DATE: August 21, 2001

In re:

SSN: -----------

Applicant for Security Clearance

CR Case No. 01-06327

DECISION OF ADMINISTRATIVE JUDGE

ROGER C. WESLEY

APPEARANCES

FOR GOVERNMENT

Arthur A. Elkins, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant who initiated and has maintained active dual citizenship with the country of his birthplace and offers only a conditional renunciation of his foreign citizenship fails to extenuate and mitigate security concerns associated with his active maintenance of a dual citizenship between Italy (albeit, a NATO member) and the US. By contrast, Applicant's immediate family members who reside in Italy are not shown to be either foreign agents or vulnerable to pressure or coercion such as to pose foreign influence concerns. Clearance is denied.

STATEMENT OF THE CASE

On March 22, 2001, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, issued a Statement of Reasons (SOR) to Applicant, which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance, and recommended referral to an Administrative Judge for determination whether clearance should be granted, continued, denied or revoked.

Applicant responded to the SOR on May 10, 2001, and elected to have his case decided on the basis of the written record. Applicant was furnished the File of Relevant Material (FORM) on May 24, 2001,and is credited with receiving it on June 27, 2001. He provided a timely response to the FORM on July 19, 2001. The case was reassigned for caseload reasons to this Administrative Judge on August 1, 2001, after initial assignment to another administrative judge.

PROCEDURAL ISSUES

At the outset of this case assignment an issue arose over whether Applicant's Italian passport, which was issued to him in 1992 after he re-established his Italian citizenship and since expired (in November 1997) was covered by the Assistant Secretary of Defense(C3I) memorandum of August 2000. The cover letter posted to Applicant in March 2001 was silent as to whether a copy of the memorandum (which mandates surrender of any current foreign passport possessed by an applicant)

should be provided Applicant to address the prior foreign passport issue raised in the SOR.

Department Counsel urges that no C3I memorandum need be furnished Applicant since the passport issued to Applicant by the Italian Government in 1992 expired (in 1997), is no longer usable, and hence does not present an issue that requires the supplying of a copy of the written memorandum. While this Department Counsel position varies somewhat from the position it has taken before where the issue of an expired passport has arisen (*see* ISCR Case No. 99-0532 (Feb. 27, 2001), the current position reflects a fair and common sense reading of the C3I memorandum and is one that our Appeal Board has not disapproved of. Good cause, thus, being shown, mailing of a copy of the C3I memorandum of August 2001 may be dispensed with herein.

STATEMENT OF FACTS

Applicant is a 47-year old employee for a defense contractor, where he has been employed since April 1999. Left undeveloped is Applicant's claim to have received a secret clearance in 1999 after making known his foreign country connections. If true, the SOR places in issue whether Applicant should retain his security clearance, as opposed to being granted one. Absent any documentation from either side, however, the proceedings will continue on the premise that Applicant seeks a final secret clearance required by the duties he assumed with his current defense contractor.

Summary of Allegations and Responses

Applicant is alleged to have (1) exercised dual citizenship with Italy and the US, (2) been

born in Italy in May 1954, raised there until he was 22-years of age, attended high school in Italy, and served in the Italian Army from 1974 to 1975, (3) become a naturalized US citizen in April 1984, (4) resumed residence in Italy in 1991 and applied for Italian citizenship which was granted him in 1992, (5) applied for an Italian passport (issued to him in November 1992 and expired in November 1997), which he used on numerous business trip while living in Italy, and (6) worked for an Italian telephone company while living in Italy following his return to residence there in 1991.

Additionally, Applicant is alleged to have relatives who are citizens and residents of Italy: a father, mother and brother.

For his response to the SOR, Applicant admitted all of the allegations and added several explanations. He claimed that the matters covered in the allegations were previously known to DoD agencies: some since the 1985-1986 time frame and others (*viz.,* his taking up dual citizenship and returning to Italy in 1991 and working for an Italian company) since 1999 when he applied for and received a security clearance. And he claimed that the covered allegations seemed inconsistent with previous decisions granting security clearances.

Relevant and Material Factual Findings

The allegations covered in the SOR and admitted to by Applicant are incorporated herein by reference and adopted as relevant and material findings. Additional findings follow.

Born in Italy in May 1954, Applicant resided there with his parents and brother until he reached the age of 22. He went to high school in Italy and served in Italy's Army from 1974 to 1975: a period of thirteen months. Because Italy changed its Army service requirements from 13 months to 15 months of mandatory service during Applicant's tour, he was able to cut short his 15-month mandatory tour to just 13 months.

After completing his Italian military tour, Applicant accepted an electronics position with a local Italian road construction company. As an electronics technician with this company, he oft-traveled on business assignments to a neighboring hostile country to administer electronics projects. After about a year in this employment, his cousin persuaded him to move to the US and take up English as a second language. Relying on his cousin's advice, Applicant emigrated to the US in 1976 and immediately established residency in a Southern college town, where he enrolled in a local university. Unlike Italy, which he found to be heavily influenced by an economic caste system, Applicant found the US more accommodating to personal advancement with the proper education and training. After completing his university studies, he found employment in the US market, and quickly realized if he wanted a career in electronic

engineering, he needed to obtain US citizenship. So, he applied for US citizenship in 1981/1982 and married an American citizen, who mothered his son. He became a US citizen in 1984.

Once Applicant took the oath of US allegiance and became a US citizen, he automatically became ineligible to be an Italian citizen and hold an Italian passport, and, in turn, relinquished both his Italian citizenship and passport.

Applicant has held a secret clearance since 1986, save for his brief employment tenure with an American wireless firm between 1995 and 1999: He has held a security clearance while employed at a national laboratory between 1986 and 1991, and while employed by an Italian telephone company following his return to Italy in 1991.

Interested in the management techniques of the European business community generally, Applicant moved to Italy (a NATO member country) in 1991. Limited initially in his job choices due to his exclusive US citizenship at the time, he took advantage of a new Italian law which permitted him to obtain Italian citizenship, and perforce dual citizenship with the US. His reasons for applying for Italian citizenship were threefold: more opportunities for employment with an Italian company, perceived instability of his then Italian employer, opportunities for better insight into the thinking of the European business community. Because he was an Italian citizen by virtue of the Italian birth of his parents, his application requirements did not include his taking an oath of allegiance to Italy. Applicant insists that the oath of allegiance to the US that he took incidental to his becoming a US citizen in 1984 is the only country oath he has ever taken. There being nothing in the record to contradict any of Applicant's assurances, they are found to be evidentially supported by the documented evidentiary submissions and accepted.

When Applicant was granted an Italian security clearance in November 1992 to work in NATO-related projects he was given an Italian passport as well. He proceeded to use his Italian passport on his numerous business trips within the European Community, but never when traveling to and from the US. Whenever he traveled from the US into Europe, he always used his US passport: both for egress and ingress.

Applicant returned to the US in 1995 and had no further use for his Italian passport. While he would like to maintain his dual citizenship with Italy and the US just in case an employment opportunity in Italy arises, he is willing to renounce his Italian citizenship should the US Government consider this necessary to preserve Applicant's security clearance (*see* item 5). Applicant still retains his expired Italian passport, which he could activate again, should opportunities arise (*see* item 5)

Applicant assures he holds no allegiance to Italy: his birth place and current residence of his parents and only sibling (his brother). Italy imposes no further citizenship obligations on him: it has no residency requirement, and he performed his military service before emigrating to the US in 1976. Further, Applicant never held political office in Italy or took advantage of any Italian retirement benefits during his latest residency. However, he did vote in Italian elections during his stay there (*viz.,* between 1991 and 1995). And although he owns no property in Italy, and has no intention of acquiring any, he does stand to inherit a one-half interest in the home of his brother who passed away (*see* item 5). The home (located in Italy) was left to Applicant and his other surviving brother, subject to a passed life estate to his parents for their lives. Applicant estimates the home's value to be approximately $30,000.00 (in US dollars).

Applicant's surviving father was a uniformed officer with the Italian military federal police prior to his retirement; while his mother is a homemaker, and his surviving brother is an ex-barber, who is contemplating the opening of a clothing store in Italy. Applicant has no reason to believe any of his relatives are foreign agents or are vulnerable in any way to coercion or pressure by Italian agents. His claims, while not corroborated, are not controverted by any proofs in the record, are credible, and are accepted.

Assuring his principal affections lie with the US, where he has resided for nineteen years, and six since returning to the US in 1995, Applicant insists his allegiance to the US could never be compromised out of any affections for his father and surviving brother in his native Italy. While Applicant worked Italy during the 1991-1995 time frame, he held a NATO-issued security clearance. No inferences can be drawn as to whether or not the US approved either his NATO-issued security clearance or his taking out dual Italian citizenship based on the developed record. To the best of his knowledge he has never broken any US or international law.

POLICIES

The Adjudicative Guidelines of the Directive (Change 4) lists "binding" policy considerations to be made by Judges in the decision making process covering DOHA cases. The term "binding," as interpreted by the DOHA Appeal Board, requires the Judge to consider all of the "Conditions that could raise a security concern and may be disqualifying" (Disqualifying Conditions), if any, and all of the "Mitigating Conditions," if any, before deciding whether or not a security clearance should be granted, continued or denied. The Guidelines do not require the Judge to assess these factors exclusively in arriving at a decision. In addition to the relevant Adjudicative Guidelines, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in E2.2 of Enclosure 2 of the Directive, which are intended to assist the judges in reaching a fair and impartial common sense decision.

Viewing the issues raised and evidence as a whole, the following adjudication policy factors are pertinent herein:

Foreign Preference

The Concern: When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.

Disqualifying Conditions:

DC 1: The exercise of dual citizenship

DC 2: Possession and/or use of a foreign passport.

DC 3: Military service or a willingness to bear arms for a foreign country.

DC 5: Residence in a foreign country to meet citizenship requirements.

DC 8: Voting in foreign elections.

DC 9: Performing or attempting duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

Mitigating Conditions:

MC 2: Indicators of possible foreign preference (*e.g.,* foreign military service) occurred before obtaining United States citizenship.

MC 4: Individual has expressed a willingness to renounce dual citizenship.

Foreign Influence

The Concern: A security risk may exist when an individual's immediate family, including co-habitants, and other persons to whom he or she may be bound by affection, influence, or are obligation *are not* citizens of the United States *or may* be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information. Contacts with citizens of other countries or financial interests in other countries are also relevant to security determinations if they make an individual potentially vulnerable to coercion, exploitation, or pressure.

Disqualifying Conditions:

DC 1: An immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country.

DC 8: A substantial financial interest in a country, or in any foreign-owned or -operated business that could make the individual vulnerable to foreign influence.

Mitigating Conditions:

MC 1: A determination that the immediate family members are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the persons involved and the United States.

MC 5: Foreign financial interests are minimal and not sufficient to affect the individual's security responsibilities.

Burden of Proof

By dint of the precepts framed by the Directive, a decision to grant or continue an Applicant's request for security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires Administrative Judges to make a common sense decision. As with all adversary proceedings, the Judge may draw only those inferences which have a reasonable and logical basis from the evidence of record. Conversely, the Judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government's initial burden is twofold: (1) It must prove any controverted fact[s] alleged in the Statement of Reasons and (2) it must demonstrate that the facts proven have a nexus to the applicant's eligibility to obtain or maintain a security clearance. The required showing of nexus however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a security clearance. Rather, consideration must take account of accessible risks that an applicant may deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the burden of proof shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation or mitigation of the Government's case.

CONCLUSIONS

Applicant presents as a conscientious electronics engineer with a defense contractor who after being born and raised in Italy and completing a military tour in the country of his birth, emigrated to the US in 1976 in search of better economic opportunities. Claiming his principal affections still lie with the US, he makes a conditional offer to renounce his Italian citizenship should this be necessary to retain his security clearance. Basically, what Applicant asks for is a conditional clearance, a practice neither provided for in the Adjudication Guidelines, nor accorded the same weight as express renunciations of foreign citizenship are afforded under MC 4 (expressed willingness to renounce dual citizenship) of the Guidelines by our Appeal Board.. *See* ISCR Case No. 99-0254 (Feb. 16, 2000); ISCR Case No. 98-0476 (Dec. 14, 1999). Conditional offers to renounce foreign citizenship are inherently difficult to assess and validate.

Dual citizenship concerns necessarily entail allegiance assessments and invite critical considerations over acts indicating a preference or not for the interests of the foreign country over the interests of the US. In a different vein, the continued residence of his parents and surviving sibling in Italy raise potential concerns about their being vulnerable to future pressure or duress that could result in the compromise of classified information. The issues, as such, raise concerns over Applicant's preference for a foreign country over the US and the potential for members of Applicant's immediate family being placed at risk to pressure or duress to induce Applicant to divulge classified information he might be privy to.

Were it clear in the record that the foreign preference and influence issues raised in these proceedings were previously adjudicated favorably to Applicant incidental to his grant of a secret clearance in 1999, his actions would require favorable treatment herein. For previous adverse information adjudicated favorable to an applicant entitle the applicant to the issuance of a new or reaffirmed clearance in the absence of significant new derogatory information not previously adjudicated, or a higher level of clearance is being sought. This is the accepted construction of Section 2-203 of the National Industrial Security Program Operating Manual ("NISPOM"), which was adopted in 1993 pursuant to Executive Order 12829 ("National Industrial Security Program"). Section 2-203 is very specific about its requirement that any previous granted personnel clearance must be honored anew without further investigation or adjudication "unless significant derogatory information that was not previously adjudicated becomes known to the granting agency." The

honoring of the old clearance absent "significant derogatory information" never adjudicated before has not only been construed by our Appeal Board to cover DOHA contractor adjudications administered under Executive Order 10865, but it has been interpreted to require mandatory, not discretionary, application, when invoked. *See* ISCR Case No. 98-0320 (April 8, 1999).

However, Applicant's claimed implicit favorable assessment of raised preference and influence issues comes without any corroboration for the first time in his response to the SOR and provides no details of what information he had made available to DSS prior to his being granted an unconditional secret clearance in 1999 (his claim). While he lists prior investigations (with the last coming in 1991 in apparent reference to the NATO clearance he claims in connection with the position he took with an Italian company while residing in Italy), he provides nothing to document whether (a) he is currently seeking a clearance upgrade, (b) what information he previously supplied investigators, or (c) whether clearance adjudicators possessed all of the information covered in this developed administrative record (such as voting in foreign elections and holding inheritance rights in a foreign country) when they adjudicated his clearance in 1999 as he claims. For sure, there is nothing in the administrative record to document Applicant's claims of being granted an unconditional clearance on the strength of his June 1999 SF-86, much less written proof that DSS adjudicated the preference and influence issues prior to granting him a clearance. Absent such proof, the raised issues in this proceeding are not deemed to be covered by the NISPOM.

Foreign Preference

By virtue of his birth in Italy to parents of Italian descent and citizenship, Applicant was endowed with Italian citizenship through his parents. This citizenship could not be lost except by express renunciation or by taking an oath of allegiance with another country, which he did in accepting US citizenship in 1984. To be sure, several of Applicant's actions cited as evidence of his preference for his native country were taken prior to his becoming a US citizen: his attending high school in Italy and his serving in the Italian Army. But while these actions antedate his taking his oath of allegiance to the US, such actions may be considered relevant to a foreign preference issue when assessing the significance of an applicant's conduct and circumstances after he has become a naturalized US citizen (as here). *See* ISCR Case No. 99-0511 (Dec. 19, 2000). So, Applicant's pre-US citizenship schooling and military service in Italy may affect what inferences to draw with respect to his motives for later taking out Italian citizenship and an ensuing passport and using the passport after he returned to Italy in 1991.

Still, the primary issue here is whether Applicant by renewing his Italian citizenship and taking out an Italian passport in November 1992 following his return to Italy to work, where he also has inheritance rights, manifested a preference for his birthplace (Italy) over his adopted country (the US).

Without denying his affection for his birthplace and current place of residence of his parents and brother, Applicant insists that his preference remains for his adopted country (US), which he would never compromise under any circumstances, should competing geopolitical interests develop between the two countries. No question but that Applicant manifested his support for the US in several important ways since taking his oath of allegiance in 1984: He took no oath of allegiance to Italy when he took advantage of a special Italian law to reclaim his Italian citizenship in 1991; he was university trained in the US, where he has resided for over 19 years since emigrating here in 1981; and he has voted only in US elections while residing in the US.

But Applicant also has manifested enough recent ties and interests in Italy to open some doubts as to whether he would always prefer the US over Italy should their interests clash. Not only does he have deep historical roots and family in Italy, but he applied for and obtained both his Italian citizenship and passport for his business convenience while traveling within Europe while employed in Italy in the early 90s. His strong continuing commitments to Italy are illustrated in other material ways as well: his concerns for his parents and brother who continue to reside in Italy, his interest in Italy's political system evidenced by his voting in that country while employed there, and his inheritance rights to realty located in Italy which promise to vest in himself and his brother upon the death of his surviving parents. Collectively considered, these ties undercut his US preference claims and make his expressed desire to retain his Italian citizenship very understandable. They also make the compelling case for ascribing a preference to Applicant for the country of his birthplace (Italy) over the US, were he forced to choose. For when pressed to make a choice, the country of an individual's birthplace, family and heritage can often be expected to triumph over his adopted country of economic

opportunity. While such choices cannot be presumed with absolute certainty, they can be ascribed with sufficient predictive judgements based on the individual's past conduct and circumstances to satisfy the security suitability burdens governed by *Department of Egan,* 484 U.S. 518, 528-29 (1988).

While entirely understandable, Applicant's hedging on his renouncing his Italian citizenship reflects motivational influences across a wide spectrum of interlocking personal, business and political interests in Italy that are not checked by Applicant's (a) professed affections for the US, (b) assurances that he can be trusted to safeguard US secrets irrespective of his continued dual citizenship, (c) permitting his Italian passport to expire while holding on to his Italian citizenship and (d) conditional willingness to renounce his Italian citizenship should his clearance retention depend on it.

To be fair to Applicant, he has by all accounts been totally up-front about his dual citizenship history, business and family relationships, voting patterns and financial interests associated with his roots and ties to Italy. Were his Italian citizenship limited solely to his parents' citizenship or birth in Italy, his US preference claims would be more persuasive. His choices were active ones, however, save for his retaining inheritance rights in realty located in Italy. Returning to Italy to work in 1991 after becoming a US citizen, applying for and obtaining Italian citizenship and a passport, using his Italian passport to travel throughout Europe while he was employed in Italy, and voting in Italian elections, all constituted conscious choices he made to promote his personal and business interests while employed in the country. These are choices incompatible with his claimed preference for the US. Without more developed information in the record, none of these choices can be considered to have been US sanctioned by virtue of Applicant's obtaining a security clearance from NATO for the period he spent working in Italy. So, under the circumstances as developed in this record, Applicant is not positioned to take decisive advantage of any of the mitigating conditions covered by the Adjudicative Guidelines for foreign preference.

Taking into account all of the evidence presented in the record, Applicant does not absolve himself of the security concerns raised by his exercising dual citizenship with another country (Italy) and fails to convince that his exhibited preference for a foreign country over the US does not expose him to future risks of his providing information that could be harmful to the security interests of the US. His actions continue to create the kind of competing allegiance concerns for clearance holders that manifest in active dual citizenship exercise cases. Adverse conclusions warrant with respect to the allegations covered by sub-paragraphs 1.a through 1.f of Guideline C.

Foreign Influence

Besides preference concerns, Government concerns over the risk of Applicant's mother, father (a retired federal military officer) and sibling also confront Applicant's security clearance application. Because Applicant's father and brother who continue to reside in Italy represent members of his immediate family their status raises security concerns covered by disqualifying condition 1 of the Adjudication Guidelines for foreign influence. The residence status of these relatives in Italy pose some potential concerns for Applicant because of the risks of coercion or influence that could compromise classified information under Applicant's possession and/or control.

From what is known from Applicant's own statement, none of Applicant's immediate family residing in Italy have current working/non-working relationships with Italy's government or have any history of ever being subjected to any coercion or influence to date, or appear to be vulnerable to the same. Taking Applicant's explanations about his parents and sibling at face value, any risk of foreign duress or influence on Applicant and/or his immediate family would appear to be insubstantial. Italy is a NATO ally with a democratic form of government and an emerging history of respect for human rights and the rule of law. This is not to suggest that Italy might not at some future time draw DoD concerns about industrial espionage activity or other forms of intelligence collection. Even mature democracies are known to maintain active intelligence gathering regimes. To ask any more in the way of corroboration from Applicant would put Applicant basically to the burden of proving the negative: a daunting, if not impossible burden to fulfill without demonstrated access to Italian intelligence organizations.

The Adjudicative Guidelines governing collateral clearances do not dictate p*er se* results or mandate particular outcomes for any chosen set of guidelines covering risks of foreign influence. What is considered to be an acceptable risk in one foreign country may not be in another. While foreign influence cases must by practical necessity be weighed

on a case-by-case basis, guidelines are available for referencing. Personnel security investigations continue to be governed by the same Change 2 requirements of DoD Regulation 5200.2-R for appraising the security risks associated with the individual's having family abroad: These investigatory requirements of the Regulation as they pertain to hostage situations were never deleted or replaced and retain their applicability according to the dictates of individual cases. *See* 32 C.F.R. Sec. l54.8 (1998) (corresponds to DoD Regulation 5200.2-R, Sec. 2-403).[(1)] And Section 6.1 of the Directive (under procedures) provides that industrial security clearance applicants be investigated in accordance with the standards in the governing DoD regulation.

So, under these investigatory guidelines, while an applicant with immediate family in an unfriendly country might not be able to neutralize material risks of exploitation of immediate family members residing in that country, another hypothetical applicant might if the subject family members were domiciled in a friendly country that poses no risks of a hostage situation. Italy is not such a country that has been the subject of concluded studies of friendly countries practicing industrial espionage in recent years. *Cf.* G. Gilder, *Geniuses from Abroad* (Wall Street J. December 18, 1995); S. Wood & C. Chandler, *Selected Economic Espionage Incidents Against the United States, 1980-1994*: *An Open-Source Research Project* (Defense PSRC), cited with approval in DoD's Adjudicative Desk reference (ADR). Italy can be classed as a friendly NATO country who is not currently known to pose unacceptable hostage risks.

Whatever potential security risks arise as the result of Applicant's having immediate family in Italy, they are by every reasonable measure mitigated. Applicant's situation is set in marked contrast to the hypothetical situation in which the country of residence for the individual's immediate family has interests inimical to those of the US. Italy is an allied friend whose democratic institutions are not incompatible with our own traditions and respect for human rights and the rule of law. While the foreign influence provisions of the Adjudicative Guidelines are ostensibly neutral as to the nature of the subject country, they should not be construed to ignore the geopolitical aims and policies of the particular foreign regime involved. And in Applicant's case, the country of his ethnic heritage has no known history of hostage taking or disposition for exerting pressure or influence over the last fifty years to compromise the security interests of a NATO ally.

Because of the presence of Applicant's immediate family members in Italy (a country whose interests have recently been and continue to be friendly to those of the US), any potential risk of a hostage situation becomes an acceptable one, for which the mitigation benefits of MC 1 (presence of immediate family in host country poses no unacceptable security risk) of the Adjudicative Guidelines are fully available to Applicant. Applicant may also claim the mitigation benefits of MC 5 (minimal foreign financial interests). Overall, any potential security concerns attributable to Applicant's having family members in Italy are sufficiently mitigated to permit safe predictive judgments about Applicant's ability to withstand risks of exploitation and pressure attributable to his familial relationships in Italy. Favorable conclusions warrant with respect to sub-paragraph 2.a of Guideline B.

In reaching my recommended decision, I have considered the evidence as a whole, including each of the factors and conditions enumerated in E.2.2 of the Adjudicative Process of Enclosure 2 of the Directive.

FORMAL FINDINGS

In reviewing the allegations of the SOR in the context of the FINDINGS OF FACT, CONCLUSIONS and the FACTORS and CONDITIONS listed above, this Administrative Judge makes the following separate FORMAL FINDINGS with respect to Appellant's eligibility for a security clearance and occupancy of a sensitive position:

CRITERION C (FOREIGN PREFERENCE): AGAINST APPLICANT

Sub-para. 1.a: AGAINST APPLICANT

Sub-para. 1.b: AGAINST APPLICANT

Sub-para. 1.c: AGAINST APPLICANT

Sub-para. 1.d: AGAINST APPLICANT

Sub-para. 1.e: AGAINST APPLICANT

Sub-para. 1.f: AGAINST APPLICANT

CRITERION B: (FOREIGN INFLUENCE): FOR APPLICANT

Sub-para. 2.a FOR APPLICANT

DECISION

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue Applicant's security clearance.

Roger C. Wesley

Administrative Judge

1.