brother living in Egypt. A heightened risk was not established by Applicant's cousin in Canada, who enjoys the protections of Canadian citizenship and residency. Applicant has visited his cousin in Canada, and they have ongoing contact that has varied from weekly to no contact for months. However, there is nothing about their relationship or his cousin's situation that suggests it could be a source of undue influence or pressure for Applicant.

Applicant has a significant burden of persuasion to demonstrate that he cannot be forced to choose between loyalty to the U.S. and a desire to assist his immediate family members. AG ¶ 8(a) provides for mitigation as follows:

- (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(a) does not apply because the foreign persons involved are immediate family with whom Applicant has close bonds of affection if not also obligation; there is a significant threat of terrorist activity everywhere in Egypt, including in urban areas such as Cairo; and there are ongoing human rights problems in Egypt. The risk of any of his family members being kidnapped may be remote, but the country has been under a renewed state of emergency since 2017 because of terrorist attacks. Illegal demonstrations in Egypt have turned volatile, and even bystanders may be subject to questioning, detention, arrest and conviction for proximity to unauthorized demonstrations. Applicant last visited his family in Egypt in March 2019, and he has not expressed an intention to avoid future travel to Egypt. There is no indication that he or his family members have ever been targeted, but the possibility cannot be ruled out. Guideline B security concerns are not limited to countries hostile to the U.S. As noted by the Appeal Board, friendly nations can have profound disagreements with the U.S. over matters they view as important to their vital interests or national security. See ISCR Case No. 02-22461 (App. Bd. Oct. 27, 2005).

Regarding AG ¶ 8(b), Applicant's loyalty or obligation to Egypt appears to be minimal, despite his dual citizenship with Egypt and the fact that he was raised there from about age nine through undergraduate school. Applicant credibly denies loyalty to Egypt or its institutions. He expressed a particular dislike for the endemic corruption and other societal issues that hinder opportunity and progress in Egypt. Yet it is difficult to conclude that the bonds of affection and obligation to his immediate family are similarly so minimal to satisfy the first part of AG ¶ 8(b), which provides:

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest.

Regarding whether Applicant has such deep and longstanding relationships and loyalties in the United States that he can be counted on to resolve any conflict in favor of the U.S. interest, his U.S. citizenship was obtained through his mother when he was a teenager living in Egypt and was not sought voluntarily. After earning his master's degree, he elected to remain in the U.S. for work. When he began working for the start-up in the U.S. in June 2011, he was 25 years old. He failed to register with the U.S. Selective Service, even though he was legally required to do so. He was apparently unaware of the requirement before he moved back to the United States from the UAE at age 29, but it is a reflection of his limited ties to the U.S. at that time.

In response to the SOR, Applicant executed a statement of loyalty to the U.S. consistent with the U.S. oath of naturalization. His professed loyalty to the U.S. weighs

favorably under AG ¶ 8(b), but it has to be considered in light of other evidence in the record. In May 2014, he left his job in the U.S. and moved to the UAE for a position with a UAE defense contractor on a UAE military base. He used his U.S. passport for his foreign travel from the UAE, including to Egypt, but he also remained in the UAE until November 2016. He returned to the U.S. because of a romantic relationship with an American that in the end did not work out, but also because his work ethic was more in line with the U.S. Intending to remain in the U.S., he looked into buying a home, but continues to rent because of the uncertainty of his clearance eligibility and its impact on his employment. When asked at his hearing whether he would be willing to move back to the UAE or Egypt for work, Applicant did not see a need to do so because of the job market in the U.S., but he could not rule out returning to the UAE if “[he] got another job offer in the UAE that pays, somehow.” A speculative consideration that he might again work abroad does not indicate disloyalty to the U.S., but it reflects that his ties to the U.S. are somewhat tenuous and not so deep and longstanding to overcome the foreign influence security concerns. All of his financial assets are presently in the U.S., but it is not enough to overcome the foreign influence security concerns raised by his close family relationships in Egypt.

### **Guideline C: Foreign Preference**

The security concerns relating to foreign preference are articulated in AG ¶ 9:

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 judgment, 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.

The SOR alleges that Applicant acted in a way to indicate a preference for a foreign country over the U.S. by expressing divided loyalty between the U.S. and Egypt during his August 2017 interview with the OPM investigator, and by working for a UAE-based defense contractor in support of the UAE military from May 2014 to November 2016. The evidence falls short of establishing that Applicant prefers Egypt over the U.S. or that his loyalties are divided between the two countries. When asked by the OPM investigator where his ultimate loyalty lies, Applicant responded that he is loyal to his work; that his career is in the U.S. and his loyalty is to the U.S. He expressed a preference for the U.S. as a government, country, and system, but then added that it was hard to say where his loyalty is because he had not lived in any one country for any length of time. To the extent that this could be construed as an expression of divided loyalty, it is not “an act of expatriation from the United States such as declaration of intent to renounce U.S.



citizenship, whether through words or actions,” that would implicate disqualifying condition AG ¶ 10(f).

Applicant’s apparent surrender of his Egyptian passport to a former employer to comply with DOD requirements; his use of his U.S. passport for all international travel in recent years, including to enter and exit Egypt on multiple occasions; and he expressed willingness to renounce his Egyptian citizenship, indicate a current preference for the U.S. There is no indication that Applicant has formally applied to renounce his Egyptian citizenship, but there is also no evidence that he is actively exercising his Egyptian citizenship, which he acquired by his birth in that country. He has never worked in Egypt or voted in Egypt. There was no showing that his Egyptian citizenship is in conflict with U.S. national security interests. Three mitigating conditions apply in whole or in part with regard to foreign preference security concerns involving Egypt:

- (a) the foreign citizenship is not in conflict with U.S. national security interests;
- (b) dual citizenship is based solely on parental citizenship or birth in a foreign country, and there is no evidence of foreign preference; and
- (c) the individual has expressed a willingness to renounce the foreign citizenship that is in conflict with U.S. security interests.

Applicant is loyal to his family in Egypt, but those security concerns are more appropriately addressed under Guideline B.

Applicant’s employment in information technology as a contractor for the UAE’s military from May 2014 to November 2016 could raise issues of possible foreign preference under Guideline C when it is in conflict with the U.S. national interest or there has been an effort to conceal that foreign employment. Applicant candidly disclosed his employment in the UAE on his SF 86, during his subject interview, and at his hearing. He indicated on his SF 86 that he worked as a contractor in an information technology division of the UAE military where he “was responsible for providing Information Security recommendations and Systems architectures to maintain confidentiality, integrity, and availability of UAE [military] computer systems.” His employment as a defense contractor for the UAE military triggers disqualifying condition AG ¶ 10(d), which provides:

- (d) participation in foreign activities, including but not limited to:
  - (1) assuming or attempting to assume any type of employment, position, or political office in a foreign government or military organization; and
  - (2) otherwise acting to serve the interests of a foreign person, group, organization, or government in any way that conflicts with U.S. national security interests.

When a disqualifying condition is established, the Directive presumes there is a nexus or rational connection between proven conduct or circumstances and an applicant's security eligibility. See ISCR Case No. 17-00507 at 2 (App. Bd. June 13, 2018) (citing ISCR Case No. 15-08385 at 4 (App. Bd. May 23, 2018)). Review of the facts in evidence about Applicant's employment for the UAE military are warranted to determine whether they satisfy any or all of the two mitigating conditions under AG ¶ 11 that could potentially apply:

(f) the foreign preference, if detected, involves a foreign country, entity, or association that poses a low national security risk; or

(g) civil employment or military service was authorized under U.S. law, or the employment or service was otherwise consented to as required by U.S. law.

There is no indication that Applicant's employment in the UAE was with U.S. consent or authorization. There are widely documented safety issues regarding the UAE primarily because of terrorism and insurgents, including from terrorist groups in Yemen that target the UAE. However, it was not established that Applicant's employment in the UAE was contrary to U.S. interests or in conflict with U.S. interests. The UAE plays an influential role in the Middle East and is a key partner for the U.S. in the region. The U.S. and the UAE enjoy strong bilateral cooperation on a full range of issues, including defense, nuclear non-proliferation, trade, law enforcement, energy policy, and cultural exchange. The UAE hosts more U.S. Navy ships than any other foreign country, and the U.S. provides export and border security assistance to the UAE. Applicant's work in information technology was in the human resources area and did not involve classified matters. Although he speculated that he would consider a job in the UAE if it was financially lucrative, his preference is to remain employed in the U.S. where his work ethic is more aligned. AG ¶ 11(f) applies. The foreign preference security concerns are mitigated.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of his conduct and all relevant circumstances in light of the nine adjudicative process factors listed at AG ¶ 2(d), which are as follows:

(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.

Furthermore, in weighing these whole-person factors in a foreign influence case, the Appeal Board has held that:

Evidence of good character and personal integrity is relevant and material under the whole person concept. However, a finding that an applicant possesses good character and integrity does not preclude the government from considering whether the applicant's facts and circumstances still pose a security risk. Stated otherwise, the government need not prove that an applicant is a bad person before it can deny or revoke access to classified information. Even good people can pose a security risk because of facts and circumstances not under their control. See ISCR Case No. 01-26893 (App. Bd. Oct. 16, 2002).

Applicant has no control over his parents' decision to stay in Egypt to care for his grandmother or over his older brother's choice to pursue his life in Egypt. He indicated in response to the SOR that his family members lack knowledge of his job responsibilities. In the event of any attempt at undue influence, Applicant stated that in the remote scenario that his relatives would be subjected to undue foreign influence or pressure, he would "rely on the systems and process of the government." Applicant is credited with reporting his foreign contacts on his SF 86, and in the case of his grandmother, to the OPM investigator. Applicant is known to be a person of integrity among his friends, including two friends who also work for his employer. There is nothing untoward about his contacts with his family members. The close bonds he shares with family members are evident in his care for his sister during her illness and his emotional support for his mother. His present circumstances are such that he could be placed in an untenable position of having to choose between the interests of a loved one and the U.S. As stated by the DOHA Appeal Board in ISCR Case No. 08-10025 (App. Bd. Nov. 3, 2009), "Application of the guidelines is not a comment on an applicant's patriotism but merely an acknowledgment that people may act in unpredictable ways when faced with choices that could be important to a loved-one, such as a family member." Based on the facts and circumstances before me, concerns of undue foreign influence persist.

### **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 B:	AGAINST APPLICANT
Subparagraphs 1.a-1.e:	Against Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	Against Applicant
Subparagraph 1.h:	For Applicant

Paragraph 2, Guideline C: FOR APPLICANT

Subparagraphs 2.a-2.b: For Applicant

**Conclusion**

In light of all of the circumstances, it is not clearly consistent with the national interest to grant or continue eligibility for a security clearance for Applicant. Eligibility for access to classified information is denied.

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Elizabeth M. Matchinski  
Administrative Judge