KEYWORD: Foreign Influence; Foreign Preference

DIGEST: Applicant was born in the U.S. to Colombian parents, and held dual citizenship for many years. He fulfilled his military service commitment by attending the Colombian Naval Academy for one year. He later renounced his Colombian citizenship and made the U.S. his permanent home. Applicant worked for defense contractors and held a security clearance for several years. His parents are dual citizens of the U.S. and Columbia, and reside in Colombia part of each year. One of his sisters is a citizen of Colombia and a permanent resident of the U.S. Applicant mitigated the security concerns relating to possible foreign influence and foreign preference. Clearance is granted.

CASENO: 04-04110.h1

DATE: 01/12/2005

DATE: January 12, 2006

In re:

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

Applicant for Security Clearance

ISCR Case No. 04-04110

DECISION OF ADMINISTRATIVE JUDGE

MICHAEL J. BRESLIN

APPEARANCES

FOR GOVERNMENT

Sabrina Redd, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant was born in the U.S. to Colombian parents, and held dual citizenship for many years. He fulfilled his military service commitment by attending the Colombian Naval Academy for one year. He later renounced his Colombian citizenship and made the U.S. his permanent home. Applicant worked for defense contractors and held a security clearance for several years. His parents are dual citizens of the U.S. and Columbia, and reside in Colombia part of each year. One of his sisters is a citizen of Colombia and a permanent resident of the U.S. Applicant mitigated the security concerns relating to possible foreign influence and foreign preference. Clearance is granted.

STATEMENT OF THE CASE

On April 11, 2003, Applicant submitted an application for a security clearance. The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant under Executive Order 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 (the "Directive"). On April 29, 2005, DOHA issued a Statement of Reasons (SOR) detailing the basis for its decision. The SOR alleges security concerns raised under the Directive, specifically Guideline B, Foreign Influence, and Guideline C, Foreign Preference.

Applicant answered the SOR in writing on May 11, 2005. He elected to have a hearing before an administrative judge.

The case was assigned to me on August 1, 2005. With the concurrence of Applicant and Department Counsel, I convened the hearing on October 13, 2005. At the hearing, the government introduced Exhibits 1 through 10. Applicant provided Exhibits A through J, and testified on his own behalf. At Applicant's request, I kept the record open to allow the submission of additional documents. Applicant subsequently provided five character statements which were

admitted as Exhibits K through O, without objection. DOHA received the final transcript of the hearing (Tr.) on October 28, 2005.

FINDINGS OF FACT

Applicant admitted the factual allegations in ¶¶ 1.a, 1.c, 1.d, and 2.a of the SOR, with explanations. (Applicant's Answer to SOR, dated May 11, 2005, at 3-5.) Those admissions are incorporated herein as findings of fact. He denied the factual allegation in ¶ 1.b of the SOR. (*Id.*) After a complete and thorough review of the evidence in the record, I make the following additional findings of fact.

Applicant is 37 years old. (Ex. 1 at 1.) He is a Customer Relations Management Technical Lead for a defense contractor providing aerospace engineering services and materials to the United States government. (*Id.* at 2; Tr. at 42.)

Applicant parents were citizens of Columbia; his father was an officer in the Columbian Navy. His parents lived in the United States for a period while his father attended a U.S. Navy post-graduate course. Applicant was born in the U.S. in 1968. (Ex. 2 at 1.) Because of his birth in the U.S., Applicant is a U.S. citizen. He was also entitled to Columbian citizenship because he was born to Columbian citizens. Applicant and his family later returned to Columbia where he lived while growing up. Applicant held dual citizenship for several years.

As a citizen of Columbia, Applicant was subject to the requirement for mandatory military service. (Ex. 2 at 2.) To fulfill that requirement (and to avoid being drafted into the Army), he enrolled as a cadet in the Columbian Naval Academy between July 1988 and July 1989. (Tr. at 29.) The naval academy training was not provided free of charge; Applicant was required to pay for his education. He never received a commission in the armed forces or military pay. (Tr. at 29-30.) Applicant hoped to attend the U.S. Naval Academy as an exchange student, and submitted applications several times. (Tr. at 36-37). However, he was not proficient enough in the English language at that time to qualify, and lacked a U.S. Congressional nomination. (Tr. at 36-37.)

In 1989, Applicant came to the United States. He attended college at a well-known university specializing in aeronautical engineering, and graduated in 1993 with a bachelor of science degree in aerospace engineering. (Ex. 1 at 2.) Applicant applied to become a U.S. Navy pilot, but positions were not then available. (Tr. at 37-38.)

Between 1994 and 1997, Applicant worked as a senior database engineer for a civilian corporation. His duties included

work on government contracts, including classified programs after 1996. (Answer to SOR, dated May 11, 2005, at 1.) He developed special expertise in simulators. Between about 1997 and 1998, Applicant served as a database engineer for a U.S. firm and worked on simulators in Italy for foreign military services. (Ex. 2 at 3.) In 1998, Applicant began working as a staff systems engineer for his present employer. (Ex. 1 at 2.)

Applicant applied for and was granted a security clearance in 2002. (Ex. 1 at 9.) During the application and investigation process, the issue of his dual citizenship arose. (Ex. 3 at 1.) Applicant later renounced his Colombian citizenship. (Ex. 2 at 2.)

During his years of service to defense contractors, Applicant has been deeply involved with numerous high-level, classified programs. (Answer to SOR, *supra*, at 1-2.) He has worked as a custodian for on-site classified facilities. In July 2005, Applicant's employer presented him with a certificate of appreciation for his outstanding contributions to an important project for the Department of Defense. (Ex. J.)

Applicant submitted several favorable character references. Applicant's former supervisor describes him as an open, honest, and professional individual who maintains the highest ethical standards. (Ex. M.) A fellow employee, who has worked with Applicant since 1999, commends his judgment, honesty, and trustworthiness, and praises his proper handling of classified material. (Ex. L.) Another co-worker, who has known Applicant since 1998, says he is honest, trustworthy, conscientious, and professional. (Ex. N.) According to another co-worker who has known Applicant since 1994, he has always handled classified material in a professional and trustworthy manner. (Ex. O.)

At the time of the hearing, Applicant planned to be married within a few days. (Tr. at 43.) His wife is a U.S. citizen who works for the same defense contractor. (Tr. at 44.)

Applicant's father completed the post-graduate course and obtained a master's degree in electrical engineering. (Ex. 4.) A U.S. aerospace agency sponsored the presentation of his thesis at an international symposium on space science and technology. (*Id.*) He later attended a defense college in the U.S. (Tr. at 32.) His father ultimately achieved the rank of Rear Admiral in the Columbian Navy. (Ex. 4.) Between about 1989 and 1991, Applicant's father was the Superintendent of the Columbian Naval Academy. Among other honors, he had the distinction of hosting the U.S. President during an official visit to Columbia. (Exs. B and C.) He retired from active duty in 1991. (*Id.*) After his retirement, he served as the Director of the Armed Forces Military Hospital. From 1996 to 1999, he was an advisor to the Chief of Naval Operations for Columbia on science and technology. He also served as a member of the Columbian Naval Counsel, an informal advisory group made up of former admirals. (Tr. at 25, 32.) He discontinued working with that group between about 6 or 10 years ago. (Tr. at 26; Ex. A at 1.)

Applicant's father also owns a business in Columbia. (Ex. K; Tr. at 26.) The agency supplies fruits, vegetables, and meats to cruise ships that visit Columbia in the summer. (Tr. at 26; Ex. 5; Ex. K.) At first, one of Applicant's sisters

operated the business; now their Colombian business manager handles their affairs. (Ex. K).

Applicant's parents became naturalized citizens of the United States in July 2001. (Exs. D, E, G, and H.) They own a home in the U.S. but rent it out. (Tr. at 27.) Their primary residence in the U.S. is with Applicant's sister. (Tr. at 27.) They also own a home in an exclusive, urban area in Columbia where they live for several months each year. (Tr. at 26, 34.) The home is on a island separated from the mainland by a military installation, so it is very secure. (Tr. at 34.) Finally, they sometimes travel to Spain and the Netherlands Antilles to visit their other daughters. (Tr. at 26.) Applicant's father intends to sell his business and assets in Colombia and live permanently in the U.S. (Ex. K). His parents maintain dual citizenship, but always use their U.S. passports to travel. (*Id.*; Tr. at 34-35.)

Applicant's oldest sister became a naturalized citizen of the U.S. in March 1999. (Ex. F.) She lives permanently in the U.S. (Ex. 1 at 15.)

His second sister is married to a German citizen. (Ex. 2 at 2.) She maintains dual citizenship with Columbia and Germany, and lives permanently in Spain. (*Id.*; Ex. 1 at 5.)

His third sister is a citizen of Columbia, but resides permanently in the U.S. She owned a florist shop in Colombia. Police investigators learned that criminals listed her as a possible subject for kidnap and ransom, unfortunately a common offense in Columbia. (Tr. at 27.) Frequently, the criminals kidnap wealthy victims and transfer the captives to terrorist groups in exchange for payment, and the terrorist groups demand ransom from the families. (Tr. at 27; Ex. 7 at 2; Ex. 8; Ex. 9.) She applied for and was granted political asylum in the United States in August 2002. (Ex. I.) She resides permanently in the United States. (Tr. at 40.)

Applicant's youngest sister is a citizen of Columbia. (Ex. 1 at 6.) Her husband is a U.S. citizen working as a representative for a U.S. firm. (Ex. 2 at 2.) She was a part owner of the shipping agency (along with her father) but now resides permanently with her family in the Netherlands Antilles. (Tr. at 39.)

Applicant's brother was born in Germany but held Columbian citizenship. (Ex. 1 at 4-5.) He resides in the U.S. (*Id.*)

Columbia is a constitutional democracy. (Ex. 8 at 1.) The U.S. has long enjoyed favorable relations with Columbia. (Ex. 6 at 9.) The U.S. continues to provide substantial support to the Colombian government's counter-narcotics efforts, and encourages the government's efforts to strengthen its democratic institutions in order to promote security, stability, and prosperity in the region. (*Id.*) The Colombian government faces several challenges, especially the activities of several political terrorist groups and large, well-organized narco-terrorist organizations. (*Id.* at 3-4, 6.) The U.S. State

Department reports that, although serious problems remained, the Colombian government's respect for human rights has improved in some areas. (Ex. 8 at 1.) The threat of crime is significant in all parts of the country because of the activities of the political and drug-related terrorist groups in the country, but is somewhat less prevalent in most urban centers. (Ex. 10.)

POLICIES

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." (*Department of the Navy v. Egan*, 484 U.S. 518, 527 (1988)). In Executive Order 10865, *Safeguarding Classified Information Within Industry* (Feb. 20, 1960), the President set out guidelines and procedures for safeguarding classified information within the executive branch.

To be eligible for a security clearance, an applicant must meet the security guidelines contained in the Directive. Enclosure 2 of the Directive sets forth personnel security guidelines, as well as the disqualifying conditions and mitigating conditions under each guideline. The adjudicative guidelines at issue in this case are:

Guideline B, Foreign Influence: A security risk may exist when an individual's immediate family, including cohabitants, or other persons to whom he 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. (Directive, ¶ E2.A2.1.1.)

Guideline C, Foreign Preference: 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. (Directive, ¶ E2.A3.1.1.)

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

"The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination

that the person is eligible for a security clearance." (Directive, ¶ E2.2.1.) An administrative judge must apply the "whole person concept," and consider and carefully weigh the available, reliable information about the person. (*Id.*) An administrative judge should consider the following factors: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the voluntariness of participation; (6) the presence or absence of rehabilitation and other pertinent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence. (*Id.*)

Initially, the Government must present evidence to establish controverted facts in the SOR that disqualify or may disqualify the applicant from being eligible for access to classified information. (Directive, ¶ E3.1.14.) Thereafter, the applicant is responsible for presenting evidence to rebut, explain, extenuate, or mitigate the facts. (Directive, ¶ E3.1.15.) An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." (ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002)). "Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security." (Directive, ¶ E2.2.2.)

A person granted access to classified information enters into a special relationship with the government. The government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. The decision to deny an individual a security clearance is not a determination as to the loyalty of the applicant. (Exec. Ord. 10865, § 7.) It is merely an indication that the applicant has not met the strict guidelines the President has established for issuing a clearance.

CONCLUSIONS

I considered carefully 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

Paragraph E2.A2.1.2.1 of the Directive provides that it may be disqualifying if "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." Paragraph E2.A2.1.3.1 defines "immediate family members" to include a spouse, father, mother, sons, daughters, brothers, and sisters. Applicant's parents are U.S. citizens, and live in Columbia for part of each year. One of Applicant's sisters is a citizen of Columbia, although she resides permanently in the U.S. The evidence raises this potentially disqualifying condition.

Under ¶ E2.A2.1.2.3 of the Directive, it may be disqualifying where an applicant has "[r]elatives, cohabitants, or associates who are connected with any foreign government." Applicant's father is a retired Rear Admiral of the Columbian Navy; thus, this potentially disqualifying condition applies. Paragraph 1.b of the SOR asserted that Applicant's father "is currently a member of the Columbian Naval Council." In fact, Applicant's father served on this council for several years, but no longer serves in that capacity. His father's former status as a Navy Council member does not raise this potentially disqualifying condition.

Under the Directive, these potentially disqualifying conditions may be mitigated under certain circumstances. The Government produced substantial evidence establishing disqualifying conditions, thus Applicant had the burden to produce evidence to rebut, explain, extenuate, or mitigate the conditions. (Directive, ¶ E3.1.15.) The government never has the burden of disproving a mitigating condition. (ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005)).

Paragraph E2.A2.1.3.1 of the Directive provides that it is potentially mitigating where the "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 involved and the United States." Notwithstanding the facially disjunctive language, applicants must establish: (1) that the individuals in question are not "agents of a foreign power," and (2) that they are 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. (ISCR Case No. 02-14995 at 5 (App. Bd. Jul. 26, 2004)).

In 50 U.S.C.A. § 438(6), the federal statute dealing with national security and access to classified information, the U.S. Congress adopted the definitions of the phrases "foreign power" and "agent of a foreign power" from 50 U.S.C.A. § 1801(a) and (b). 50 U.S.C. § 1801(b) defines "agent of a foreign power"to include anyone who acts as an officer or employee of a foreign power in the United States, engages in international terrorism, or engages in clandestine intelligence activities in the U.S. contrary to the interests of the U.S. or involving a violation of the criminal statutes of the United States. None of Applicant's relatives meet the definition of "agent of a foreign power" under 50 U.S.C.A. § 1801(b).

The Appeal Board, however, has adopted a broader definition of the phrase "agent of a foreign power." The Appeal Board has held that, "An employee of a foreign government need not be employed at a high level or in a position involving intelligence, military, or other national security duties to be an agent of a foreign power for purposes of Foreign Influence Mitigating Condition 1." (ISCR Case No. 02-24254, 2004 WL 2152747 (App. Bd. Jun. 29, 2004); *see also* ISCR Case No. 03-04090 at 5 (App. Bd. Mar. 3, 2005) (employee of the Israeli government is an agent of a foreign power) and ISCR Case No.02-29143 at 3 (App. Bd. Jan. 12, 2005) (a member of a foreign military is an agent of a foreign power)). Applying this broader definition, Applicant's father would be an "agent of a foreign power" because of his status as a retired military officer.

The second prong of the test is whether the relatives in question are "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." The federal statute, 50 U.S.C.A. § 1801(a), defines "foreign power" to include: a foreign government; a faction of a foreign

nation; an entity openly acknowledged by a foreign government to be controlled by that foreign government; a group engaged in international terrorism; a foreign-based political organization; or an entity directed and controlled by a foreign government. The Appeal Board also construes the term "foreign power" broadly.

It is also important to note at the outset that the mitigating condition in question focuses on whether a relative or associate of an applicant is in a position to be exploited by a foreign power in such a way as to have an applicant act adversely to the interests of the United States. It does not apply where a relative or associate may be vulnerable to criminal offenses or even acts of terrorism, unless they could cause an applicant to act against U.S. interests. At times, the Appeal Board has placed great emphasis on evidence that a foreign power has engaged in intelligence gathering. (ISCR Case No. 02-22461 at 5 (App. Bd. Oct. 22, 2005)). However, there are a great many ways to gather intelligence information and the great majority of them do not involve exploitation of an applicant's relatives or associates overseas. The mitigating condition in question is not focused on whether the foreign power collects intelligence information generally, rather it focuses whether a foreign power could exploit relatives and applicants in such a way as to cause an applicant to act adversely to the United States.

In assessing whether an applicant is vulnerable to exploitation through relatives or associates in a foreign country, it is necessary to consider all relevant factors. As noted above, ¶¶ E2.2.1, E2.2.2, and E2.2.3 of the Directive specifically require each administrative judge to consider all the facts and circumstances, including the "whole person" concept, when evaluating each individual case. To ignore such evidence would establish a virtual *per se* rule against granting clearances to any person with ties to persons in a foreign country, contrary to the clear terms of the Directive.

An important factor for consideration is the character of any foreign power in question, including the government and entities controlled by the government, within the relevant foreign country. This factor is not determinative; it is merely one of many factors which must be considered. Of course, nothing in Guideline B suggests it is limited to countries that are hostile to the United States. (*See* ISCR Case No. 00-317 at 6 (App. Bd. Mar. 29, 2002); ISCR Case No. 00-0489 at 12 (App. Bd. Jan. 10, 2002)). The Appeal Board repeatedly warns against "reliance on overly simplistic distinctions between 'friendly' nations and 'hostile' nations when adjudicating cases under Guideline B." (ISCR Case No. 00-0317 at 6 (App. Bd. Mar. 29, 2002)). It is well understood that "[t]he United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States." (ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004)). Distinctions between friendly and unfriendly governments must be made with extreme caution. Relations between nations can shift, sometimes dramatically and unexpectedly. Moreover, even friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security. Finally, friendly nations have engaged in espionage against the United States, especially in economic, scientific, military, and technical fields. (ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at **15-16 (App. Bd. Mar. 29, 2002)). Nevertheless, the relationship between a foreign government and the U.S. may be relevant in determining whether a foreign government or an entity it controls is likely to attempt to exploit a resident or citizen to against the U.S. through the applicant. The nature of the foreign government might also relate to the question of whether the foreign government or an entity it controls would risk jeopardizing its relationship with the U.S. by exploiting or threatening its private citizens in order to force a U.S. citizen to betray this country. The Appeal Board has specifically held that it is error for an administrative judge to fail to consider a hostile relationship between the U.S. and a foreign country. (ISCR Case No. 02-13595 at 4 (App. Bd. May 10, 2005)). The Appeal Board has held that "a country's poor human rights record and its differences with the United States on important security issues such as terrorism are factors" that a judge must consider. (ISCR Case No. 04-05317 at 5 (App. Bd. June 3, 2005)). A friendly relationship is not determinative, but it may make it less likely that a foreign government would attempt to exploit a

U.S. citizen through relatives or associates in that foreign country.

The government of Columbia is a democracy, with a long history of good relations with the U.S. That factor is not determinative, but suggests it is less likely that Columbia would attempt to exploit its residents or citizens to act adversely to the interests of the United States in the future. On the other hand, there are "foreign powers" within Columbia whose interests are clearly adverse to those of the United States, including the narco-terrorists and several political terrorist groups. These terrorists pose a threat to the personal safety of residents of Columbia. The available evidence reveals a history of terrorist groups injuring or kidnaping residents for ransom; however, it does not show any history of foreign powers in Columbia exploiting citizens or residents in such a way as to cause or attempt to cause their relatives in the U.S. holding a security clearance to act adversely to U.S. interests. This factor is not determinative, but tends to suggest that the specific risk addressed by this mitigating condition is minimal.

Another factor which must be considered is Applicant's relatives' vulnerability to exploitation by foreign powers in Columbia. Applicant's father is a retired admiral in the Columbian Navy, thus the government and its military forces have some influence on him. At the same time, Applicant's parents are also citizens of the United States, and entitled to all the privileges and protections of U.S. citizens when they are outside Columbia. This reduces their vulnerability to the government and military in Columbia.

Applicant's parents are not especially vulnerable to terrorist groups in Columbia. They reside in Columbia for only a portion of each year (about four to six months), reducing the possibility of their personal danger. Furthermore, while in Columbia they live and work in an urban area that is safer than the rest of the country. Particularly, their home is located on an island separated from the city by a military installation, thus assuring greater personal security.

Under ¶ E2.A2.1.3.3 of the Directive, it may also be mitigating where "[c]ontact and correspondence with foreign citizens are casual and infrequent." It may be presumed that an applicant has close ties of affection or obligation to his family members, and Applicant has not presented evidence to refute this natural presumption. I conclude this potentially mitigating condition does not apply.

I considered carefully all the potentially disqualifying and mitigating conditions in this case in light of the "whole person" concept, keeping in mind that any doubt as to whether access to classified information is clearly consistent with national security must be resolved in favor of the national security. Applicant is a mature individual with an impressive history of service to this country, including years of work on projects while holding a security clearance. Applicant has strong ties to this country. He renounced his Colombian citizenship, even though it was not required. His wife is a U.S. citizen who also works for the defense contractor. His parents and one of his sisters are U.S. citizens with property interests in the U.S. One of his sisters is a permanent resident of the U.S., although she is a Columbian citizen. He has no financial interests in another country. His standing within his professional community is with firms in the United States. Although his parents live in Columbia part of each year, under their unique circumstances the potential for pressure, coercion, exploitation, or duress by a foreign power is extremely low. Because of Applicant's deep and long-standing relationships and loyalties in the U.S., he can be expected to resolve any conflict of interest in favor of the United States. I conclude Applicant has mitigated the potential security concerns arising from his personal ties to

relatives in Colombia.

Guideline C, Foreign Preference

Under ¶ E2.A3.1.2.3 of the Directive, "military service or a willingness to bear arms for a foreign country" may indicate a preference for a foreign country that could raise security concerns. As noted above, Applicant held dual citizenship with the U.S. and Columbia. His Columbian citizenship required him to serve in the military for one year; Applicant attended the Colombian Naval Academy as a cadet for one year to satisfy this obligation. I note he never received pay or a commission. Although his experience as a cadet did not require service in support of the military to the same extent as one on regular active duty, I conclude the available evidence is minimally sufficient to raise this potentially disqualifying condition.

It may also be disqualifying where an applicant is "accepting educational, medical, or other benefits, such as retirement or social welfare, from a foreign country." (Directive, ¶ E2.A3.1.2.4.) In this case, Applicant is not currently accepting any such benefits. Although he attended the Colombian Naval Academy many years ago, cadets were required to pay for their tuition-it was not a "benefit" as the term is used in the Directive. I conclude this potentially disqualifying condition does not apply.

The Directive, ¶ E2.A3.1.3.1, provides that it may be mitigating where "dual citizenship is based solely on parent's citizenship or birth in a foreign country." Applicant was a U.S. citizen by reason of his birth in the U.S. He was a citizen of Columbia because his parents were Colombian citizens then living in the U.S., therefore Applicant originally obtained his citizenship based solely on his parent's citizenship. At the same time I note Applicant lived for several years in Columbia, and attended the Naval Academy, as discussed above.

It may also be mitigating under ¶ E2.A3.1.3.4 of the Directive where the applicant has "expressed a willingness to renounce dual citizenship." In this case, Applicant renounced his Columbian citizenship. He does not hold a Columbian passport and has no financial holdings in that country. This potentially mitigating condition applies.

I considered the potentially disqualifying and mitigating conditions in light of all the circumstances in this case and the "whole person" concept. Applicant's military service was in a limited capacity as a student, it was incurred to fulfill a compulsory service requirement, and it occurred many years ago. Since then, Applicant left Columbia and made the U.S. his permanent home, he renounced his Columbian citizenship, and spent many years working to promote the interests of U.S. defense contractors and the U.S. Department of Defense. I conclude Applicant has mitigated any security concerns arising from his service as a Colombian Naval Academy cadet.

FORMAL FINDINGS

My conclusions as to each allegation in the SOR are:

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

Paragraph 2, Guideline C: FOR APPLICANT

Subparagraph 2.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.

Michael J. Breslin

Administrative Judge