

KEYWORD: Foreign Influence; Financial

DIGEST: Applicant is 51-years-old. She met her husband from Egypt on the internet in 1997, and married him in Egypt in 1998. Applicant's husband worked for the Presidency of Egypt for 11 years. Her father-in-law is a retired colonel from the Egyptian military and also retired as a high ranking government employee. Applicant's husband became a United States citizen in 2005. He has two sons from a previous marriage, 14 and 10 who live with their mother in Egypt. He supports his sons from interest from an early inheritance received from his father. Applicant has delinquent debts that she has been unwilling to satisfy, despite having the means. Applicant has failed to mitigate the security concerns under Guideline B and F. Clearance is denied.

CASENO: 04-00586.h1

DATE: 11/08/2005

DATE: November 8, 2005

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 04-00586

**DECISION OF ADMINISTRATIVE JUDGE**

**CAROL G. RICCIARDELLO**

**APPEARANCES**

## **FOR GOVERNMENT**

Braden Murphy, Esq., Department Counsel

## **FOR APPLICANT**

*Pro Se*

## **SYNOPSIS**

Applicant is 51-years-old. She met her husband from Egypt on the internet in 1997, and married him in Egypt in 1998. Applicant's husband worked for the Presidency of Egypt for 11 years. Her father-in-law is a retired colonel from the Egyptian military and also retired as a high ranking government employee. Applicant's husband became a United States citizen in 2005. He has two sons from a previous marriage, 14 and 10 who live with their mother in Egypt. He supports his sons from interest from an early inheritance received from his father. Applicant has delinquent debts that she has been unwilling to satisfy, despite having the means. Applicant has failed to mitigate the security concerns under Guideline B and F. Clearance is denied.

## **STATEMENT OF CASE**

On February 24, 2005, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant a Statement of Reasons (SOR) stating they were unable to find that it is clearly consistent with the national interest to grant or continue a security clearance.<sup>(1)</sup> The SOR, which are in essence the administrative complaint, alleged a security concerns under Guideline B, foreign influence, and Guideline F, financial considerations.

In a sworn statement, dated March 10, 2005, and an additional statement, with attachments, provided dated March 9, 2005, Applicant responded to the SOR allegations, and requested a hearing. In her SOR response, Applicant admitted all of the allegations. In her March 9, 2005 statement she provides explanations to her admissions.

The case was assigned to me on September 7, 2005. A notice of hearing was issued on September 13, 2005, scheduling the hearing for October 13, 2005. The hearing was conducted as scheduled. The government submitted seven exhibits that were marked as Government Exhibits (GE) 1-7. The exhibits were admitted into the record without objection.

Applicant testified on her own behalf, had one witness, and submitted four exhibits that were marked as Applicant's Exhibits (AE) A-D. The exhibits were admitted without objection. The transcript was received on October 26, 2005.

## **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 51-years-old and has worked as a configuration management specialist for a federal contractor since 2002. Applicant was married from 1979 to arch 1998. Applicant has three children from that marriage who are now grown. While they were minors Applicant had legal custody of them. Applicant remarried in October of 1998.

Applicant's husband is Egyptian. They met on the internet in April 1997. They communicated by email and telephone for a year before marrying in Egypt. In April 1998, Applicant traveled to Egypt for approximately one month to meet her future husband for the first time. Applicant returned to Egypt in July 1998. Applicant's three minor teenage children remained in the United States, under their own care. In November of 1998, Applicant's children were taken into custody by the state social services.<sup>(2)</sup> Applicant remained in Egypt until January 1999.

Applicant's husband became a naturalized United States citizen in August 2005. He does not have a United States passport and retains an Egyptian passport.<sup>(3)</sup> He is a dual citizen of Egypt and has taken no steps to renounce his Egyptian citizenship. Applicant's husband has two sons, 14 and 10 years old, from a prior marriage. They are both citizens and residents of Egypt and live with their mother in Egypt. He speaks with them a couple of times a year. He has limited contact with them because it requires him going through his ex-wife which is difficult.

Applicant's husband was employed by the Egyptian Presidency, as a computer engineer, for approximately 11 years until January 1999.<sup>(4)</sup> His supervisor while employed by the Egyptian President was the Director of the Presidential Information Center, Abdeen Palace, Cairo, Egypt.<sup>(5)</sup> Applicant's husband's duties were to ensure the palace's computer systems were secure. He was also involved in writing software programs. After graduating from college in 1988, Applicant's husband held two jobs, one was with the Egyptian Census Bureau, a government agency, and Applicant was unaware of what the other one was. From 1987 until 1999 Applicant's husband worked exclusively for the Egyptian government (this includes both government jobs). For his job, Applicant's husband was required to have a background check every six months, but did not have a security clearance.<sup>(6)</sup> Applicant's husband had a driver, who was supplied by the Egyptian government, his employer, who took him to his job daily.<sup>(7)</sup> Applicant's husband was required to report to his government that he had married Applicant.<sup>(8)</sup>

Applicant's father-in-law is a citizen and resident of Egypt. He was the Vice President of Government Administrative Audit and Control in Cairo. He is now retired from that position. He is also a retired colonel from the armed forces of Egypt. Applicant's husband has contact with his father approximately four times a year. Applicant speaks with him approximately once or twice a year. Applicant's husband has one sister. His parents were divorced and her husband has two half-sisters and a half-brother on his father's side. His mother also had children, but it is unclear how many. Those mentioned are all citizens and residents of Egypt. Applicant is closest to his full-sister and gets along fine with the others. They have had some contact over the years, but not extensive.

Applicant's mother-in-law died in 2002. Applicant's husband returned to Egypt for the funeral. Applicant's husband inherited a shared interest with his siblings and some half-siblings, in real property in Egypt.<sup>(9)</sup> It is unclear how much Applicant's husband's interest in the land is worth. Applicant's husband also returned in 2000 to Egypt for a visit.

Applicant's husband and his father made a financial arrangement, whereby his father provided in an Egyptian bank account what would be his future inheritance from his father.<sup>(10)</sup> The interest from this money is used exclusively for the support of Applicant's husband's two sons. Applicant's husband does not have access to this money and it is administered by his father. However, it is unclear what happens to this account when Applicant's husband's son's are emancipated.

Applicant wrote a book about her experiences while in Egypt.<sup>(11)</sup> In her book she refers to her in-laws as Mom and Dad.<sup>(12)</sup> Applicant claims she only used these titles in her book for ease, but rather referred to them by their first name when addressing them in person.<sup>(13)</sup>

Applicant filed for bankruptcy in 1998 due to delinquent debts and financial problems that were too much to handle.<sup>(14)</sup> At some later point, Applicant decided not to pursue the bankruptcy she filed. Applicant's husband was initially unaware of her financial status, but "over time" became aware.<sup>(15)</sup> At the time she was working as an administrative secretary at a college. When she went to Egypt from July 1998 to January 1999, Applicant was not working.<sup>(16)</sup> She was asked to resign from the college she had been working at because she did not return after her approved vacation expired. She did not return because she chose to remain in Egypt to secure the proper paperwork for her husband to return to the United States with her. Applicant's testimony regarding her period of employment was inconsistent with her answers on her security clearance application.<sup>(17)</sup> Applicant had two periods of unemployment in 2000 and 2001.

Applicant is indebted for a car loan, in the approximate amount of \$9,706.00, the balance owed after her car was repossessed for nonpayment.<sup>(18)</sup> Applicant has not made a car payment since December 1997. Applicant was in an accident with the car and it was a total loss. She had no insurance and allowed the car to be repossessed. Applicant stated:

"My car was not drivable so I voluntarily allowed it to be repossessed. I never heard anything from the Loan Company after repossession, probably because I moved frequently after that they probably could not find a good address for me." " I have not tried to contact them because I had no phone or address for them, as well as I had other things I was trying to get accomplished. I am trying to get my credit cards paid down first. I will contact them within the next year to make arrangements to pay the debt." [\(19\)](#)

Applicant made this statement in August 2002. Applicant never contacted the company to make arrangements to pay the debt. [\(20\)](#) This debt remains unpaid.

Applicant is indebted to a collection company in the amount of \$104.00 for a cable bill that was placed for collection in about November 1996. [\(21\)](#) Applicant claims she was unaware the bill was in collection, but later did try to contact the cable company, but learned they no longer existed. Applicant stated in August 2002, "I have not called the collection agency yet . . . because my husband and I want to buy a house. We will pay this debt eventually when we pay our credit cards down and purchase a house. It may take a year to pay off." [\(22\)](#) Applicant acknowledges the debt and its delinquency. It has not been paid.

Applicant is indebted in the approximate amount of \$638.00 for an account placed in collection by a telephone company in October 1998. [\(23\)](#) Applicant is indebted to another telephone company in the approximate amount of \$957.00, for an account placed in collection in November 1998. [\(24\)](#) Applicant admits these bills were incurred for calls made to Egypt in the 1997 and 1998 time frame. Regarding the bill for \$957.00, Applicant claimed in 2002 that the bill would be "addressed within a one-year time frame." [\(25\)](#) Applicant has not made any effort to pay either phone bill. [\(26\)](#) Applicant stated she was concentrating and focusing on her current credit report and did not go back and pay delinquent debts that were no longer listed. [\(27\)](#)

Applicant and her husband's combined salaries is over \$100,000 a year. [\(28\)](#) Applicant and her husband bought a house in 2004 for \$194,000. [\(29\)](#) Both Applicant and her husband invest in their companies 401(k) retirement plans and have a combined total of approximately \$25,000 invested. [\(30\)](#) Applicant and her husband have a total of six credit cards and one check card. In March 2005, there was a balance of approximately \$18,000 charged on the cards. [\(31\)](#) Applicant and her husband have since refinanced their house and the debt is reduced to approximately \$14,000. [\(32\)](#) Applicant admits that she and her husband are "probably" living paycheck to paycheck, but are paying their monthly bills. [\(33\)](#)

Egypt is governed by the National Democratic Party (NDP) since its establishment in 1978. [\(34\)](#) The constitution provides for an independent judiciary, however, it is subject to influence by the Executive, and application of the 1981 Emergency Law which undermines its independence and restricts many basic rights. [\(35\)](#) Corruption is a problem. [\(36\)](#)

The Government respected human rights in some areas, however, its record is poor and in many areas remains a serious problem.<sup>(37)</sup> Citizens do not have a meaningful ability to change their government.<sup>(38)</sup> The security forces mistreat and torture prisoners, arbitrarily arrest and detain people, hold detainees in prolonged pretrial detention, and occasionally engage in mass arrest.<sup>(39)</sup> Local police killed, tortured and otherwise abused both criminal suspects and other persons.<sup>(40)</sup> The Government partially restricts freedom of the press and significantly restricts freedom of association and assembly.<sup>(41)</sup> Domestic violence against women remains a problem and employer abuse is persistent.<sup>(42)</sup> There have been recent terrorist attacks against tourist in Egypt.<sup>(43)</sup>

## POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines to be considered in evaluating a person's eligibility to hold a security clearance. Included in the guidelines are disqualifying conditions (DC) and mitigating conditions (MC) applicable to each specific guideline. Considering the evidence as a whole, Guideline B, foreign influence, and Guideline F, financial considerations, with their respective DC and MC, apply in this case. 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 factors listed in the Directive. Specifically these are: (1) the nature and seriousness of the conduct and surrounding circumstances; (2) the frequency and recency of the conduct; (3) the age of the applicant; (4) the motivation of the applicant, and the extent to which the conduct was negligent, willful, voluntary, or undertaken with knowledge of the consequences; (5) the absence or presence of rehabilitation; and (6) the probability that the circumstances or conduct will continue or recur in the future. Although the presence or absence of a particular condition or factor for or against clearance is not outcome determinative, the adjudicative guidelines should be followed whenever a case can be measured against this policy guidance.

The sole purpose of a security clearance determination is to decide if it is clearly consistent with the national interest to grant or continue a security clearance for an applicant.<sup>(44)</sup> The government has the burden of proving controverted facts.<sup>(45)</sup> The burden of proof is something less than a preponderance of evidence.<sup>(46)</sup> Once the government has met its burden, the burden shifts to an applicant to present evidence of refutation, extenuation, or mitigation to overcome the case against

him.<sup>(47)</sup> Additionally, an applicant has the ultimate burden of persuasion to obtain a favorable clearance decision.<sup>(48)</sup>

No one has a right to a security clearance<sup>(49)</sup> and "the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials."<sup>(50)</sup> Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.<sup>(51)</sup> The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant.<sup>(52)</sup> 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.

Based upon consideration of the evidence, I find the following adjudicative guideline most pertinent to the evaluation of the facts in this case:

Guideline B-Foreign Influence is a concern because 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 obligations 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 interest in other countries are also relevant to security determinations if they make an individual potentially vulnerable to coercion, exploitation, or pressure.

Guideline F- Financial Considerations-a security concern exists when a person has significant delinquent debts. An individual who is financially overextended is at risk of having to engage in illegal or unethical acts to generate funds to meet financial obligations. Similarly, an individual who is financially irresponsible may also be irresponsible, unconcerned, or careless in their obligation to protect classified information. Behaving responsibly or irresponsibly in one aspect of life provides an indication of how a person may behave in other aspects of life.

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 below.

## CONCLUSIONS

I have carefully considered all the facts in evidence and the legal standards. The government has established a *prima facie* case for disqualification under Guideline B and Guideline F.

Based on all the evidence, Foreign Influence Disqualifying Condition (FI DC) E2.A2.1.2.1 (*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*) FI DC E2.A2.1.2.2 (*Sharing living quarters with a person or persons, regardless of their citizenship status, if the potential for adverse foreign influence or duress exists.*), FI DC E2.A2.1.2.3 (*Relatives, cohabitants, or associates who are connected with any foreign government*), FI DC E2.A2.1.2.8 (*A substantial financial interest in a country, or in any foreign-owned or operated business that could make the individual vulnerable to foreign*

*influence*) apply. Applicant's father-in-law, brother-in-law, sisters-in law and stepsons are citizens and residents of Egypt. Although they are not immediate family members, they are bound to her through her husband and could create the potential for foreign influence because of her marital relationship. FI DC E2.A2.1.2.1 applies. Applicant's husband, whom she lives with, was born in Egypt and immigrated to the United States after they married in 1998. He has recently become a United States citizen, however retains an active Egyptian passport and his immediate family, including two sons live in Egypt. Applicant's husband worked for the Egyptian Presidency for 11 years. His father has served in the Egyptian military and for the government and it is likely he receives a pension. FI DC E2.A2.1.2.2 and FI DC E2.A2.1.2.3 apply. Applicant's husband inherited an interest in property from his mother and his father maintains an account from his future inheritance to support his sons. FI DC E2A2.1.2.8 applies.

I have considered all the mitigating conditions and especially considered Foreign Influence Mitigating Condition (FI MC) E2.A2.1.3.1. (*A determination that the immediate family member(s), (spouse, father, 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*). Applicant lives with her husband whose whole family lives in Egypt. Her father-in-law maintains her husband's inheritance, supports his grandsons, and directly worked for the Egyptian government as had Applicant's husband. Applicant's husband held a position with the office of the Presidency of Egypt for more than 11 years. He had his background checked semi-annually. It is fair to conclude that Applicant's husband's knowledge and importance is well known to the Egyptian government. Although Applicant's husband has somewhat limited contact with his sons, the bonds are not broken by the fact he now lives in the United States. He has forfeited part of his inheritance to support them. Applicant's father-in-law has deep and lengthy ties to the Egyptian government that could potentially be exploited. Applicant's husband is in a position to be exploited by Egypt in a way that could force Applicant to choose between her husband and the potential conditions placed on his family in Egypt and her loyalty to the United States.

I have considered FI MC E2.A2.1.3.2. (*Contacts and correspondence with foreign citizens are casual and infrequent*), and conclude it does not apply. Applicant's husband's contact with his family is limited, talking to them only a couple of times a year. His contact with his sons is also limited, but Applicant's husband has ensured they are taken care of financially through his father. He only speaks with them occasionally, but this type of contact is not of a casual nature, and could likely change once they no longer live with his ex-wife.

I have considered FI MC E2A2.1.3.5 (*Foreign financial interests are minimal and not sufficient to affect the individual's security responsibilities.*) and conclude it does not apply. Applicant's husband's financial interests are such that he can support his sons through the interest on a future inheritance that his father maintains for him. Applicant's husband has a substantial financial interest through both his parents. Through his mother he has inherited a share of real property and his father has also provided for him. Applicant has failed to mitigate the security concerns regarding foreign influence considerations.

Based on all the evidence, Financial Considerations Disqualifying Condition (FC DC) E2.A6.1.2.1 (*A history of not meeting financial obligations*), and FC DC E2.A6.1.2.3 (*Inability or unwillingness to satisfy debts*), apply in this case. Applicant has accumulated significant delinquent debts. Despite claiming three years ago that she would pay the debts, she has not. Applicant has the means to pay the debts, but has chosen not to, instead using her money to buy a house. She has not made payments on them for a lengthy period of time and they are in a collection status.

I have considered all the Financial Considerations Mitigating Conditions (FC MC), and especially considered FC MC E2.A6.1.3.1 (*The behavior was not recent*), FC MC E2.A6.1.3.2 (*It was an isolated incident*), FC MC E2.A6.1.3.3 (*The conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation)*), FC MC E2.A6.1.3.4 (*The person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control*), and FC MC E2.A6.1.3.6 (*The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*), and conclude none apply.

Applicant's debts are recent. One dates as far back as 1996, others 1998, and are in a collection status. Applicant has not paid these debts and therefore the lack of recency is not considered mitigating. Applicant has numerous creditors and therefore her delinquencies are not isolated. Applicant was aware of the debts, claimed she would pay them and has failed to make any effort to do so. She even admitted to moving and being aware that the creditor may not have been able to find her, but offered no explanation for why she failed to contact the creditor and provide her new address. Applicant and her husband make over \$100,000 a year, yet chose to focus on buying a house rather than satisfying Applicant's delinquent debts. Applicant exhibited an unwillingness to pay off these debts, and focused on what she wanted to buy, rather than what she owed. Applicant failed to make any effort to resolve her delinquent debts. Although Applicant was unemployed for short periods of time, she offered no evidence to show why she could not start some good faith payment plan towards her debts. No evidence was presented that she is receiving any type of counseling to resolve the problem. Applicant has failed to mitigate the security concerns regarding financial considerations.

In all adjudications, the protection of our national security is the paramount concern. The objective of the security-clearance process is the fair-minded, commonsense assessment of a person's life to make an affirmative determination that the person is eligible for a security clearance. Indeed, the adjudicative process is a careful weighing of a number of variables in considering the "whole person" concept. It recognizes that we should view a person by the totality of their acts, omissions, motivations and other variables. Each case must be adjudged on its own merits, taking into consideration all relevant circumstances, and applying sound judgment, mature thinking, and careful analysis.

I considered the whole person and I find Applicant failed to mitigate the security concerns arising from Guideline B and Guideline F. Applicant's husband's family creates foreign influence issues that raise serious security concerns. Applicant has also exercised very questionable judgment with regard to her debts. Specifically Applicant placed her own wants above what she owed, i.e. buying a house verses ignoring her delinquent debts. This type of conduct and lack of judgement raises serious security concerns. Therefore, I am persuaded by the totality of the evidence in this case, that it is not clearly consistent with the national interest to grant Applicant a security clearance. Accordingly, Guideline B and Guideline F are decided against Applicant.

## **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 Foreign Preference (Guideline B) AGAINST THE APPLICANT**

Subparagraph 1.a. Against the Applicant

Subparagraph 1.b. Against the Applicant

Subparagraph 1.c. Against the Applicant

Subparagraph 1.d. Against the Applicant

Subparagraph 1.e. Against the Applicant

Subparagraph 1.f. Against the Applicant

Subparagraph 1.g. Against the Applicant

Subparagraph 1.h. Against the Applicant

Subparagraph 1.i. Against the Applicant

Subparagraph 1.j. Against the Applicant

### **Paragraph 2 Financial Considerations (Guideline B) AGAINST THE APPLICANT**

Subparagraph 2.a. Against the Applicant

Subparagraph 2.b. Against the Applicant

Subparagraph 2.c. Against the Applicant

Subparagraph 2.d. Against the Applicant

Subparagraph 2.e. Against the Applicant

Subparagraph 2.f. Against the 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 a security clearance to Applicant. Clearance is denied.

Carol G. Ricciardello

Administrative Judge

1. This action was taken under Executive Order 10865, dated February 20, 1960, as amended, and DoD Directive 5220.6, dated January 2, 1992, as amended and modified (Directive).

2. Tr. at 113-116.

3. *Id.* at 40-41.

4. Tr. at 126.

5. *Id.* at 43.

6. *Id.* at 46, 123-124.

7. *Id.* at 48.

8. *Id.* at 51.

9. *Id.* at 128-129.

10. *Id.* at 130.

11. Answer, enclosure 4.

12. Tr. at 77.

13. *Id.*

14. *Id.* at 80.

15. *Id.* at 86-87.
16. *Id.* at 81-84.
17. *Id.*
18. SOR 2.b.
19. GE 2 at 5.
20. Tr. at 89.
21. SOR 2.c.
22. GE at 6.
23. SOR 2.d.
24. SOR 2.e.
25. GE 2 at 6.
26. Tr. at 91-92
27. Tr. at 93.
28. Tr. at 93-94.
29. *Id.*
30. Tr. at 95
31. Tr. at 100.
32. *Id.*
33. Tr. at 101-102.
34. GE 7 at 1.
35. *Id.*
36. *Id.*
37. *Id.*
38. *Id.*
39. *Id.*
40. *Id.*
41. *Id.*
42. *Id.*

43. GE 5.

44. ISCR Case No. 96-0277 (July 11, 1997) at 2.

45. ISCR Case No. 97-0016 (December 31, 1997) at 3; Directive, Enclosure 3, ¶ E3.1.14.

46. *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

47. ISCR Case No. 94-1075 (August 10, 1995) at 3-4; Directive, Enclosure 3, ¶ E3.1.15.

48. ISCR Case No. 93-1390 (January 27, 1995) at 7-8; Directive, Enclosure 3, ¶ E3.1.15.

49. *Egan*, 484 U.S. at 531.

50. *Id.*

51. *Id.*; Directive, Enclosure 2, ¶ E2.2.2.

52. Executive Order 10865 § 7.