

DATE: October 31, 2006

In re:

SSN: -----

Applicant for Security Clearance

CR Case No. 04-08098

DECISION OF ADMINISTRATIVE JUDGE

HENRY LAZZARO

APPEARANCES

FOR GOVERNMENT

Sabrina E. Redd, Esq., Department Counsel

FOR APPLICANT

David I. Schoen, Esq.

SYNOPSIS

Applicant, is a dual citizen of Israel and the United States. His mother, sister, and a number of nieces and nephews reside in Israel. Applicant has used an Israeli passport, which he has now surrendered, to visit with his Israeli relatives on a number of occasions. However, Applicant's close ties of allegiance to and his affection for the United States has mitigated the security concerns that existed. Clearance is granted.

STATEMENT OF THE CASE

On October 12, 2005, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant stating it was unable to find it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. ⁽¹⁾ The SOR, which is in essence the administrative complaint, alleges security concerns under Guideline B (foreign influence) and Guideline C (foreign preference). Applicant submitted a response to the SOR that was received by DOHA on November 17, 2005, requested a hearing, and admitted all SOR allegations except the last sentence of subparagraph 2.c.

The case was assigned to me on January 23, 2006. A notice of hearing was issued on February 13, 2006, scheduling the hearing for March 2, 2006. Applicant's Motion for Continuance, dated February 14, 2006, Appellate Exhibit (App. Ex.) II, was orally granted without objection, and a second notice of hearing was issued on April 7, 2006, rescheduling the hearing for April 24, 2006. The hearing commenced as scheduled and was thereafter continued to and concluded on July 10, 2006.

The government submitted twelve documentary exhibits on the first hearing date that were marked as Government Exhibits (GE) 1-12. GE 1-3 were admitted into the record without objection, and administrative notice was taken of the information contained in GE 4-9 over Applicant's objections. Applicant's objections to GE 10-12 were sustained. Applicant testified on the first hearing date and submitted thirty documentary exhibits that were marked as Applicant's Exhibit (AE) 1-30. AE 1, 4 and 5 were admitted into the record without objection. Administrative notice was taken of the information contained in AE 11 and AE 20-23 without objection, and of the information contained in AE 2, 26 and

30 over Department Counsel's objections. Department Counsel's objections to AE 3, 6-10, and 12-19 were sustained. Applicant's requests to withdraw AE 24, 25, and 27-29 from consideration were granted.

The government submitted five new documentary exhibits on the second hearing date that were marked as GE 13-17 and requested reconsideration of the prior ruling sustaining Applicant's objection to the admission of GE 12. Administrative notice was taken of the information contained in GE 13-17 over Applicant's objections. Department Counsel's request for reconsideration of the admission of GE 12 was granted over Applicant's objection and administrative notice was taken of the information contained therein for the limited purpose noted in the record of hearing.

Applicant testified and submitted six new documentary exhibits on the second hearing date. The documents were marked as AE A-F. Administrative notice was taken of the information contained in AE A-D without objection. Department Counsel's objections to AE E and AE F were sustained. The transcripts were received on May 4, 2006 and July 17, 2006.

PROCEDURAL MATTERS

Following the presentation of all evidence on the first hearing date, Department Counsel moved to amend the SOR by adding the phrase *and November 2005* after the date April 2004 in subparagraphs 1.d and 2.c. Those amendments were allowed without objection. Applicant thereafter admitted to the amended allegations and indicated he did not require additional time to respond to the amended allegations.

Department Counsel also moved to amend the SOR by adding an additional subparagraph under SOR paragraph 2, to read as follows: *You have six nephews and nieces who are citizens and residents of Israel.* That amendment was allowed over Applicant's objection. Applicant thereafter admitted the allegation and requested a continuance of the hearing to provide him additional time to present additional evidence. His request for a continuance was granted as noted earlier.

FINDINGS OF FACT

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

Applicant is a 54-year-old man who was born and raised in Israel. He graduated from high school in Israel in 1970, and served in the Israeli army from August 1970 until August 1974, including service in the Yom Kippur war.

Applicant began corresponding with a girl who was a U.S. citizen and resident through a pen-pal arrangement set up by one of his high school teachers shortly before he began service with the Israeli army. She traveled to Israel to study in mid-1973, they met in person at that time, and subsequently were married in Israel in June 1974. After he was discharged from the army, Applicant and his wife traveled to the U.S. in 1974 to participate in a second marriage ceremony that her family would be able to attend.

Applicant began working for his father-in-law while in the U.S., instead of returning to Israel as he had apparently originally planned. He commenced his college education in the U.S. in September 1975, and was awarded a bachelor of science degree in December 1981, with a major in mechanical engineering. He was hired by a defense contractor in February 1982, and worked there continuously until he was laid off in May 2006.

Applicant has possessed a secret security clearance since 1996, and no allegations have ever been made that he mishandled or otherwise risked the compromise of classified information. No prior action has been instituted seeking to revoke or downgrade Applicant's security clearance. He has received periodic security clearance briefings and has reported all foreign travel as required.

Applicant purchased the home his wife grew up in from her parents in February 1982. They have resided there ever since. He estimates the value of the home to be about \$375,000. He has two loans secured by mortgages against that residence totaling about \$300,000. He has approximately \$400,000 savings in a 401K. Applicant does not own any assets in Israel.

Applicant and his wife have three children. Their oldest son is 27 years old, has recently graduated from law school, and as of the date of the hearing was to soon begin employment with a law firm in the state where Applicant lives. Their second son is a 21-year-old college student, and their 18-year-old daughter is a high school student.

Applicant's wife and children are native-born U.S. citizens. Applicant became a naturalized U.S. citizen in April 1984, and obtained a U.S. passport in November 1993. Applicant is considered by Israel to be a dual citizen of that country and the U.S. and is required to possess an Israeli passport to enter and exit Israel. Accordingly, he maintained an Israeli passport and last had it renewed in July 2003 to allow him to visit his family members who still reside in Israel. Applicant surrendered the Israeli passport in April 2006.

Applicant's father died approximately 13 years ago. His mother is a 72-year-old retired cafeteria worker who is a citizen and resident of Israel. His sister is a 50-year-old housewife who is also a citizen and resident of Israel. Her husband is a social worker/marriage counselor. His sister has six children who range in age from their early teens to young adulthood. Her family lives in a particularly orthodox religious area in Israel and the children are engaged in religious studies. Their religious studies have thus far exempted the children from compulsory military service. None of Applicant's Israeli relatives are connected to or employed by the Israeli government. Applicant also has a 52-year-old brother who is a citizen and resident of the U.S., having been naturalized in April 1988.

Applicant has visited his relatives in Israel a number of times since he first immigrated to the U.S. His testimony was unclear about exactly how many times he has visited in Israel or how frequently he visits that country. It ranges from a total of three to four visits since he first came to the U.S., to visiting there every two to five years. His last visit was for a couple of weeks in November 2005 to attend his nephew's Bar Mitzvah. He stayed with his mother and sister while visiting at that time. His next prior visit to Israel was for about two weeks in April 2004. Applicant's U.S. and Israeli passports record both the 2004 and 2005 visits to Israel. Applicant speaks by telephone with his mother about once a week and with his sister and her family about once a month.

Applicant expresses great pride in his American citizenship and espouses complete loyalty to the U.S. He vehemently rebukes any suggestion he would ever do anything inimical to the interest of the U.S. He regularly votes in local, state and federal U.S. elections, and has not voted in an Israeli election since immigrating to the U.S. Applicant submitted numerous letters from supervisors, co-workers, rabbis and friends who uniformly attest to his reputation for being a man of integrity who has earned a reputation for being dedicated, trustworthy, honest, a loyal employee and a loyal American.

For example, Applicant's rabbi, who has known him for more than 15 year and who interacts with him on a weekly basis, wrote as follows:

In all of my interactions with (Applicant), covering financial, religious, social and political projects and other projects, I have noticed nothing but integrity, loyalty, commitment, and a desire to help others. He is trusted by everyone who knows him and there is no area of life in which I would not trust him completely. . . .

The characteristic that most describes (Applicant) is loyalty. He is an individual who has never betrayed a commitment, broken a promise, or let anyone down. In all of his participation in this community's life, he has been nothing but a contribution to the cause with no selfish agenda whatsoever. (AE 1, p. 7)

Applicant's group lead at work, a former U.S. Marine Corps tank commander who has worked on and off with Applicant for the past 15 to 20 years, wrote:

. . . Based on our conversations it is my belief that (Applicant) is extremely Patriotic and his Loyalty to the United States is without question. This combined with his deep religious belief, assures that (Applicant) would not swear an oath of allegiance to the United States when he became a Citizen unless he believed fully and deeply in his heart. As a Marine I worked and trained for combat in which your life was interdependent with your fellow Marines and you developed the ability to evaluate and know the character of the Marines as to who you could trust with your life and who to avoid. It is my honest opinion and belief the [sic] (Applicant) is a Loyal, Trustworthy, Honest American and I would, if called upon, go into combat with him at my side any time, any place; knowing that I could trust him completely with my life

and I would be assured that he would be covering by back so that I could come home, back to the most precious gift a man could have in this world his Wife and Kids. (AE 1, p. 9)

Applicant's friend for the past eight years, an M.D. and Ph.D, wrote:

(Applicant) is a pillar of our community. . . . (Applicant) is a loyal American citizen who puts America first. . . . I have never heard any suggestion or hint of anything suspicious or any wrongdoing by the individual or his family. His values and integrity as a person and American citizen are of the highest caliber. (AE 1, p. 6)

POLICIES

The Directive sets forth adjudicative guidelines to consider when evaluating a person's eligibility to hold a security clearance. Chief among them are the Disqualifying Conditions (DC) and Mitigating Conditions (MC) for each applicable guideline. Additionally, each clearance decision must be a fair and impartial commonsense decision based upon the relevant and material facts and circumstances, the whole person concept, and the factors listed in ¶ 6.3.1 through ¶ 6.3.6 of the Directive. 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. Considering the evidence as a whole, Guideline B, pertaining to foreign influence, and Guideline C, pertaining to foreign preference, with their respective DC and MC, are most relevant in this case.

BURDEN OF PROOF

The sole purpose of a security clearance decision is to decide if it is clearly consistent with the national interest to grant or continue a security clearance for an applicant.⁽²⁾ The government has the burden of proving controverted facts.⁽³⁾ The burden of proof in a security clearance case is something less than a preponderance of evidence,⁽⁴⁾ although the government is required to present substantial evidence to meet its burden of proof.⁽⁵⁾ "Substantial evidence is more than a scintilla, but less than a preponderance of the evidence."⁽⁶⁾ 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.⁽⁷⁾ Additionally, an applicant has the ultimate burden of persuasion to obtain a favorable clearance decision.⁽⁸⁾

No one has a right to a security clearance⁽⁹⁾ and "the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials."⁽¹⁰⁾ Any reasonable doubt about whether an applicant should be allowed access to classified information must be resolved in favor of protecting national security.⁽¹¹⁾

CONCLUSIONS

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

Disqualifying Condition (DC) 1: *The exercise of dual citizenship* and DC 2: *Possession and/or use of a foreign passport* are acts that demonstrate a foreign preference. Applicant is a dual citizen of the U.S. and Israel and he exercised his Israeli citizenship by obtaining and using an Israeli passport to enter Israel after he became a U.S. citizen. However, he obtained and used an Israeli passport only because of an Israeli legal requirement that mandates the use of an Israeli passport by dual Israeli citizens to enter and exit Israel. He obtained and used the Israeli passport in order to visit with his immediate relatives living in Israel.

In addition to his Israeli passport, Applicant presented his U.S. passport to customs officials in connection with his 2004 and 2005 trips to Israel so those trips would be properly made known to and documented by U.S. officials. Applicant has now surrendered his Israeli passport. He has not voted in Israeli elections since immigrating to the United States and has not otherwise exercised any right of Israeli citizenship.

Applicant's Israeli citizenship is based upon his birth to Israeli citizens and residents. Thus, Mitigating Condition (MC) 1: *Dual citizenship is based solely on parents' citizenship or birth in a foreign country* applies.

Guideline B: 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.

Disqualifying Condition (DC) 1: *An immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country* applies in this case based upon Applicant's mother, sister, nieces and nephews being citizens and residents of Israel. Applicant's close ties of affection to all of these relatives is apparent from the totality of his testimony and is further demonstrated by his frequent telephone contact with them and recurring visits with them in Israel, most recently in November 2005 to attend his nephew's Bar Mitzvah.

Once the government meets its burden of proving controverted facts⁽¹²⁾ the burden shifts to an applicant to present evidence demonstrating extenuation, mitigation, or changed circumstances.⁽¹³⁾ Further, the government is under no duty to present evidence to disprove any Adjudicative Guideline mitigating conditions, and an administrative judge cannot assume or infer that any particular mitigating condition is applicable merely because the government does not present evidence to disprove that particular mitigating condition.⁽¹⁴⁾

The following information about Israel is significant in determining whether a security concern exists under the known facts in this case:

Since 1948, the United States and Israel have developed a close friendship based on common democratic values, religious affinities, and security interests. U.S.-Israeli bilateral relations are multidimensional. The United States is the principal proponent of the Arab-Israeli peace process, but U.S. and Israeli views differ on various peace process issues, such as the fate of the Golan Heights, Jerusalem, and Israeli settlements. The United States and Israel concluded a free-trade agreement in 1985, and the United States is Israel's largest trading partner. Since 1976, Israel has been the largest recipient of U.S. foreign aid. The two countries also have very close security relations.

Current issues in U.S.-Israeli relations include Israel's military sales to China, inadequate Israeli protection of U.S. intellectual property, and espionage-related cases.⁽¹⁵⁾

In 1985, U.S.-Israeli relations were rocked by two spy cases. Richard K. Smyth was indicted in California for illegally exporting 800 Krytons to an Israeli company. Krytons are high speed electronic switches that can be used to detonate nuclear weapons. Israel claimed that it was not aware of needed export licenses for the devices. . . . Smyth . . . pleaded guilty in December, and was sentenced to 40 months in prison in April 2002.

On November 21, 1985, Jonathan Pollard, a U.S. naval intelligence employee, and his wife, Ann Pollard were charged with selling classified documents to Israel for \$2,500 per month over an 18-month period. The Israeli government said the spy network, headed by former Israeli intelligence officer Raphael Eitan, was a renegade operation. In March 1987, Pollard was sentenced to life in prison, and his wife to two consecutive five-year terms. Four Israelis were also indicted, including Israeli Air Force Col. Aviem Sella. Israel promoted both Sella and Eitan, although Sella's command of a major air base and promotion were rescinded after negative U.S. reactions. . . .

In addition to the Smyth and Pollard cases, U.S. Customs agents raided three U.S. companies on December 12, 1985, to seize materials describing a metallurgical process for tank guns that were being transferred illegally to Israel. In another case, three Israelis were arrested on April 22, 1986, for conspiring to sell arms to Iran. On May 15, 1986, two Israelis were arrested in New York on another weapons selling scheme. On July 8, 1986, U.S. Customs agents searched three U.S. companies for information about a plan to transfer technical information for cluster bombs to Israel. An Illinois company said on August 8, 1986, that Israelis tried to steal data on aerial reconnaissance cameras. Israel denied any connection with any of these cases. In February 1997, an engineer at a military testing facility in Michigan admitted that

he had "inadvertently" given classified materials to Israel over a ten-year period.⁽¹⁶⁾

On June 13, 2005, U.S. Department of Defense analyst Lawrence Franklin was indicted for the unauthorized disclosure of classified information (about Iran) to a foreign diplomat. . . . On January 20, 2006, Franklin was sentenced to 12 years, 7 months in prison.⁽¹⁷⁾ Franklin pled guilty to the offenses of Conspiracy to Communicate National Defense Information to persons not entitled to receive it (Felony), 18 U.S.C. 793(g), and Conspiracy to Communicate Classified Information to an agent of a foreign government (Felony), 18 U.S.C. 371.⁽¹⁸⁾ The persons Franklin was convicted of conspiring to communicate national defense information to were identified in the superseding indictment to which he pled guilty as being employees of the American Israel Public Affairs Committee, a self-proclaimed American Pro-Israel Lobby. Neither the country nor the co-conspirator involved in the conspiracy to communicate classified information charge is identified in the superseding indictment.⁽¹⁹⁾

Israel maintained staunch support for U.S.-led counterterrorism efforts in 2004. Palestinian terrorist groups conducted a large number of attacks in Israel, the West Bank, and Gaza Strip in 2004. HAMAS, Palestinian Islamic Jihad (PIJ), the al-Aqsa Martyrs Brigade, and the Popular Front for the Liberation of Palestine (PFLP) - all US-designated Foreign Terrorist Organizations - were responsible for most of the attacks, which included suicide bombings, shootings, and mortar and rocket firings against civilian and military targets. Terrorist attacks in 2004 killed almost 100 people (mostly Israelis, as well as a number of foreigners, including one US citizen), a decrease from the almost 200 people killed in 2003.⁽²⁰⁾

Israel is a multiparty parliamentary democracy. . . .

* * *

The country's population is approximately 6.8 million, including 5.2 million Jews, 1.3 million Arabs, and some 290,000 other minorities. It has an advanced industrial, market economy with a relatively high standard of living. Twenty one percent of the population lived below the poverty line in 2003. Unemployment was approximately 11 percent, and was higher among the Arab population. Foreign workers, both legal and illegal, constituted about 7 percent of the labor force.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Some members of the security forces abused Palestinian detainees. Conditions in some detention and interrogation facilities remained poor. During the year, the Government detained on security grounds but without charge thousands of persons in Israel. (Most were from the occupied territories and their situation is covered in the annex.) The Government did little to reduce institutional, legal, and societal discrimination against the country's arab citizens. The Government did not recognize marriages performed by non-Orthodox rabbis, compelling many citizens to travel abroad to marry. The Government interfered with individual privacy in some instances.

Discrimination and societal violence against women persisted, although the Government continued to address these problems. Trafficking in and abuse of women and foreign workers continued to be problems. Discrimination against persons with disabilities persisted.⁽²¹⁾

As the above rather lengthy recitation of information garnered from a variety of documents clearly indicates, a number of security concerns persist in relation to Israel despite its democratic form of government and obvious close ties to the United States. Included, are the espionage and technology transfer cases that were conducted for the benefit of Israel, whether or not they were done with Government knowledge and/or participation, the terrorist activity within Israel, and Israeli military sales that are not consistent with U.S. interests.

Applicant's mother, sister, nephews and nieces are citizens and residents of Israel. Applicant has traveled to Israel on a number of occasions in the past, and will likely do so in the future. Accordingly, there exists at least a potential risk and danger that attempted coercion, exploitation, or pressure could be exerted on Applicant through his foreign relatives or to Applicant himself when he is visiting in Israel.

Mitigating Condition (MC) 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* is inapplicable in this case because the presence of Applicant's immediate family members in Israel does, as interpreted by prior DOHA Appeal Board decisions, place them in a position where they could conceivably be exploited in a way that could force Applicant to choose between his loyalty to them and the United States. I recognize that none of Applicant's relatives are or ever have been "agents of a foreign power," however, DOHA Appeal Board decisions make clear that both clauses of MC 1 must apply before the mitigating condition can be applied.

MC 3: *Contact and correspondence with foreign citizens are causal and infrequent* does not apply, because, as noted earlier, Applicant's visits to Israel and his regular telephonic contact with his mother and sister make clear that his contact and correspondence with them are not casual and infrequent. He is entitled to consideration under MC 5: *Foreign financial interests are minimal and not sufficient to affect the individual's security responsibilities* to the limited extent that his lack of any financial interest in Israel removes that issue from consideration even though not alleged in the SOR as a separate disqualifying matter. The remaining mitigating conditions have no applicability to the facts of this case.

If this case were to be simply decided by weighing disqualifying conditions against mitigating conditions, it is clear I would have to find it is not clearly consistent with the national interest to grant Applicant a security clearance. However, the resolution of this case requires the careful weighing of those variables that together make up what is known as the "whole person concept." In so doing, I must consider the available, reliable information about Applicant, past and present, favorable and unfavorable, in reaching a determination. To that end, I have considered the following:

- There is no unfavorable information known about Applicant or any member of his immediate family.
- Applicant successfully completed his education through high school in Israel, performed honorably in the Israeli army, including during the Yom Kippur war, and voted in Israeli elections while resident in Israel (all indicators of his willingness to serve as a loyal and responsible citizen, even in time of war at a personal risk to himself, albeit while he was still resident in Israel and before he became a U.S. citizen).
- Applicant married an American citizen and voluntarily immigrated to the United States with her in 1974 where he voluntarily chose to establish his residence and seek U.S. citizenship.
- Upon his arrival in the U.S. in 1974, Applicant became gainfully employed and remained gainfully employed until he was laid off from his job in May 2006, due solely to a lack of work.
- Applicant pursued a college education in the United States and was awarded a bachelor of science degree with a major in mechanical engineering in 1981.
- Applicant was employed by the same employer from February 1982 until May 2006.
- Applicant purchased his wife's childhood residence from her parents and has resided in that residence with his family since 1982.
- Applicant has raised three children. One of those children has graduated from law school in the United States and, as of the date of the hearing, was scheduled to begin working for a law firm in the same state where Applicant resides; the second child is attending college in the United States, and the third child resides with Applicant and is a high school student.
- Applicant became a naturalized citizen in April 1984.
- Applicant has voted in U.S. national, state, and local elections since becoming a U.S. citizen and has not voted in Israeli elections since immigrating to the United States.
- Applicant has possessed a secret security clearance since 1996 and no allegations have ever been made that he mishandled or otherwise risked the compromise of classified information.
- Applicant has accumulated modest assets in the United States, including about \$75,000 equity in his home and \$400,000 savings in a 401K account.
- Applicant is a devoutly religious man who believes strongly in the tenets of his religion, which, as applied to Applicant, include loyalty to the United States.
- Applicant's supervisors, co-workers, rabbi, and friends, including those individuals quoted earlier, strongly attest to his reputation as a man of integrity who is considered to be an honest, dedicated, trustworthy and loyal employee and American.

- Many of Applicant's character references also attest to the outstanding character and reputation of Applicant's wife and children.
- Applicant credibly asserts he would never commit any act disloyal to the United States.

Applying the "whole person concept" to the known facts in this case, I am satisfied if any potential vulnerability to coercion, exploitation, or duress that may exist as a result of Applicant's close ties of affection and obligation to his Israeli relatives were to become a reality, he would resolve whatever conflict may arise on behalf of the interests of the United States. I am also satisfied Applicant has no preference for Israel over the United States and that he is not prone to provide information or make decisions that are harmful to the interests of the United States.

I base my decisions in this case on my considered opinion that the favorable information about Applicant listed above clearly establishes that based upon: 1) his deep and longstanding relationships and loyalties in the U.S.; 2) his steady work, family, social, and financial history; 3) his deeply held moral convictions; and 4) his outstanding reputation and demonstrated character traits he can be expected to resolve any conflict of interest in favor of the U.S. interest and that he has no preference for any foreign country.

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 trustworthiness and fitness for access to classified information. Indeed, the "whole person" concept recognizes we should view a person by the totality of their acts and omissions. 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 have done so in this case and am satisfied Applicant has presented sufficient evidence of refutation, extenuation, and mitigation to overcome the case against him. Guidelines B and C are decided for Applicant.

FORMAL FINDINGS

SOR ¶ 1-Guideline C: For Applicant

Subparagraphs a-d: For Applicant

SOR ¶ 2-Guideline B: For Applicant

Subparagraphs a-d: For Applicant

DECISION

In light of all 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.

Henry Lazzaro

Administrative Judge

1. This action was taken under Executive Order 10865 and DoD Directive 5220.6, dated January 2, 1992, as amended and modified (Directive).
2. ISCR Case No. 96-0277 (July 11, 1997) at p. 2.
3. ISCR Case No. 97-0016 (December 31, 1997) at p. 3; Directive, Enclosure 3, Item E3.1.14.
4. *Department of the Navy v. Egan* 484 U.S. 518, 531 (1988).
5. ISCR Case No. 01-20700 (December 19, 2002) at p. 3 (citations omitted).
6. ISCR Case No. 98-0761 (December 27, 1999) at p. 2.

7. ISCR Case No. 94-1075 (August 10, 1995) at pp. 3-4; Directive, Enclosure 3, Item E3.1.15.
8. ISCR Case No. 93-1390 (January 27, 1995) at pp. 7-8; Directive, Enclosure 3, Item E3.1.15.
9. *Egan*, 484 U.S. at 528, 531.
10. *Id* at 531.
11. *Egan*, Executive Order 10865, and the Directive.
12. Directive, Additional Procedural Guidance, Item E3.1.14
13. Directive, Additional Procedural Guidance, Item E3.1.15
14. ISCR Case No. 99-0597 (December 13, 2000)
15. *Israel: Background and Relations with the United States*, CRS Issue Brief for Congress, Updated April 4, 2006. (GE 13)
16. *Israeli-United States Relations*, CRS Issue Brief for Congress, Updated March 16, 2005. (GE 9)
17. *Israel: Background and Relations with the United States*, CRS Issue Brief for Congress, Updated April 4, 2006. (GE 13)
18. GE 17
19. GE 12
20. *Country Reports on Terrorism*, U.S. Department of State, Released by the Office of the Coordinator for Counterterrorism April 27, 2005.
21. *Country Reports on Human rights Practices - 2004 - Israel and the occupied territories*, U.S. Department of State, Released by the Bureau of Democracy, Human Rights and Labor, February 28, 2005. (GE 7)