



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



In the matter of:)
)
) ISCR Case No. 23-01938
)
Applicant for Security Clearance)

Appearances

For Government: Jeffrey T. Kent, Esq., Department Counsel
For Applicant: *Pro Se*

07/17/2024

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge

Statement of the Case

On September 14, 2023, in accordance with DoD Directive 5220.6, as amended (Directive), the Department of Defense issued Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns under Guidelines B and C. The SOR further informed Applicant that, based on information available to the government, DoD adjudicators could not make the preliminary affirmative finding it is clearly consistent with the national interest to grant or continue Applicant's security clearance.

Applicant answered the SOR on October 4, 2023, and requested a hearing before an administrative judge. The case was assigned to me on December 12, 2023. The Defense Office of Hearings and Appeals issued a notice of hearing on January 12, 2024, and the hearing was convened as scheduled on February 21, 2024. The Government offered three exhibits, referred to as Government Exhibits 1 through 3, which were admitted without objection. The Applicant offered six exhibits, referred to as Applicant's Exhibits A through F, which were admitted without objection. Applicant testified on his own behalf and called two witnesses. DOHA received the transcript of the hearing (Tr.) on March 1, 2024.

Procedural Rulings

The Government requested I take administrative notice of certain facts relating to the country of Israel. Department Counsel provided a 49 page summary of the facts, supported by twenty-one Government documents pertaining to Israel, identified as HE 1. The documents provide elaboration and context for the summary. Applicant had no objection. (Tr. p. 21.) I took administrative notice of the facts included in the U.S. Government reports. They are limited to matters of general knowledge, not subject to reasonable dispute. They are set out in the Findings of Fact.

Findings of Fact

Applicant admitted each of the allegations in the SOR. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is 30 years old. He has a Bachelor's degree in International Relations. He currently holds the position of Lead Associate in the Ventures department with a defense contractor. He is applying for a security clearance in connection with his employment. Applicant began working for his current employer in October 2019. He admits each of the allegations set forth in the SOR under both guidelines.

Applicant's parents immigrated to the United States from Romania for a better life, for freedom and liberty, and to create a better future for their children. Applicant was born in the United States on December 12, 1993. He grew up here and attended college on an almost full scholarship at a prestigious University. During his first semester at school, he interned with a Congressman, and later worked at the Council on Foreign Relations. In college, he studied International History and Jewish Civilization. He took two years of modern Hebrew courses, courses on the Holocaust, and a class offered by an Ambassador on his previous diplomatic efforts in Israel. Applicant stated that he has always cared about Jewish people as part of his ancestry is Jewish blood.

When Applicant graduated from college, he applied for and obtained a position supporting Israeli start-ups. With his growing passion for entrepreneurship and technology and a deep interest in Israel and Jewish affairs, he felt at the time that the position was a great fit. He served in this position from August 2016 to about May 2018, as the Director of Trade and Business Development, at a branch of the Government of Israel's Ministry of Economy and Industry office. Applicant stated that this office functioned as what is essentially the Israeli Chamber of Commerce. During his employment, he set up thousands of meetings for Israeli startups with Venture Capitalists and Tech executives in Silicon Valley, and he planned, coordinated, and attended several investor delegations. On two of these occasions, he had the opportunity to travel to Israel.

In June 2018, Applicant applied for and was hired by a defense contractor for a Tech Scouting role, a position that required a security clearance. Applicant stated that throughout the security clearance process, he has been open, honest, and candid, with his past work history, and previous employment. He stated that he has always complied with the company rules and DoD regulations to report any and all of his foreign contacts to his Facility Security Officer. He also stated that he has tried to find good venture-backed companies for his employer to invest in and for its federal clients to partner with. He further stated that as a tech scout he did his best to find the best company's that could help his

federal clients solve their toughest problems. He stated that he cares deeply about his company's clients and he cares deeply about the mission. He stated that he would never act in a way that would harm the company's clients or the United States. He further stated that he has tried to embody the company value of ferocious integrity. If he ever found himself in a position where he had a conflict of interest whether with Israel or any other countries of the world, he would always choose the interests of the United States, which is his country. (Government Exhibit 2, and Applicant's Response to the SOR.)

Applicant admits that he maintains contact with Israeli citizens who are current and former Israeli government officials, whom he met through his previous employment. However, there are qualifications to this admission. Applicant stated that the nature of his relationship with these foreign citizens is casual and infrequent. He has reported these interactions to his former boss. Applicant further stated that other employees of that office were U.S. citizens or dual citizens and his interactions with them were also casual and infrequent, and only done on social media, like wishing them a happy birthday. Applicant stated that he does not have regular, recurring contact with any of his former colleagues. He stated that he has always promptly complied with the existing reporting requirements and have reported a variety of interactions including a phone call with his former boss. Applicant plans to continue to strictly adhere to the required reporting requirements. (Tr. p. 62-63, and Applicant's Response to the SOR.)

Applicant stated that he does not have, nor has he ever had, a preference for Israel over the United States. He explained that his work for Israel's economic mission was prior to his current employment with a U.S. defense contractor. He fully reported any foreign contacts he has had to his employer at the time of his initial hiring which were all included in his submitted resume. Furthermore, Applicant stated that he is an American citizen and only an American citizen. He stated that he is a loyal citizen of the United States and has a deep, long-standing love and feeling of obligation to the United States and to the values America represents. When he pledged the allegiance to the flag of this country as a child in elementary school on a daily basis, he meant it. He stated that he would never betray the country that has given him and his family so much. As discussed above, he has also complied with all reporting requirements throughout the clearance process. (Applicant's Response to the SOR.)

Two witnesses testified on Applicant's behalf. A current coworker, who worked with the Applicant from 2019 through 2023, testified that Applicant is the most dedicated, committed, meticulous, and thoughtful person he has ever worked with while employed with this defense contractor. Applicant's work is described as the utmost in quality and professionalism, which at times requires extremely in-depth technical presentations which Applicant has conducted flawlessly. Applicant has shown dedication and a willingness to pull late night work and made quick turn arounds in last-minute work requests at excellent quality standards. Applicant was never been observed doing anything improper or against rules or regulations. Applicant has been good at making sure that U.S.-based start ups with U.S. based investors are targeted for work, and has never directed any attention to Israeli start ups. (Tr. pp. 25-27.)

A close friend, who has known the Applicant for about eight years, testified that

they met in church, when Applicant moved there to take the job with the Israeli Economic Mission Office. The two of them have gone on lots of different church retreats, taken classes, and taught classes together, among other activities. He describes Applicant as a very honest, patriotic, person with a deep love for America. (Tr. p. 31-33.)

Six favorable letters of recommendation were submitted from various individuals who know the Applicant well, including his Senior Pastor, a coworker, the Senior Vice President of the Corporate Ventures Team, a friend from church, a close friend from college, and a Foreign Service Officer from the U.S. State Department, who is also a close friend and former classmate of the Applicant. Collectively they attest to Applicant's outstanding character and attributes, including his integrity, high morals, honesty, and professionalism way beyond his years. Applicant's sincere gratitude for the opportunity that the U.S. has provided him and his family is well recognized, and his deep patriotism and commitment to public service. Applicant was moved from the Tech Scouting Team onto the Corporate Ventures Team because of his outstanding character and commitment to the mission and their clients who highly value his work. The quality of Applicant's work is constantly praised, and his expertise is highly valued across all major business units. (Applicant's Exhibits A through F.)

In assessing the heightened risk created as a result of Applicant holding a security clearance, the Applicant's ties to a hostile country are important. However, even countries friendly to the United States have attempted to gain unauthorized access to classified information. Under the particular facts of this case, I have taken administrative notice of the information provided concerning the Country of Israel. Israel is a multiparty parliamentary democracy. Although it has no constitution, its parliament, the unicameral 120 member Knesset, has enacted a series of "Basic Laws" that enumerate certain rights and freedoms. Certain fundamental laws, orders, and regulations legally depend on the existence of a "state of emergency," which has been in effect since 1948. Under the authority of the prime minister, the Israeli Security Agency is charged with combating terrorism and espionage in Israel and the West Bank and Gaza Strip.

Currently, the Israeli-Palestinian conflict is an ongoing military and political conflict about land and self-determination within the territory of the former Mandate Palestine. Key aspects of the conflict include the Israeli occupation of the West Bank and Gaza Strip, the status of Jerusalem, Israeli settlements, borders, security, water rights, the permit regime, Palestinian freedom of movement, and the Palestinian right of return. Significant human rights issues included credible reports of: unlawful or arbitrary killings; arbitrary or unjust detention, including of Palestinians in Israel and the occupied territories; restriction on Palestinians residing in Jerusalem, including arbitrary or unlawful interference with privacy, family, and home; substantial interference with freedom or peaceful assembly and association; arbitrary or unlawful interference with privacy; punishment of family members for alleged offenses by a relative; restrictions on freedom of expression and media including censorship; harassment of nongovernmental organizations, among other human rights violations. The Department of State has issued a Do Not Travel, Travel advisory for Gaza due to terrorism, civil unrest, and armed conflict. The Department of State advises Reconsider Travel to Israel and the West Bank due to terrorism and civil unrest. Terrorist groups, lone actor terrorists, and other violent extremists continue plotting possible attacks in Israel and the West Bank and Gaza. Terrorists and violent extremists

may attack with little or no warning targeting tourist locations, transportation hubs; markets/shopping malls, and local government facilities. Violence can occur in Israel and the West Bank and Gaza without warning. Israel remains a committed counterterrorism partner, closely coordinating with the United States on a range of counterterrorism initiatives.

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 are to be used 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, administrative judges apply the guidelines in conjunction with the factors listed in AG ¶ 2 describing 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 national security eligibility 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 the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision."

A person who applies for access to classified information seeks to enter 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 protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order (EO) 10865 provides that adverse 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 also EO 12968, Section 3.1 (b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline B, Foreign Influence

¶ 6: The security concern relating to the guideline for Foreign Influence is set out in AG

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

¶ 7. The guideline notes several conditions that could raise security concerns under AG

(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; and

(f) substantial business, financial, or property interests in a foreign country, or in any foreign owned or foreign-operated business that could subject the individual to a heightened risk of foreign influence or exploitation or personal conflict of interest.

Applicant's foreign contacts include professional colleagues, friends and/or associates he met while working for a former employer. Since leaving his former employment, over four years ago, although he has had minimal contact with them since then, his contacts are casual and infrequent. He has made it clear that he has not had any regular or recurring contact with them, and he is not close to any of them. Applicant was born in the United States and has no foreign citizenship. He has shown a deep and long standing loyalty to the United States. Based upon the evidence presented, these foreign

contacts and unique relationships do not pose a threat or negatively influence Applicant's decision making, impacting the interests and security of the United States. Applicant's contact with these individuals is not regular and frequent, but is casual, minimal, and not out of the ordinary. These limited contacts pose no undue security risk. Under the particular circumstances here, the risk-benefit analysis is applicable, and these contacts do not pose a significant security risk to the U.S. government. They are not able to manipulate, induce, or influence the Applicant to help a foreign person or government in a way that is inconsistent with the U.S. interests.

AG ¶ 8 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 8 including:

(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;

(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; and

(e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country.

In this case, Applicant's foreign contacts do not present a security risk to the U.S. government. These foreign contacts were developed during his prior employment, and with the limited contact that he has now, they will not likely result in a situation that may create divided allegiance. Applicant is working for a U.S. defense contractor and is committed to its mission. He has shown a deep and longstanding relationship with or loyalties to, the United States. All foreign contacts he has made have been promptly reported to his Facility Security Officer and he plans to continue to follow all reporting requirements. He has been open, honest, and candid with the Government from the beginning during his clearance process. Applicant is a dedicated U.S. citizen, who has too much to lose if he were to waver. Under the circumstances, his limited foreign contacts do not appear to present a risk here. Full mitigation under AG ¶ 8(a), 8(b), 8(c), and 8(e) has been established.

Guideline C, Foreign Preference

¶ 9: The security concern relating to the guideline for Foreign Influence is set out in AG

When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he 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.

¶ 10. The guideline notes several conditions that could raise security concerns under AG ¶ 10. One is potentially applicable in this case:

(d) participating in foreign activities, including but not limited to:

(2) otherwise acting to serve the interest of a foreign person, group, organization, or government in any way that conflicts with U.S. national security interests.

Applicant is a native-born U.S. citizen who previously worked as the Director of Trade and Business Development at a branch of the Government of Israel's Ministry of Economy and Industry Office. Despite this foreign connection, he shows no preference for Israel over the United States.

AG ¶ 11 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 11 including:

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

Applicant's actions do not exhibit a strong foreign preference for the country of Israel. Applicant was born in the United States and has a deep loyalty to this country. He grew up here, attended college here, and obtained his employment here. Although he worked for the Israeli Economic Mission in the United States for two years, he learned the particulars of this work, and then took his skills to work for a Government contractor to provide a similar service to the United States. Under the circumstances, he has not demonstrated a preference for Israeli start ups over the United States or its companies. In fact, there is sufficient evidence to show that he has done his best to find the best venture-backed companies for his current employer to invest in and for its Federal clients to partner with. Since he began working for a U.S. government contractor, he has been promoted multiple times for his excellent work product exemplified by his dedication and unwavering commitment. The above mitigating condition is applicable.

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 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 a security clearance must be an overall commonsense 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 facts and circumstances surrounding this case. I have incorporated my comments under Guidelines B and C in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines, but some warrant additional comment. Under the particular facts of this case, Applicant's Israeli connections do not pose a significant risk to the U.S. government, and he does not show a strong foreign preference for Israel.

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has mitigated the Foreign Influence and Foreign Preference security concerns.

Formal Findings

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

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

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant national security eligibility and a security clearance. Eligibility for access to classified information is granted.

Darlene Lokey Anderson
Administrative Judge