

DATE: March 28, 2007

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In re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 03-06688

## **ECISION OF ADMINISTRATIVE JUDGE**

**EDWARD W. LOUGHRAN**

### **APPEARANCES**

#### **FOR GOVERNMENT**

Robert E. Coacher, Esq., Department Counsel

#### **FOR APPLICANT**

John F. Mardula, Esq.

### **SYNOPSIS**

Applicant is a 42-year-old employee of a defense contractor. While serving in the U.S. Navy in 1990 to 1991, Applicant committed unintentional security violations by leaving classified information in a Bachelor Officers' Quarters room, and by mistakenly taking a classified document off a ship. When he discovered the classified document in his personal effects, Applicant intentionally destroyed it rather than follow the proper reporting requirements. Applicant reported the destruction in 1999, and since has demonstrated a positive attitude toward the discharge of his security responsibilities. Applicant mitigated security concerns raised by his mother-in-law and father-in-law, who are citizens of the United Kingdom residing in Saudi Arabia. Clearance is granted.

### **STATEMENT OF THE CASE**

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. On October 4, 2005, DOHA issued a Statement of Reasons [\(1\)](#) (SOR) detailing the basis for its decision-security concerns raised under Guideline B (Foreign Influence) and Guideline K (Security Violations) of the Directive. Applicant answered the SOR in writing on November 18, 2005, and elected to have a hearing before an administrative judge. The case was assigned to me on January 16, 2007. A notice of hearing was issued on February 5, 2007, scheduling the hearing for February 22, 2007. The hearing was conducted as scheduled to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The Government offered three exhibits that were marked as Government Exhibits (GE) 1 through 3, and admitted without objection. Applicant testified and offered four exhibits that were marked Applicant Exhibits (AE) A through D, and admitted without objection. DOHA received the hearing transcript (Tr.) on March 9, 2007.

### **RULINGS ON PROCEDURE**

Department Counsel requested administrative notice be taken of the facts contained in Hearing Exhibit (HE) V. The source documents for the facts are Country Reports on Human Rights Practices - 2005: Saudi Arabia, United States

Department of State, dated March 8, 2006 (HE I); Saudi Arabia: Current Issues and U.S. Relations, Congressional Research Service, Library of Congress, dated February 24, 2006 (HE II); Travel Warning: Saudi Arabia, United States Department of State, dated December 19, 2006 (HE III); Background Note: United Kingdom, United States Department of State, dated May 2006 (HE IV). Applicant did not object. I took administrative notice of the facts contained in HE V.

### **FINDINGS OF FACT**

Applicant's admissions to the allegations in the SOR, are incorporated herein. In addition, after a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact:

Applicant is a 42-year-old employee of a defense contractor. Applicant holds a Master's Degree and a Bachelor's Degree. He is married, with two children. [\(2\)](#)

Applicant served on active duty in the United States Navy from 1986 to 1993. He was honorably discharged as a Lieutenant (0-3). He served in the reserves for several more years attaining the rank of Lieutenant Commander (0-4). Applicant was granted a security clearance in the Navy and has continued to hold one since that time. Applicant has been employed by the same defense contractor since he left the Navy in 1993. [\(3\)](#)

Applicant was stationed aboard a submarine while serving in the Navy. In about 1990, Applicant was studying for a Navy examination. Applicant's submarine was homeported in the continental U.S., but was conducting operations in the Hawaii area. Applicant was permitted to stay in the Bachelor Officers' Quarters (BOQ), and study in a facility aboard the base. The study materials for the exam were classified Confidential. Applicant had study materials that he bought from San Diego, consisting of a binder, and index cards with handwritten notes. The study facility also had a "pass down area," which contained study material prepared by previous people who studied for the exam. As part of the process Applicant would be interviewed by commanders and other personnel on ships, and throughout the base. Because of the amount of down time, Applicant requested and received a courier's card to transport the classified study material while he traveled to his interviews and other places. Applicant mostly utilized 3x5 index cards, some of which he created, some of which came from the pass down area. During this process Applicant received notification that the submarine was leaving in about four or five hours. Applicant hurriedly went to his BOQ room, packed his bags, and returned to the submarine. Some time thereafter approximately 215 classified index cards were discovered in the BOQ room that had been assigned to Applicant. The index cards were study material for the examination. The cards were not in Applicant's handwriting, and he did not specifically recognize them as cards that were in his possession. Applicant does not specifically recall leaving the cards in the BOQ room, but admits they almost certainly were left there by him. As punishment, Applicant received a letter of reprimand that was removed from his record after 90 days. Applicant did not lose his security clearance as a result of this action. [\(4\)](#)

Applicant transferred from the submarine in 1991, and moved to another state. A few months after he transferred, Applicant was going through some personal effects in his apartment. He discovered a classified document in a manila envelope. The document was classified Secret, and was three to five pages. Applicant inadvertently packed the document in his personal effects before he left the submarine. The submarine was essentially open storage for all classified documents below Top Secret, which were maintained in safes. When Applicant discovered the document, he panicked.

Rather than take the correct action of notifying security personnel, Applicant burned the document. This was not the only copy of the document, as there were other copies on the submarine. Applicant did not reveal this to anyone until it became an issue while he was taking a polygraph in 1999. At that time, he revealed his actions in destroying the classified document. [\(5\)](#)

In about 2000 or 2001, Applicant discovered a single unmarked document in between the pages of a personal notebook he kept from his time on the submarine. The document was folded in half, with Applicant's handwritten notes on the back. Applicant felt that there was a very small chance that the document contained classified information. Out of an abundance of caution, Applicant contacted his employer's security officer and the U.S. Navy. The Navy security officer did not request to see the document. He asked Applicant about the likelihood of compromise. Applicant replied that there was almost no chance of compromise as the document had been in his personal notebook since he left the

submarine. The security officer instructed Applicant to turn over the document to his employer's security officer for destruction, and Applicant did so. It is unlikely the document contained classified information. If it was classified, it would have been at the Confidential level. [\(6\)](#)

Applicant is now very security conscious. He introduced evidence of several occasions in which he erred on the side of caution when it came to handling classified information. [\(7\)](#)

After Applicant was discharged from the Navy in 1993, he was hired by his current employer. His company sent him to Saudi Arabia in 1993, where he worked until 1997. Applicant's job involved working with the U.S. Navy in support of a Foreign Military Sales (FMS) contract with the Saudi Navy. As part of that program, Applicant had much interaction with Saudi Naval Officers, and other representatives of their government. After leaving Saudi Arabia in 1997, Applicant had some follow-up contacts with his former clients for several months. He returned to Saudi Arabia in 1998 for a one week consulting engagement. Since that time, he has had no contact with his former clients, or any meaningful contact with any Saudi nationals. [\(8\)](#)

While living in Saudi Arabia, Applicant met his wife. At that time, his wife was a citizen of the United Kingdom. Applicant's mother-in-law and father-in-law are citizens of the United Kingdom. They have resided in Saudi Arabia since about 1985. Applicant met his in-laws before he met his wife. They were part of a group that gathered for Western cultural events. Applicant met his wife through her parents while she was visiting her parents in Saudi Arabia. Applicant's father-in-law worked for the Saudi Arabian government, but has passed their mandatory retirement age, and is no longer employed by the Saudi government. He is currently employed by a private company. Applicant's wife has five sisters. The youngest is in college in her second or third year. Applicant's father-in-law and mother-in-law have purchased a house in France, and intend to move there after their youngest daughter graduates from college. [\(9\)](#)

During the late 1980s or early 1990s, Applicant's in-laws contributed money to a humanitarian effort to return a child to the Philippines from Saudi Arabia. The baby's mother was from the Philippines and was in a Saudi prison. The baby was born in the prison, and the mother later died in prison. A third party made arrangements for the baby to be returned to extended family members in the Philippines. The in-laws contributed money for the effort. Applicant received incomplete information on this occurrence based upon a partially overheard telephone conversation. When he was questioned pursuant to his background investigation on July 9, 2004, in an effort to provide complete disclosure, Applicant revealed this information, but inaccurately reported it as an ongoing operation to smuggle babies in similar circumstances to the Philippines, without the knowledge of the Saudi government. [\(10\)](#)

On September 11, 2001, after the World Trade Center attacks, Applicant's in-laws noticed suspicious activity by two acquaintances. They called their daughter and told her that they thought Applicant should report it. She told Applicant, who reported it to his U.S. government contacts. [\(11\)](#)

Applicant married his wife in England in 1997. He petitioned for her immigration to the United States, and she arrived in 1998. She became a U.S. citizen in January 2007. Their two young children were both born in the United States. [\(12\)](#)

Applicant and his wife visited her parents in about 1998, in conjunction with a trip Applicant made to Saudi Arabia for business. Her parents visited them for about a week in 1999, and her mother visited for about a week, two or three years ago. Applicant has infrequent telephonic contact with his in-laws, generally when they call to speak to his wife and he answers the phone. Applicant has no foreign assets. Applicant and his wife own their house, and three rental properties, all in the U.S. [\(13\)](#)

Applicant is highly regarded by his employer. His supervisor of about ten years, states Applicant is a meticulous individual, an excellent employee, and extremely trustworthy, honest, and dependable. He knows of no incidents in which Applicant ignored rules or regulations, exercised poor judgment, was irresponsible in the workplace, or mishandled classified information. [\(14\)](#) An employee of the U.S. government in the intelligence community, testified on Applicant's behalf. She has known Applicant for about six years, and worked with him on a project for about two years. She has no concerns about Applicant being trusted with classified information. She has never known Applicant to ignore rules or regulations, exercise poor judgment, or be irresponsible. Applicant was not involved in any security

incidents while they worked together. [\(15\)](#)

Saudi Arabia is a monarchy ruled by the Al Saud family without elected representation at the national level. The Saudi government's human rights record has historically been poor and remains so in many different areas including women's rights and religious freedom. The Saudi government has rejected the U.S. position that other countries should cut off aid to the Palestinian Authority, following the Hamas ascendancy to the majority in the Palestine Legislative Council. Saudi Arabia recognizes the Palestine Liberation Organization (PLO) as the legitimate representative of the Palestine people. [\(16\)](#)

A travel warning is in effect for Saudi Arabia due to concerns about the possibility of terrorist activity directed against American citizens and interests. An armed attack on the U.S. Consulate General in Jeddah occurred on December 6, 2004, causing casualties among the non-American staff and damage to the facilities. [\(17\)](#)

In addition to the administrative notice of the specific facts contained in HE V, I take additional administrative notice of the following facts as related to Saudi Arabia. The United States and Saudi Arabia have long standing economic and defense ties. A series of informal agreements, statements by successive U.S. administrations, and military deployments have demonstrated a strong U.S. security commitment to Saudi Arabia. The U.S. has long been Saudi Arabia's leading arms supplier. Saudi Arabia was a key member of the allied coalition that expelled Iraqi forces from Kuwait in 1991. Saudi Arabia subsequently hosted U.S. aircraft enforcing the no-fly zone over southern Iraq. Saudi officials expressed opposition to the U.S.-led military campaign launched against Iraq in arch 2003 (Operation Iraqi Freedom), although Saudi Arabia reportedly permitted certain support operations by U.S. and British military forces, in addition to making some facilities available to them. By mutual agreement, the United States withdrew virtually all its forces from Saudi Arabia at the end of August 2003. U.S. government statements have generally complimented Saudi cooperation with the U.S. campaign against terrorism, while sometimes suggesting that the Saudi government could do more. [\(18\)](#)

The United Kingdom is a constitutional monarchy that has the fourth leading economy in the world and is a major international trading partner. The United Kingdom is one of the United States' closest allies. [\(19\)](#)

## POLICIES

"[N]o one has a 'right' to a security clearance." [\(20\)](#) 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 occupy a position . . . that will give that person access to such information." [\(21\)](#) The President authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." [\(22\)](#) An applicant has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his or her security clearance. The clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials. [\(23\)](#) Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information. [\(24\)](#) The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant. It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. [\(25\)](#)

The Directive sets forth potentially disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. Additionally, each security clearance decision must be a fair and impartial commonsense decision based on the relevant and material facts and circumstances, the whole-person concept, along with the adjudicative process factors listed in ¶ 6.3 and ¶ E2.2.1 of the Directive.

Conditions that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, pertaining to the adjudicative guidelines are set forth and discussed in the conclusions section below.

## CONCLUSIONS

I have carefully considered all the facts in evidence and the legal standards discussed above. I reach the following

conclusions regarding the allegations in the SOR.

## Guideline B, Foreign Influence

A security risk may exist when an individual's immediate family, including cohabitants, and other persons to whom he or she may be bound by affection, influence, or 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.

A Foreign Influence Disqualifying Condition (FI DC) may arise if (*[a]n 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*) FI DC E2.A2.1.2.1; the individual is (*[s]haring living quarters with a person or persons, regardless their citizenship status, if the potential for adverse foreign influence or duress exists*) FI DC E2.A2.1.2.2; or has (*[r]elatives, cohabitants, or associates who are connected with any foreign government*) FI DC E2.A2.1.2.3.

Applicant presented evidence his wife is now a naturalized U.S. citizen, and that his father-in-law no longer works for the government of Saudi Arabia. Accordingly, I conclude he has refuted the allegations in SOR ¶¶ 1.a and 1.d, and I resolve those allegations in his favor. Applicant worked in Saudi Arabia from 1993 through 1997, for a defense contractor in support of a U.S. government Foreign Military Sales. That does not constitute a security concern, and I resolve the allegation in

SOR ¶ 1.b in his favor. Applicant's in-laws provided a one time financial donation in the late 1980s or early 1990s, to a humanitarian effort to return a child of an imprisoned, and later deceased mother, to the child's extended family members in the Philippines. That action does not make the in-laws, or by extension, Applicant, vulnerable to coercion, exploitation, or pressure. I resolve the allegation in SOR ¶ 1.e in Applicant's favor.

There is a rebuttable presumption that a person has ties of affection for, or obligation to, the immediate family members of the person's spouse. <sup>(26)</sup> Applicant has not rebutted this presumption regarding his mother-in-law and father-in-law. I conclude FI DC E2.A2.1.2.1 is established, based on the citizenship and residences of his mother-in-law and father-in-law.

Since the government produced substantial evidence to establish FI DC E2.A2.1.2.1, the burden shifted to Applicant to produce evidence to rebut, explain, extenuate, or mitigate the facts. Applicant has the burden of proving a mitigating condition, and the burden of disproving it is never shifted to the government. <sup>(27)</sup>

In cases where an applicant has immediate family members who are citizens or residents of a foreign country, a Foreign Influence Mitigating Condition (FI C) may apply if there is (*[a] determination that the immediate family member(s), (spouse, mother, sons, daughters, brothers, sisters), cohabitant, or associate(s) in question 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 person(s) involved and the United States*) FI MC E2.A2.1.3.1.

Notwithstanding the facially disjunctive language of FI MC E2.A2.1.3.1 ("agents of a foreign power or in a position to be exploited"), it requires proof that an applicant's family members, cohabitant, or associates in question are (a) not agents of a foreign power, and (b) not in a position to be exploited by a foreign power in a way that could force the applicant to chose between the person(s) involved and the United States. <sup>(28)</sup>

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." <sup>(29)</sup> The distinctions between friendly and unfriendly governments must be made with caution. Relations between nations can shift, sometimes dramatically and unexpectedly.

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. Nevertheless, the nature of a nation's government, its relationship with the U.S., and its human rights record 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 U.S.

Applicant's mother-in-law and father-in-law have no current association with the government of Saudi Arabia, and are not agents of a foreign power. In determining the second prong of FI MC E2.A2.1.3.1, I specifically considered the nature of the government of Saudi Arabia, as discussed above, including human rights issues, and the presence of terrorist groups. I also considered that Applicant's in-laws, while residents of Saudi Arabia, are citizens of the United Kingdom, a close ally of the U.S. Because of the possibility of terrorism, I am unable to totally apply FI MC E2.A2.1.3.1.

## **Guideline K, Security Violations**

Noncompliance with security regulations raises doubt about an individual's trustworthiness, willingness, and ability to safeguard classified information.

Based on all the evidence, I find Security Violations Disqualifying Condition (SV DC) E2.A11.1.2.2 (*Violations that are deliberate or multiple or due to negligence*) applies. The security violations of Applicant leaving the Confidential index study cards in his BOQ room, and departing the submarine with a Secret document in a manila envelope, were due to Applicant's negligence. Applicant's destruction of the Secret document in the manila envelope was a deliberate security violation. There is insufficient evidence for me to make a finding that Applicant's self reporting of the document found in his notebook amounted to a security violation. I resolve the allegation in SOR ¶ 2.b in Applicant's favor.

Security violations are one of the strongest possible reasons for denying or revoking access to classified information, as they raise very serious questions about an applicant's suitability for access to classified information. Once it is established that Applicant has committed a security violation, he has a very heavy burden of demonstrating that he should be entrusted with classified information. Because security violations strike at the very heart of the industrial security program, an Administrative Judge must give any claims of reform and rehabilitation strict scrutiny. In many security clearance cases, applicants are denied a clearance for having an indicator of a risk that they might commit a security violation (e.g., alcohol abuse, delinquent debts or drug use). Security violation cases reveal more than simply an indicator of risk. [\(30\)](#)

I have considered all the Security Violations Mitigating Conditions (SV MC), and I especially considered if the security violations, (*[w]ere inadvertent*); SV C E2.A11.1.3.1; (*[w]ere isolated or infrequent*) SV MC E2.A11.1.3.2; (*[w]ere due to improper or inadequate training*) SV MC E2.A11.1.3.3; and if Applicant (*[d]emonstrated a positive attitude towards the discharge of security responsibilities*) SV MC E2.A11.1.3.4.

Applicant's leaving the Confidential index cards in his BOQ room, and departing the submarine with a Secret document in a manila envelope were inadvertent. The unauthorized burning of the Secret document was intentional. SV MC E2.A11.1.3.1 applies to Applicant's inadvertent actions, but not the intentional act. The security violations were in 1990 and 1991. Although there were only two sets of documents, there really were three actions, two inadvertent and one intentional. That does not constitute isolated or infrequent actions. There was no evidence of improper or inadequate training. Neither SV MC E2.A11.1.3.2, nor SV MC E2.A11.1.3.3 applies.

Security wise, Applicant is not the same man as the panicked young officer who burned classified information, rather than face scrutiny. Applicant is now, and has been for some time, very security conscious. It is clear that Applicant takes the conservative approach, and would now err on the side of caution in the handling of classified materials. The evidence introduced at the hearing proves that he now demonstrates a positive attitude towards the discharge of his security responsibilities. SV MC E2.A11.1.3.4 is applicable.

## Guideline E, Personal Conduct

Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information.

I have considered the Personal Conduct Disqualifying Conditions (PC DC), including PC DC E2.A5.1.2.1 (*Reliable, unfavorable information provided by associates, employers, coworkers, neighbors, and other acquaintances*), and PC DC E2.A5.1.2.4 (*Personal conduct or concealment of information that increases an individual's vulnerability to coercion, exploitation, or duress, such as engaging in activities which, if known, may affect the person's personal, professional, or community standing or render the person susceptible to blackmail*).

All the evidence of Applicant's security violations was disclosed by Applicant himself (response to SOR, GE 1-3, testimony at hearing), not a third party. I conclude PC DC E2.A5.1.2.1 is not applicable.

Applicant's security violations, and failure to disclose the destruction of the secret document until 1999, increased his vulnerability to coercion, exploitation, or duress. I conclude PC DC E2.A5.1.2.4 is established.

I have considered all the Personal Conduct Mitigating Conditions (PC MC), especially PC MC E2.A5.1.3.5 (*The individual has taken positive steps to significantly reduce or eliminate vulnerability to coercion, exploitation, or duress*). Applicant's last security violation was in 1991. He finally revealed it in 1999, which effectively eliminated his vulnerability to coercion, exploitation, or duress resulting from that violation. Applicant is now extremely security conscious, as revealed by his testimony and the witnesses on his behalf. PC MC E2.A5.1.3.5 is established.

## Whole Person Analysis

The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is an acceptable security risk. Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination. In evaluating Applicant's case, I have considered the adjudicative process factors listed in the Directive. I have also considered every finding of fact and conclusion discussed above, including the facts for administrative notice.

Applicant served this nation in the United States Navy for a number of years, receiving an Honorable Discharge. Applicant was involved in several security violations in the Navy. Two of the violations were inadvertent. Applicant's largest transgression was in 1991, when he intentionally destroying a classified document after he discovered that he inadvertently transported it from his submarine. Applicant kept this hidden until he revealed it as a result of a polygraph examination. Applicant is obviously deeply remorseful of this action. It remains disturbing to him that he had this severe lapse of judgment and character. Applicant now reacts just the opposite. Applicant takes the conservative approach to security, and if there is any doubt on a matter, he errs on the side of caution. Applicant's destruction of the classified document is very serious. However, I find Applicant is an individual who has truly learned from his mistakes. Applicant's character evidence is very telling in this regard.

I also considered the whole person as it related to Applicant's mother-in-law and father-in-law. The totality of an applicant's family ties to a foreign country as well as each individual family tie must be considered.<sup>(31)</sup> Applicant is clearly not as close to his in-laws as one normally would be with their immediate family members. Applicant's in-laws are not connected to the Saudi Arabian government. While resident in Saudi Arabia, they are citizens of the United Kingdom. They bought a house in France, and plan to move there as soon as their youngest daughter graduates from college in a few years. Saudi Arabia has cooperated with the U.S. in the war on terrorism, and has long standing economic and defense ties with the U.S. The nature of Saudi Arabia's government, its human rights record, and its relationship with the U.S. are not determinative. Nevertheless, they are all relevant factors in determining whether Saudi Arabia would risk damaging its relationship with the United States and the United Kingdom by exploiting or threatening British citizens in order to force a U.S. citizen to betray the United States.

Even in the unlikely event that Applicant's in-laws were subjected to duress from the Saudi government, insurgent groups, or terrorists, it is even more unlikely he would succumb to pressure from them. His connection to his in-laws is almost exclusively through his wife. He has had minimal interaction with them since his marriage. Applicant has served

in the U.S. military, and has worked with the U.S. intelligence community. He is highly respected as a trustworthy, dedicated person. He was sincere, open, and honest at the hearing. He is now very security conscious.

I have evaluated each family member's individual circumstances as well as the totality of Applicant's family ties to Saudi Arabia. I further weighed the disqualifying and mitigating conditions and evaluated all the evidence in the context of the whole person. I conclude Applicant has mitigated the security concerns based on foreign influence, security violations, and personal conduct.

### **FORMAL FINDINGS**

The following are my conclusions as to each allegation in the SOR:

Paragraph 1. Guideline B: FOR APPLICANT

Subparagraph 1.a: For Applicant

Subparagraph 1.b: For Applicant

Subparagraph 1.c: For Applicant

Subparagraph 1.d: For Applicant

Subparagraph 1.e: For Applicant

Paragraph 2. Guideline K: FOR APPLICANT

Subparagraph 2.a: For Applicant

Subparagraph 2.b: For Applicant

Subparagraph 2.c: For Applicant

Paragraph 3. Guideline E: FOR APPLICANT

Subparagraph 3.a: For Applicant

### **DECISION**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is granted.

Edward W. Loughran

Administrative Judge

1. Pursuant to Exec. Or. 10865, *Safeguarding Classified Information within Industry* (Feb. 20, 1960), as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2, 1992), as amended and modified (Directive).

2. Tr. at 40, 68, 99.

3. Tr. at 41-42, 57, 85-86, 100.

4. Tr. at 44-51, 94-95, 85-87, 99-100; Applicant's response to SOR; GE 1-3.

5. Tr. at 51-55, 75, 87-93; Applicant's response to SOR; GE 3.



6. Tr. at 55-56, 95-97; Applicant's response to SOR; GE 3.
7. Tr. at 77, 81-83; Applicant's response to SOR
8. Tr. at 57-60; Applicant's response to SOR; AE B.
9. Tr. at 60-64, 93-94; Applicant's response to SOR. .
10. Tr. at 70-74; Applicant's response to SOR; GE 3 at 4.
11. Applicant's response to SOR; GE 3 at 4.
12. Tr. at 68-70; AE C-D.
13. Tr. at 64-65; 67-68.
14. Tr. at 25-28; AE A.
15. Tr. at 34-39.
16. HE I.
17. *Id.*
18. HE II at 3, CRS-3, CRS-10.
19. HE I.
20. *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).
21. *Id.* at 527.
22. Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960).
23. ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).
24. *Id.*; Directive, Enclosure 2, ¶ E2.2.2.
25. Exec. Or. 10865 § 7.
26. ISCR Case No. 01-03120 at 4 (App. Bd. Feb. 20, 2002).
27. Directive ¶ E3.1.15; ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).
28. *See, e.g.*, ISCR Case No. 02-14995 (App. Bd. Jul. 26, 2004).
29. ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004).
30. ISCR Case No. 03-26888 (App. Bd. Oct. 5, 2006).
31. ISCR Case No. 01-22693 at 7 (App. Bd. Sep. 22, 2003).