DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No.13-01341
	)	
	)	
Applicant for Security Clearance	)	

Appearances

For the Government: David F. Hayes, Esquire, Department Counsel
For Appellant: *Pro se*

07/23/2014

Decision

CREAN, Thomas M., Administrative Judge:

Based on a review of the case file, hearing testimony, and the exhibits, I conclude that Applicant provided adequate information to mitigate the security concerns for foreign influence under Guideline B. Eligibility for access to classified information is granted.

Statement of the Case

On January 23, 2014, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to retain a security clearance for his employment with a defense contractor. The Office of Personnel Management (OPM) conducted a background investigation. After reviewing the results of the background investigation, the Department of Defense (DOD) could not make the affirmative findings required to issue a security clearance. On February 19, 2014, DOD issued a Statement of Reasons (SOR) to Applicant detailing security concerns for foreign influence under Guideline B. The action was taken under Executive Order 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 adjudicative guidelines (AG) effective in the DOD on September 1, 2006.

Applicant answered the SOR on March 12, 2014. He admitted five of the six allegations under Guideline B. While he denied SOR allegation 1.b.concerning his father-in-law, he admitted the basic facts but denied that some of the information was correct. He provided an explanation for his response. Department Counsel was prepared to proceed on May 2, 2014, and the case was assigned to me on May 9, 2014. DOD issued a notice of hearing on May 30, 2014, scheduling a hearing for June 3, 2014. I convened the hearing as scheduled by video teleconference (VTC). The Government offered three exhibits that I marked and admitted into the record without objection as Government Exhibits (Gov. Ex.) 1 through 3. Applicant and three witnesses testified. Applicant offered seven exhibits that I marked and admitted into the record without objection as Applicant Exhibit (App. Ex.) A through G. I received the transcript of the hearing (Tr.) on June 23, 2014.

Procedural Issues

Department Counsel requested that I take administrative notice of certain facts concerning Israel. He provided U.S. State Department documents concerning Israel (hearing Exhibit I). I will take administrative notice of facts concerning Israel as noted in my Findings of Fact.

Applicant was advised by Department Counsel in mid-May 2014 of a potential hearing date by VTC. Applicant waived the requirement for a 15 day notice of hearing. (Tr. 7-8)

Findings of Fact

After a thorough review of the pleadings, transcript, and exhibits, I make the following essential findings of fact.

Applicant is a 36 year old systems administrator working for a defense contractor. He has a bachelor's degree in information systems. He married in 2010 and has no children. Applicant served in the U.S. Marine Corps Reserve from 1997 until 1999 as an air communication electronics operator. He was a college student from 1999 until 2001. He served on active duty in the Marine Corps from 2001 until 2006 as a radar operator, radar repairman, and martial arts instructor. During his Marine Corp service, he received two Navy and Marine Corps Achievement Medals, a good conduct medal, and other service medals. He was awarded 11 letters of appreciation, two certificates of appreciation, and had a meritorious mast. He was eligible for access to classified information while serving on reserve and active duty. His last security clearance access was updated in 2008. He wanted to serve 30 years on active duty but did not have a combat fitness report which would enable him to advance in the Marine Corps at a pace he thought good. He left active duty as a sergeant (E-5) with an honorable discharge to work in the private sector. Applicant has substantial financial

and property interests in the United States. He is a partner in a real estate corporation in the United States. His immediate family, mother and brother, are all citizens and residents of the United States. His grandfathers served in the U.S. military. His brother also served in the Marine Corps. His father also served in the Marine Corps and was killed in the line of duty. (Tr. 12-14, 18, 30-35; Gov. Ex. 1, e-QIP, dated January 23, 2013; App. Ex. A, Opening Statement, dated May 30, 2014; App. Ex. B, DD 214; App. Ex. C, Social Security Statement, dated April 18, 2014; App. Ex. D, 401(k) Statement, dated March 31, 2014; App. Ex. E, Property Settlement, dated June 20, 2013: App. Ex. F, Business Corporation, dated April 28, 2008)

Applicant has worked for the same defense contractor since 2006. After leaving the Marine Corps in 2006, Applicant worked at locations in the United States and in foreign countries for the defense contractor as a missile defense systems installer and activator. In November 2008, he was assigned by his defense contractor employer as a missile defense systems operator at a forward deployed remote location in Israel. He was part of a team of 125 defense contractor employees assigned to various remote locations. Applicant was assigned by the defense contractor to Germany in September 2011 as a missile systems defense operator. His performance is highly regarded by his employer. He received many wage increases and Certificates of Appreciation for his performance. (Tr. 36-38; App. Ex. G, Wage Reviews and Certificates, 2007 - 2012)

The SOR alleges, and Applicant admits, that his wife is a citizen of Israel (SOR 1.a); that his father-in law is a citizen and resident of Israel who had served in the Israeli Army for almost 30 years (SOR 1.b); that his mother-in-law is a citizen and resident of Israel (SOR 1.c); that a sister-in-law is a citizen and resident of Israel, attends school in Israel, and serves as a reserve officer in the Israeli Army (SOR 1.d); that another sister-in-law is a citizen and resident of Israel working as a computer network executive (SOR 1.e); and that his brother-in-law (wife's sister's husband) is a vice president for operations of an Israeli defense contractor. He admitted all allegations but reported that his father-in-law served three years on active duty with the Israeli Army as required by law and 21 years in the Israeli Army Reserve, retiring in 1990.

Applicant reported, in his interview with a security investigator and at the hearing, that Israeli intelligence and police had all members of his team under surveillance while stationed in Israel. The team had little to no interaction with Israelis while on the job. The team was stationed at a remote location and housing was not readily available. The team members moved frequently as better housing became available. At one time, they were housed in a U.S. controlled area on an Israeli Air Force base. All of their living arrangements were approved by the U.S. contractor and the U.S. Embassy in Israel. When living in hotels, team members knew that Israeli intelligence placed surveillance equipment in their rooms, and the rooms were searched when they were not present. The hotel staff was very inquisitive, asking questions about personal and work subjects. The team members knew that the hotel staff would be seeking intelligence information and practiced good operational security. When going through Israeli customs and border areas, the U.S. team members were subject to extensive personal and luggage searches, and their electronic equipment, including computers and phones, were taken

from them and searched. Applicant and the other team members were constantly briefed on operational security criteria and measures. Applicant reported all contacts with Israelis and other foreign nationals to his facility security officer who reported the contacts to the U.S. Embassy. All team members were aware that it was common practice in Israel to be observed and monitored by foreign groups to obtain intelligence information. Since the team members and Applicant were aware of the on-going intelligence efforts against them, they carefully practiced operational security. Applicant was never approached, threatened, pressured, or put under duress to cooperate with foreign government officials, foreign intelligence services, or security forces. (Tr. 38-44, 58-60, 70-73; Gov. Ex. 2, Personal subject Interview transcript, dated June 25, 2013)

Applicant met his wife in 2010. She had a degree in business communications and worked as a bartender and restaurant shift manager at a private facility near the Applicant's remote duty station location. The restaurant and store where she worked specialized in American style foods so it was frequented by the U.S. team members. His wife had served in the Israeli Defense Forces (IDF) as a geographic information specialist for four or five years, fulfilling her obligatory service obligation. They were prevented from marrying in Israel because under Israeli law they could not marry in Israel. His wife was not an Orthodox Jew and he was not Jewish. They were married in Prague, Czech Republic, in 2012. Her family members, including her parents and sisters, his mother, and his wife's Israeli friend, a voice-over artist, attended the wedding. She moved to Germany after the wedding to live with Applicant. (Tr. 47-48)

Applicant's wife works on a U.S. military base as a pre-school teacher. She has done all she can at this point to apply for U.S. citizenship. She cannot complete the process until they permanently live in the United States. Israel has suspended all benefits that his wife is eligible for since she no longer is a permanent resident of Israel. She has a savings account in Israel that she has had since she was young worth about $20,000. Applicant has no financial or assets in Israel. Applicant is unsure if his wife is eligible to inherit something from her parents. His wife's last visit to Israel was in April 2014 for Passover. (Tr. 50-52)

Applicant's wife's parents were born in Egypt and moved with their families to Israel when her father was nine years old and her mother was one year old. They are now in their mid to late 60s. His father-in-law served 24 years as a tanker in the IDF, retiring in 1990. He receives retirement benefits. He has worked at a private chemical plant for over 30 years and will retire soon. He is eligible to receive the normal benefits from the Israeli government. His mother-in-law served in the IDF in the 1970 for two years. She is an accountant for multiple hotels in the area. Applicant's wife talks to her mother weekly by phone and her father once or twice a month by phone. Applicant does not communicate with them, except through his wife, since he does not speak Hebrew and they do not speak English. He tried to learn Hebrew, but was not successful. The only time his in-laws questioned him about his job was when he first started dating his wife and they met him. He considers their questions a natural curiosity of a parent for a daughter's boyfriend. He followed the guidance from his employer about what he could say about his job. They know he worked in computers and missile defense. They, as

Israelis, knew what questions they could and could not ask. His last visit to Israel was in 2014. They have visited Applicant and his wife for four or five days since they moved to Germany. (Tr. 51-58, 68-69, 73-74)

One of Applicant's wife's sisters is a student finishing her degree in chemistry and physics at a prestigious Israeli university. She is currently an officer in the Israeli Defense Forces Reserves as a supply and logistics specialist. His wife talks to her every two or three weeks by phone and Skype. She is not married. Applicant talks to her about once every three months for a few minutes during one of the telephone conversations with his wife. His sister-in-law visited them in Germany for two or three days. (Tr.62-63, 68-69)

Applicant's other sister is a manager at a computer service company. She completed her service in the Israeli Defense Forces. He and his wife talk to her about the same amount as they talk to the other sister. He last saw his sister-in-law and spent time with them when he visited Israel in April 2014 for Passover. She has also visited them in Germany. One of his wife's Israeli friends who attended their wedding has also visited them in Germany. (Tr. 63-64, 68-69)

Applicant's wife's sister's husband is a vice-president for operations of an Israeli company that specializes in providing advanced wireless communication solutions and tactical data links for defense, homeland security, law enforcement, and public safety industries. Their products and services operate on airborne, naval, and ground platforms, and are tailored to specifically meet the needs of defense and law enforcement. The senior management team is led by former operations and engineering officers of the IDF. His brother-in-law was an officer in the IDF. During Applicant's visit to Israel in 2014, his brother-in-law was present about half of the time. He did not talk to him about what his company nor did they discuss their jobs. They have not discussed their military backgrounds and service. His brother-in-law has not expressed an interest in what he does and has not pressed Applicant for any information. He knows that his brother-in-law's company is a defense contractor. He does not know of any connection between his company and his brother-in-law's company. (T. 69-71, 75-76).

One of Applicant's coworkers testified that he has known Applicant for over 11 years since serving with him in the Marine Corps and with the same defense contractor. He did not serve with Applicant in Israel but now serves with him in Germany. He attended Applicant's wedding as a groomsman. They are both social and work friends. He considers Applicant to be trustworthy, meticulous, and very conscious of protecting classified information. He is loyal to the United States, does not drink to excess, or use drugs. He has a strong moral character. Applicant cannot bring his work home since it is classified, and he has not been involved in any security breaches. (Tr. 79-83)

Another of Applicant's friends and colleagues testified that he has known Applicant since the fall of 2006. Applicant's work is outstanding, and he is considered trustworthy, loyal to the United States, has no vices to place him in jeopardy, has no had work-related problems, and is always security conscious. In their jobs now with the

defense contractor, they have no interaction with foreigners, especially Israelis. Applicant is one of the most stable, loyal, and best workers in their company. (Tr. 83-91)

Applicant's supervisor testified that Applicant is one of his missile defense systems administrators. He has known Applicant since May 2007, and has worked with him in Germany since 2011. Before this assignment, he worked with Applicant at another location, and discussed issues with him when Applicant was working in Israel. Applicant is a "by-the-book" individual that is very detail-oriented. He is trustworthy and has demonstrated his trustworthiness on various occasions. He is loyal to the United States, and he is not susceptible to coercion. He does not have any alcohol, drug, marital, or work-related problems. In their present job, he and members of his team do not have any interaction with foreigners, especially Israelis. (Tr. 91-100)

Israel and the United States are bound closely by historic and cultural ties as well as mutual strategic interests. They have a close and supportive relationship. Both countries are working to establish a peace process in the Middle East, although each country may have different concepts of how to achieve that peace. The countries are considered allies but there is no mutual defense agreement. The United States provides substantial foreign aid to Israel. However, there have been some cases of individuals prosecuted and convicted of espionage against the United States on behalf of Israel. Israel is listed by the United States as inadequately and inefficiently protective of intellectual property rights. Israel is also considered by the United States as one of the most active collectors of economic and technology information. There is no evidence that Israel engages in coercive or non-coercive action against its citizens to obtain intelligence data. The threat of terrorist attacks in Israel is ongoing, and the U.S. Government warns that American interest could be the focus of such attacks. Because of the terrorist threats, the security concerns in Israel are substantial and Israel takes significant measures to gain intelligence and protect against terrorist threats. (Hearing Exhibits I)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which must be considered in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the Applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The Applicant has the ultimate burden of persuasion 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Analysis

Guideline B: Foreign Influence

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in the U.S. interest, 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 consideration 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 ¶ 6)

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. Even friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security. Friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. The nature of a nation's government and its relationship with the United States are relevant in assessing the likelihood that an applicant's family members are vulnerable 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

upon the Government or the country is known to conduct intelligence operations against the United States. In considering the nature of the government, an administrative judge must also consider any terrorist activity in the country at issue.

The SOR alleges, and Applicant admits, that his wife is a citizen of Israel but resides with him in Germany. The SOR also alleges, and Applicant admits, that his in-laws are citizens and residents of Israel. There is no evidence that the family members, with the exception of a brother-in-law, have strong ties to the Israeli Government, even though as required by law they all have previously served in the IDF. Applicant's brother-in-law is a high ranking official for a defense contractor for Israel. Applicant testified that while stationed in Israel, he and his team members where under surveillance by Israel and were subject to increased scrutiny. This was not an unusual practice against foreigners in Israel. Under these circumstances, the family members are a foreign influence security concern for Applicant.

Three disqualifying conditions are relevant to the security concerns raised in SOR 1.a. to SOR 1.f: AG ¶ 7(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); AG ¶ 7(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); and AG ¶ 7(d) (sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion).

Under the old adjudicative guidelines, a disqualifying condition based on foreign family members could not be mitigated unless an applicant could establish that the family members were not in a position to be exploited. The Appeal Board consistently applied this mitigating condition narrowly, holding that an applicant should not be placed in a position where he or she is forced to make a choice between the interests of the family member and the interests of the United States. Thus, an administrative judge was not permitted to apply a balancing test to assess the extent of the security risk. Under the new guidelines, however, the potentially conflicting loyalties may be weighed to determine if an applicant can be expected to resolve any conflict of interest in favor of the U.S. interest.

The mere existence of foreign relationships and contacts is not sufficient to raise the above disqualifying conditions. AG ¶¶ 7(a) and 7(d) requires substantial evidence of a "heightened risk." The "heightened risk" required to raise one of these disqualifying conditions is a relatively low standard. "Heightened risk" denotes a risk greater than the normal risk inherent in having a family member living under a foreign government. The nature of Applicant's contacts and relationships must be examined to determine whether it creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion. One factor that may heighten the risk in Applicant's case is the

increased security and intelligence scrutiny of Applicant by Israel. The Government has established that Applicant was under a "heightened risk" of security concern because of the increased scrutiny he received from Israeli Government intelligence and security. An applicant with foreign family ties to a country that presents a heightened risk has a heavy burden of persuasion to show that neither he nor the family members are subject to influence by that country. The totality of an applicant's family ties to a foreign country as well as each individual family tie must be considered. There is a risk presented because Applicant's wife and in-laws are citizens, and some are residents of, Israel, and Israel is a known collector of intelligence information from foreigners.

Applicant raised facts to mitigate the security concerns arising from his wife and in-laws connection to Israel. I have considered Foreign Influence Mitigating Conditions AG ¶ 8(a) (the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S.); AG ¶ 8(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); AG ¶ 8(c) (contact or communication with foreign citizens is so casual or infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation); AG ¶ 8(e) (the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from foreign countries); and AG ¶ 8(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).

In evaluating the potential conflict of interests between his wife and her family members and the interests of the United States, I considered that Israel is a strong ally of the United States with mutual defense and strategic interests. It is a substantial trading partner of the United States. A friendly relationship is not determinative, but it makes it less likely that a foreign government would attempt to exploit a United States citizen through relatives or associates in that country. Even friendly countries may engage in espionage against the United States' economic, scientific, or technical interest. Even though Israel is not a hostile country and its interests are not inimical to the United States, it is reasonable to consider that elements in Israel could take an action that may jeopardize their friendly position with the United States if they needed trade and defense information from sources in the United States. There are strong indications that elements in Israel could seek economic and sensitive information from contacts in the United States.

I have considered Applicant's relationship with his wife's family in Israel. I have also considered the Israeli Government's significant intelligence and security actions. Israel is a known collector of security information, but they are not known to coerce their

own citizens to gain security information. They conduct a significant security apparatus because of the terrorist concerns. Because of Israeli's significant intelligence and security concerns and functions, it cannot be said that it is unlikely Applicant will be placed in a position of having to choose between his wife's family members and the interests of the United States. AG ¶ 8 (a) does not apply.

There is a rebuttable presumption that contacts with an immediate family member in a foreign country are not casual. There is also a rebuttable presumption that a person has ties of affection for, or obligation to, the immediate family members of the person's spouse. Factors such as an applicant's relatives' obscurity or the failure of foreign authorities to contact them in the past do not provide a meaningful measure of whether an applicant's family circumstances post a security concern. Applicant himself has limited contacts with his mother-in-law and father-in-law in Israel because of the language barrier. He does not speak to them. He visited them in Israel and they visited him in Germany. He can communicate better with his sisters-in-law, but he talks to them infrequently. He talks to his brother–in-law only when he visits the family in Israel. However, Applicant's wife is in frequent and constant contact with her family members in Israel. She visits them frequently. Thus the communication network between Applicant, his wife, and this wife's family is not casual or infrequent and it could create a risk for foreign influence or exploitation. AG ¶ 8(c) does not apply.

Applicant has strong ties to the United States. He has been a U.S. citizen for his entire life. He has served his county honorably as a Marine and now with a defense contractor. His immediate family is in the United States and his grandparents, his father, and his brother have all served in the U.S. military. His father was killed while serving in the Marine Corps. He has substantial financial and property interests in the United States. He has had access to classified information for over 16 years with no security violations. Unlike many people, his ability to safeguard classified information has been tested and he has shown he can safeguard classified information. He and his team members, as all foreigners, were placed under scrutiny by Israel. His hotel room was searched, and electronic monitoring instruments were placed in his room. His personal electronic equipment were taken and extensively searched. He reported all contacts with foreigners and the increased intelligence scrutiny to his facility security officer (FSO), as required. The FSO reported the activities to the U.S. embassy in Israel as required. I considered that his brother-in-law works for an Israeli defense contractor. However, they communicate sparingly. They do not call each other and spend limited time together at infrequent family events in Israel. They do not discuss their work or companies.

Applicant practiced excellent operational security under adverse circumstances. Applicant's loyalty to the United States is unquestioned. Applicant has established through his actions that it is unlikely that he could be placed in a position to choose between any sense of loyalty or obligation to his wife's family members in Israel and his sense of loyalty or obligation to the United States. In balancing all of the factors mentioned and considered above, I am satisfied Applicant's loyalty to the United States is such that he can be expected to resolve any conflict of interest in favor of the United

States interest. There is no risk to the national interest if Applicant has access to classified information. The mitigating conditions in AG ¶¶ 8(b) and 8(e) apply.

As noted above, all of Applicant's financial and property interests are in the United States. Applicant has no financial or business interests in Israel. His wife has a substantial savings account in Israel that she has had since she was a child. Since it is her account and Applicant has no legal claim to the account, AG ¶ 8(f) applies.

Applicant has met his heavy burden to show that his wife's family members in Israel do not cause a security concern. I conclude that Applicant has mitigated security concerns for foreign influence.

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 access to sensitive information 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 the facts and circumstances surrounding this case. The whole-person concept requires consideration of all available information about Applicant, not single items in isolation, to reach a determination concerning Applicant's eligibility for access to classified information. I have considered Applicant's six years of excellent service in the Marine Corps and his honorable discharge. I considered his awards and decorations, letters of appreciations, certificates of both military and civilian service, and the recommendations of his coworkers and supervisor that he be granted access to classified information. I have considered his connections to his family in the United States, their service in the U.S. military, and his financial and property interests in the United States.

Applicant has little contact or close relationships with his wife's family in Israel, even though his wife has frequent and close contact with her family in Israel. Applicant's ability to practice good operational security and safeguard classified information has

been tested in Israel and he easily passed all tests. Applicant established that he has such deep and longstanding relationships and loyalties in the United States that he can be expected to resolve any conflict of interest in favor of the United States. While access to classified information is not based on a finding of loyalty in the United States, Applicant showed his deep and abiding commitment to the protection of United States interests. Applicant is solely a United States citizen and not a citizen of Israel. These facts leave me without questions and doubts about Applicant's eligibility and suitability for access to classified information. For all these reasons, I conclude Applicant has met the heavy burden of mitigating potential security concerns arising from his wife's Israeli citizenship and her family in Israel. Applicant mitigated security concerns arising from foreign influence and 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 – 1.f:	For Applicant

Conclusion

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

THOMAS M. CREAN
Administrative Judge