



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



In the matter of:)
)
XXXXXXXXXX, XXXXX) ISCR Case No. 13-00110
)
Applicant for Security Clearance)

Appearances

For Government: Fahryn E. Hoffman, Esq., Department Counsel
For Applicant: *Pro se*

10/29/2013

Decision

TUIDER, Robert J., Administrative Judge:

Applicant is close to his mother and brother, who are citizens and residents of Egypt. He is also close to his brother, who is a citizen of Egypt and a resident of the United Arab Emirates (UAE). However, he has much closer and stronger connections to the United States. Foreign influence security concerns are mitigated, and eligibility for access to classified information is granted.

Statement of the Case

On January 7, 2010, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) (SF 86) (Government Exhibit (GE) 2). On February 22, 2013, the Department of Defense (DOD) issued a statement of reasons (SOR) to him, alleging security concerns under Guideline B (foreign influence). The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1990), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) promulgated by the President on December 29, 2005.

The SOR alleged security concerns under Guideline B (foreign influence). The SOR further informed Applicant that, based on information available to the Government, DOD adjudicators could not make the preliminary affirmative finding that it is clearly

consistent with the national interest to grant or continue Applicant's security clearance, and it recommended that his case be submitted to an administrative judge for a determination whether his clearance should be granted, continued, denied, or revoked.

On March 22, 2013, Applicant responded to the SOR. On June 5, 2013, Department Counsel was prepared to proceed. On June 11, 2013, DOHA assigned the case to me. On July 9, 2013, DOHA issued notice of the hearing, setting the hearing on July 30, 2013. The hearing was held as scheduled. At the hearing, Department Counsel offered six exhibits, and Applicant offered nine exhibits.) There were no objections to GE 1-4 or AE A-I, and all exhibits were admitted. (Tr. 17, 20-22)

I received the transcript of the hearing on August 7, 2013. I held the record open until August 8, 2013, to permit Applicant to submit additional evidence. (Tr. 75-79) On August 6 and 8, 2013, I received seven post-hearing documents. (AE J-P) There were no objections, and AE J-P were admitted into evidence.

Procedural Rulings

Department Counsel requested administrative notice of facts concerning Egypt and the UAE. (Tr. 17; GE 5 and 6) Department Counsel provided supporting documents to show detail and context for those facts. Applicant objected to admission of GE 5 and 6. His objections go to the weight to be accorded GE 5 and 6 and not to their admissibility. I granted Department Counsel's request and admitted GE 5 and 6. (Tr. 20)

Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 05-11292 at 4 n.1 (App. Bd. Apr. 12, 2007); ISCR Case No. 02-24875 at 2 (App. Bd. Oct. 12, 2006) (citing ISCR Case No. 02-18668 at 3 (App. Bd. Feb. 10, 2004) and *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n.4 (3d Cir. 1986)). Usually administrative notice at ISCR proceedings is accorded to facts that are either well known or from government reports. See Stein, *ADMINISTRATIVE LAW*, Section 25.01 (Bender & Co. 2006) (listing fifteen types of facts for administrative notice).

Findings of Fact

Applicant's SOR response admitted the allegations in SOR ¶¶ 1.a to 1.g, and he providing mitigating information. His admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence of record, I make the following findings of fact.

Applicant is a 41-year-old senior engineer, who seeks a security clearance. (Tr. 23, 25) He began his employment with a government contractor in August 2012. (Tr. 23, 33) He earned a bachelor of science degree in electrical engineering in Egypt in 1994. (Tr. 26; AE B) He earned a master's of science degree in computer information systems in 2003, a master's degree in electrical engineering in 2007, and a Ph.D. in electrical engineering in 2009. (Tr. 26, 32; AE B) All post-graduate degrees were earned in the United States. (Tr. 32)

Applicant lived in Egypt from 1971 to 2000, except for a brief visit to the United States in 1999. (Tr. 30-31, 34-35) Applicant served in the Egyptian military from May 1995 to January 1998 as a junior officer. (Tr. 29-30) He entered the United States in 2000 on a tourist visa when he was 29. (Tr. 26, 30-31) In 2004, he married a native-born U.S. citizen. (Tr. 27) His spouse is a part-time pharmacist. (Tr. 27, 48; AE I) He has two U.S.-born, adopted sons. (Tr. 27-28, 46; AE F) One son is four months old, and the other son is five years old. (Tr. 28) Each adoption cost about \$30,000 and depleted his savings. (Tr. 44-45) Both sons live with Applicant and his spouse. (Tr. 47) He became a U.S. citizen in September 2009. (Tr. 29)

Applicant and his spouse own three properties in the United States. (Tr. 35-36; AE D) One of the properties is "underwater," meaning the mortgage is greater than its fair market value. (Tr. 36) His equity in the three properties is about \$100,000. (Tr. 44) He does not own any property in Egypt. (Tr. 37) He will not inherit any property in Egypt. (Tr. 38) Applicant has five 401K accounts, totaling about \$60,000, all in the United States. (Tr. 41-43) He has about \$6,000 in his bank accounts. (Tr. 44) His spouse has about \$150,000 in her 401K accounts. (Tr. 45)

Applicant's spouse was born in the United States of parents, who are dual citizens of the U.S. and Egypt. (Tr. 45) Applicant's father-in-law has lived in the United States for 45 years, and his mother-in-law has lived in the United States for 40 years. (Tr. 51-52) His father-in-law is an associate dean at a U.S. university and holds about 10 patents. (Tr. 51) His mother-in-law is a retired social worker. (Tr. 52) Applicant communicates with his parents-in-law about once every three or four weeks. (Tr. 72) Applicant's two brothers-in-law and one sister-in-law were born in the United States and live in the United States. (Tr. 52-53) Applicant has two cousins, who live in the United States. (Tr. 59, 70-71)

Applicant's father worked for the Egyptian government delivering food. He retired and then passed away in the 1990s. (Tr. 53, 60-61) Applicant's mother, who is 74 years old, was a stay-at-home spouse, and is supported by her late husband's Egyptian government pension. (Tr. 54, 73) Applicant does not send money to his family in Egypt. (Tr. 54) His mother visited Applicant in the United States three months ago for about four weeks and on average visits Applicant in the United States about once a year. (Tr. 55) Applicant purchases the ticket for her flight to the United States. (Tr. 55) His mother has significant health problems; however, she is considering moving to the United States. (Tr. 55-56) He communicates with his mother about once a week. (Tr. 68)

Applicant's brother lives with his mother in Egypt. (Tr. 54, 56-57) He is an engineer employed by a private company in Egypt. (Tr. 54, 56-57) He is not married, and he does not have any children. (Tr. 59) Applicant currently talks to his brother about once every two or three months. (Tr. 57, 68-69) His conversations with his brother are casual and usually involve discussions about the health of family members. (Tr. 57) His brother is actively seeking employment outside of Egypt. (AE P)

Applicant's brother, who is living in the UAE, is an engineer. (Tr. 50, 56, 83) He is married and has two sons. (Tr. 58) His spouse and children are Egyptian citizens. (Tr.

58) The UAE does not grant citizenship to foreign workers such as Applicant's brother. (Tr. 58) Applicant currently talks to his brother about once every two or three months. (Tr. 70) His brother intends to immigrate to New Zealand. (Tr. 50, 56) He has interviewed for employment in New Zealand. (Tr. 50; AE C) In June 2013, New Zealand immigration officials discussed immigration procedures with his brother in an email. (AE C)

Since 2000, Applicant traveled to Egypt twice. (Tr. 62, 74-75) In 2005, he went to Egypt for ten days, and in February 2013, he stayed in Egypt for four days. (Tr. 62, 74-75) In September 2012, Applicant surrendered his current and previously-expired Egyptian passports to his security officer. (Tr. 63-67; AE L) The most recent Egyptian passport he surrendered has now expired. (Tr. 65)

Character Evidence

An associate branch head in a technology branch described the critical requirement for Applicant's expertise, cited his competence and specialized knowledge, and recommended approval of his security clearance. (AE O)

A professor of electrical engineering, who has known or worked with Applicant since 2004, lauded his professionalism, honesty, and good character. (AE G) He highly recommended Applicant for a security clearance. (AE G)

An electrical engineer, who has known Applicant since August 2012, praised Applicant's skill, expertise, trustworthiness, reliability, credibility, and generosity. (AE H) He recommended approval of Applicant for a security clearance. (AE H)

Egypt

Egypt is the most populous country in the Arab world. In the past, it has been a strategic partner of the United States and the countries have enjoyed a strong friendly relationship. The United States is facing a series of challenges stemming from dramatic changes in Egypt. Its recently deposed President, Muhammad Morsi, is part of the Muslim Brotherhood, and the extent of his cooperation with the United States on some security and economic matters was unclear. He was deposed by elements of the Egyptian military and analysts are concerned about the impact of this change on the Egyptian democracy, relationships of Egypt and Israel, and continued cooperation with the United States on intelligence and terrorism-related issues. Moreover, the Muslim Brotherhood continues to maintain widespread followers in Egypt and may be able to regain power.

Political protests and demonstrations have turned violent numerous times in the past year. There are instances of instability, public disorder, and extremist activity in Egypt. Following the revolution of January 2011, the number of criminal incidents has increased throughout the country, including crimes against foreign visitors. This is likely attributable to a reduction in overall police presence and diminished authority of police on the street. In May 2013, the U.S. State Department issued a travel alert to U.S.

citizens traveling to or living in Egypt, about the continuing possibility of political and social unrest, incidents of which led to recent violence.

Due to the political climate after the January 2011 revolution, there is a potentially more permissive operating environment for terrorist groups, including al-Qaeda, which the U.S. State Department designated a foreign terrorist organization.

Egyptian human rights abuses are common. Violent clashes with police and military at demonstrations are a continuing concern. Problems also include torture, arbitrary arrests, limits on the judiciary, and restrictions on civil liberties.

The threat of terrorism in Egypt remains high and transnational terrorist groups and local terrorist groups pose threats in Egypt despite Egypt's aggressive pursuit of terrorists and extremism. In 2003, Egypt discovered and disrupted a terrorist plot against U.S. interests. Between 2004 and 2006, Egypt suffered a series of deadly, coordinated terrorist bombings, which caused many deaths and hundreds of injuries, including U.S. citizens. Although the Egyptian government took measures against the perpetrators of the attacks, there is a persistent, indigenous threat of terrorist activities. In April 2009, the Egyptian government uncovered a Hezbollah cell clandestinely operating in Egypt.

Terrorists use overt, covert, and clandestine activities to exploit and undermine U.S. national security interests. Terrorist organizations currently target the United States for intelligence collection through human espionage and other means. Some terrorist groups conduct intelligence activities as effectively as state intelligence services.

Egypt considers all children born to Egyptian mothers to be Egyptian citizens even if the child is not issued an Egyptian birth certificate or passport. Dual nationals residing in Egypt for more than six months require proof of Egyptian citizenship. Male dual nationals staying in Egypt for more than six months, and who have not completed military service, must obtain an exemption certificate before they can leave. Individuals who travel to Egypt on their Egyptian passport are normally treated as Egyptian citizens. The ability to provide U.S. consular assistance to those traveling on Egyptian passports is extremely limited.

United Arab Emirates

The UAE is a federation of seven independent emirates. The federal government is a constitutional republic based on Islamic ideals and beliefs. It has no democratically elected institutions or political parties. Freedom of speech, assembly, and religion are restricted. Incommunicado detention is lawful and has been used in sensitive criminal cases. About 85 percent of UAE's population is composed of expatriates.

The United States has friendly relations with the UAE. Private commercial ties have developed into government ties, including security assistance. Relations were strengthened during the U.S.-led coalition's campaign to expel Iraq from Kuwait. The UAE has been a key partner of the U.S. in the war on terror.

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant’s eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

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

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. See also Executive Order 12968 (Aug. 2, 1995), § 3.1. Thus, nothing in this Decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the

facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Foreign Influence

AG ¶ 6 explains the security concern about “foreign contacts and interests” stating:

[I]f the individual has divided loyalties or foreign financial interests, [he or she] may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.

AG ¶ 7 indicates two conditions that could raise a security concern and may be disqualifying in this case:

(a) contact 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 sensitive information or technology and the individual’s desire to help a foreign person, group, or country by providing that information.

AG ¶¶ 7(a) and 7(b) apply. Applicant was born in Egypt. His mother and two brothers are citizens of Egypt. His mother and one brother live in Egypt and his other brother lives in the UAE. Applicant’s mother is receiving a pension from the Egyptian government because of Applicant’s father’s government service in food distribution. Applicant’s mother visits Applicant in the United States on an annual basis. He has frequent contact with his mother and two brothers. He cares about the welfare of his family living in Egypt and the UAE. Applicant went to Egypt in 2005 and February 2013. There are safety issues for people living in Egypt because of the prevalence of terrorists and other lawless elements. The UAE is a safe and stable country and terrorists and other lawless elements are not a major threat to Applicant’s brother. Applicant’s family

in Egypt is not receiving any special protection from the Egyptian government. Applicant's brother living in the UAE is only living there temporarily, and he is not a citizen of the UAE. His brother living in UAE expects to move to New Zealand in the near future.

The mere possession of close family ties with a family member living in a dangerous country, such as Egypt, is not, as a matter of law, disqualifying under Guideline B. However, if an applicant has a close relationship with even one relative, living in a foreign country, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information. See *Generally* ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001).

The nature of a nation's government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable to government coercion or inducement. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government or the country is known to conduct intelligence collection operations against the United States, or the foreign country is associated with a risk of terrorism. The relationship of Egypt with the United States, places a significant, but not insurmountable burden of persuasion on Applicant to demonstrate that his relationships with his family members living in Egypt do not pose a security risk. Applicant should not be placed into a position where he might be forced to choose between loyalty to the United States and a desire to assist family members living in a foreign country.

Guideline B is not limited to countries hostile to the United States. "The United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States." ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004). Furthermore, friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security. Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. See ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at **15-16 (App. Bd. Mar. 29, 2002).

The SOR alleges a foreign interest security concern raised by Applicant's cousin, who is a citizen of Egypt living in the United States in ¶ 1.d, Applicant's father-in-law, who is a dual citizen of the United States and Egypt in ¶ 1.e, and Applicant's mother-in-law, who is a dual citizen of the United States and Egypt in ¶ 1.f. Applicant's cousin, father-in-law, and mother-in-law were born in Egypt, and they are residents of the United States. His father-in-law and mother-in-law have lived in the United States 45 years and 40 years, respectively. There is no evidence of any of their connections or relationships to any person or entity in Egypt, that that they traveled to Egypt in the last few years, or that they intend to go to Egypt in the future. These three SOR allegations

do not establish a foreign interest security concern, and are found for Applicant without further discussion.

While there is no evidence that intelligence operatives or terrorists from Egypt seek or have sought classified or economic information from or through Applicant or his family, nevertheless, it is not possible to rule out such a possibility in the future. International terrorist groups are known to conduct intelligence activities as effectively as capable state intelligence services, and Egypt has a significant problem with terrorism. Applicant's relationship with family members living in Egypt creates a potential conflict of interest because these relationships are sufficiently close to raise a security concern about his desire to assist family members in Egypt by providing sensitive or classified information. AG ¶¶ 7(a) and 7(b) apply with respect Applicant's mother and two brothers under SOR ¶¶ 1.a to 1.c, and further inquiry is necessary about potential application of any mitigating conditions.

AG ¶ 8 lists six conditions that could mitigate foreign influence security concerns 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 U.S.;

(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 U.S., 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;

(d) the foreign contacts and activities are on U.S. Government business or are approved by the cognizant security authority;

(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; and

(f) the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual.

AG ¶¶ 8(a) and 8(c) have limited applicability. Applicant has frequent contact with his mother and brother, who are living in Egypt, and his brother, who is living in the

UAE.¹ Applicant's loyalty and connections to his family living in Egypt and UAE are positive character traits. However, for security clearance purposes, those same connections negate the possibility of mitigation under AG ¶ 8(a), and Applicant failed to fully meet his burden of showing there is "little likelihood that [his relationships with his relatives who are Egypt citizens] could create a risk for foreign influence or exploitation."

AG ¶ 8(b) partially applies. A key factor in the AG ¶ 8(b) analysis is Applicant's "deep and longstanding relationships and loyalties in the U.S." Applicant has significant connections to the United States. Applicant moved to the United States in 2000, 13 years ago. He is married to a native-born, U.S. citizen, who lives in the United States. He has two children, who are U.S. citizens, residing in the United States. He has affection for his spouse and children. He earned two master's degrees and his Ph.D in the United States. When he took an oath and swore allegiance to the United States in 2009, as part of his naturalization as a U.S. citizen, he manifested his patriotism, loyalty, and fidelity to the United States over all other countries. His employment is in the United States, and he has substantial investments in the United States, including three houses and 401K accounts.

Applicant's relationship with the United States must be weighed against the potential conflict of interest created by his relationships with his family living in Egypt. He frequently communicates with his family living in Egypt. There is no evidence, however, that terrorists, criminals, the Egyptian government, or those conducting espionage have approached or threatened Applicant or his family to coerce Applicant for classified or sensitive information.² As such, there is a reduced possibility that Applicant or his family living in Egypt would be specifically selected as targets for improper coercion or exploitation. Of course, the primary risk to his family living in Egypt is from terrorists and other lawless elements. There is some risk from the Egyptian government because of the ongoing turmoil after the forcible overthrow of the Morsi regime. The post-Morsi political and law enforcement situation is unclear.

While the U.S. Government does not have any burden to prove the presence of evidence of threats or attempted coercion of Applicant or his family, if such record evidence were present, Applicant would have a heavier evidentiary burden to mitigate foreign influence security concerns. It is important to be mindful of the United States' sizable financial and diplomatic investment in Egypt. Applicant and his family in Egypt could become potential targets of terrorists because of Applicant's support for the United States, and Applicant's potential access to classified information could theoretically add some risk to Applicant, if he visits Egypt in the future.

¹The remainder of this decision will focus for clarity on Egypt and not discuss the UAE because the risk of violence and coercion is much greater for Applicant's mother and brother in Egypt because of the political turmoil and crime conditions in Egypt. Moreover, Applicant has much stronger connections to his mother than to either of his brothers. All of the same concerns and mitigating conditions are applicable to his brother in the UAE.

²There would be little reason for U.S. enemies to seek classified information from an applicant before that applicant has access to such information or before they learn of such access.

AG ¶¶ 8(d) and 8(e) do not apply. The U.S. Government has not encouraged Applicant's involvement with family members living in Egypt. Applicant is not required to report his contacts with family members living in Egypt.

AG ¶ 8(f) has limited application because Applicant has no investments in Egypt. AG ¶ 8(f) is only available to mitigate security concerns raised under AG ¶ 7(e).³

In sum, Applicant's connections to family living in Egypt and UAE are significant. He is close to his mother and brother, who are citizens and residents of Egypt, and his brother, who is a citizen of Egypt, living in UAE. These connections raise foreign influence security concerns under Guideline B; however, those concerns are mitigated because of his strong connections to the United States, including his wife and two children, earning three post-graduate degrees in the United States, his oath to the United States when he was naturalized as a U.S. citizen, and his U.S. employment.

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 the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(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 have incorporated my comments under Guideline B in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under this guideline, but some warrant additional comment.

There are foreign influence security concerns arising from Applicant's family living in Egypt and UAE. Applicant's mother and one brother are citizens and residents of Egypt. His brother is a citizen of Egypt, and he lives in the UAE. He frequently communicates with his mother and two brothers. His mother is dependent on her Egyptian pension. His mother visits Applicant every year. Over the last 10 years, he has visited Egypt twice. His close connections to his family in Egypt and the UAE make him

³AG ¶ 7(e) provides, "a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign-operated business, which could subject the individual to heightened risk of foreign influence or exploitation."

more vulnerable as a target of coercion by lawless elements in Egypt. His family in Egypt and UAE will be at a greater risk if his clearance is granted.

A Guideline B decision concerning Egypt must take into consideration the geopolitical situation and dangers there. Egypt is a dangerous place because of violence from terrorists, the Egyptian Brotherhood's powerful role in Egypt, and other lawless elements. Terrorists continue to threaten the Egyptian government, the interests of the United States, and those who cooperate and assist the United States. The Egypt government does not fully comply with the rule of law or protect civil liberties in many instances. The United States and Egypt are allies in the war on terrorism. Egypt and the United States have close relationships in diplomacy, counter terrorism, and trade.

The factors weighing towards approval of Applicant's security clearance are more substantial than the factors weighing against its approval. When he was naturalized as a U.S. citizen, he swore allegiance to the United States. His spouse and two sons were born in the United States and reside in the United States. He was awarded two master's degrees and a Ph.D in the United States. He has substantial investments in the United States. There is no evidence raising questions about his loyalty, trustworthiness, or reliability.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole-person. I conclude Applicant has carried his burden and foreign influence concerns are mitigated. Eligibility for access to classified information is granted.

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:	FOR APPLICANT
Subparagraphs 1.a through 1.f:	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 eligibility for a security clearance. Eligibility for access to classified information is granted.

Robert J. Tuidier
Administrative Judge