DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
----------	)	ISCR Case No. 07-13868
SSN: ----------	)	
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Eric H. Borgstrom, Esq., Department Counsel
For Applicant: *Pro se*

August 26, 2008

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines B (Foreign Influence) and C (Foreign Preference). Applicant mitigated the security concerns under Guideline B, but he did not mitigate the security concerns under Guideline C. Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted his security clearance application on January 3, 2006. On March 6, 2008, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the basis for its preliminary decision to deny his application, citing security concerns under Guidelines B and C. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant acknowledged receipt of the SOR on March 17, 2008; answered it on the same day; and requested an administrative determination without a hearing before an administrative judge. DOHA received the request on March 24, 2008. On April 29, 2008, Department Counsel requested a hearing. The request for a hearing is attached to the record as Hearing Exhibit (HX) I. Department Counsel was ready to proceed on May 12, 2008, and the case was assigned to me on May 14, 2008. DOHA issued a notice of hearing on May 29, 2008, scheduling the hearing for June 17, 2008. I convened the hearing as scheduled. Government Exhibits (GX) 1 through 7 were admitted in evidence without objection. Applicant testified on his own behalf and submitted Applicant's Exhibits (AX) A through L, which were admitted without objection. I granted Applicant's request to keep the record open until July 1, 2008, to enable him to submit additional documentary evidence. Applicant timely submitted AX M, and it was admitted without objection. Department Counsel's response to AX M is attached to the record as Hearing Exhibit III. (HX II is discussed below.) DOHA received the transcript (Tr.) on June 26, 2008. The record closed on July 1, 2008.

Evidentiary Ruling

Department Counsel requested that I take administrative notice of relevant facts about Egypt, and Applicant did not object. I took administrative notice as requested by Department Counsel (Tr. 46). The request for administrative notice and supporting documentation are attached to the record as HX II. The facts administratively noticed are set out below in my findings of fact.

Findings of Fact

In his answer to the SOR, Applicant admitted all the factual allegations in the SOR and offered explanations. His admissions in his answer to the SOR and at the hearing are incorporated in my findings of fact. I make the following findings:

Applicant is a 66-year-old test technician for a federal contractor. He has worked for his current employer since March 2003. He has never held a security clearance (GX 1 at 26).

Applicant's supervisor for the past 18 months describes him as respectful, dedicated, extraordinarily helpful, and a "take-charge person" who presents creative ideas (AX A). A co-worker describes him as dedicated and reliable (AX B). Another co-worker describes him as "very goal driven" and dedicated (AX C). A third co-worker describes him as hard-working, reliable, trustworthy, and candid (AX D).

Applicant was born and educated in Egypt. He received a bachelor's degree in electrical engineering from Cairo University in 1965. He served in the Egyptian Army from May 1968 to July 1982 and retired as a colonel.

Applicant testified he was a second-class citizen in Egypt because he is a Christian. He testified he was forced to retire as a colonel because officers selected to be generals are given government positions after retirement, but government positions are not given to Christians (AX J; Tr. 75-76).

Applicant worked as an electronics engineer and part-time teaching assistant for the American University in Cairo, Egypt from January 1986 to until 1997 (AX G; Tr. 59-60). His colleagues and supervisors were impressed with his technical skill, dedication, integrity, and loyalty (AX K and L).

Applicant began working as a radio engineer for the U.S. Embassy in Cairo, Egypt in October 1988, where he had access to sensitive information. He, his wife, and their son emigrated from Egypt to Canada in 1993. They applied for U.S. immigration visas, which they received in 1995. Applicant continued to work for the embassy and American University until 1997, traveling between Canada and his jobs in Cairo. He received cash awards for superior performance at the embassy in December 1989 and January 1993, and certificates of appreciation for his performance during a visit to the embassy by the President of the U.S. in November 1990, visits of the Vice-President of the U.S. to the embassy in 1994 and 1996, and visits of the White House staff during August 1994 to April 1995 (GX 2 at 4-10).

Applicant returned to the U.S. in 1997, and he has worked for federal contractors in the U.S. since his return. He believes he will lose his job if his application for a clearance is denied (Tr. 55).

Applicant was naturalized as a U.S. citizen in April 2001, and he obtained a U.S. passport in November 2001 (GX 5). He retained his Egyptian passport after becoming a U.S. citizen (GX 4), but he did not use it after obtaining a U.S. passport (GX 6 at 1). The Egyptian passport expired in February 2002. On June 19, 2008, he surrendered it to his facility security officer, who destroyed it (AX M).

Applicant married an Egyptian woman in March 1973. His spouse is a dual citizen of Egypt and Canada. She attempted to emigrate from Canada to the U.S. in 1997, when Applicant returned from Egypt, but was informed she no longer had a visa. She remained in Canada and became a Canadian citizen. She moved from Canada to the U.S. in August 2004, sponsored by Applicant. She is now a permanent alien resident of the U.S. and resides with Applicant. She intends to apply for U.S. citizenship (Tr. 67). They have one son, who is a U.S. citizen (Tr. 67). His spouse's mother and brother are citizens of Egypt. Her mother lives in Egypt and her brother lives in Saudi Arabia where he works for a construction company. Her brother supports their mother, who is not employed and lives alone (Tr. 85).

Applicant's parents are deceased (Tr. 62). He has a brother who became a naturalized U.S. citizen in March 1993 and resides in the U.S. He has two sisters who are citizens and residents of Egypt. Both sisters are married to Egyptian citizens and are housewives. They both live in Cairo. One sister is married to a retired artist, and she

has two children, a son who is a medical doctor and a daughter who is a pharmacist and a citizen and resident of England (Tr. 71-72). His other sister is married to a retired engineer and has two daughters, one a software engineer and another who is not working (Tr. 72). He contacts his sisters one or two times a year by telephone. Neither sister nor their spouses are connected to any foreign government and neither sister is aware that Applicant is being considered for a security clearance. He has not visited either sister in person since 1995 (GX 1 at 19-21; GX 6 at 2; GX 7 at 2).

Applicant receives military retirement pay of about $500 a month from the Egyptian government (Tr. 62). He and his family also are entitled to health care benefits in Egypt, based on his status as a retired military officer. He is unwilling to renounce his Egyptian citizenship because he would forfeit his retirement pay if he did so (Tr. 74-75).

Applicant has rented an apartment in Cairo, Egypt since 1971. He has kept it because he has a grandfathered lease that costs him only about $5 per month. He estimates it would now cost $400-500 per month for a comparable apartment. He has not used it since he moved to the U.S. and became a U.S. citizen, except for a short time when he visited Egypt in 2007 in an unsuccessful attempt to arrange a marriage for his son (AX J at 4; GX 7 at 1; Tr. 73, 80).

Applicant purchased a home in the U.S. in 1998. The loan is paid off, and the house is worth about $140,000 (Tr. 77). He has about $25,000 in his retirement account Tr. 78).

I have taken administrative notice of the following facts. Egypt is a republic with a strong executive, a legislature with 444 popularly elected members and 10 members appointed by the president, and a judicial system based on the continental legal system. Under the current president, the courts have demonstrated increasing independence, and the principles of due process and judicial review have gained wider acceptance. Egypt is the most populous country in the Arab world, with a developing economy and one of the largest armed forces in the region. The U.S. and Egypt have a strong and friendly relationship based on shared interests in achieving Middle East peace, regional security and stability, and strong economic relations. The U.S. has provided Egypt with extensive military and economic assistance, and has helped Egypt to modernize its armed forces. The two countries regularly engage in combined military exercises, including deployments of U.S. forces to Egypt. Although Egypt has suffered a series of deadly terrorist attacks, its strong opposition to terrorism and its effective intelligence and security services have made Egypt unattractive to terrorist groups. Nevertheless, the northern Sinai region is a haven for criminal networks that smuggle weapons and funds among Egypt, Gaza, and Israel. Terrorist organizations, including those operating in Egypt, target the U.S. for intelligence to exploit and undermine U.S. national security interests. Egypt's human rights record is generally poor because of limitations on political activity, arbitrary arrest, prolonged detention, poor prison conditions, and torture and abuse of detainees.

Policies

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the revised adjudicative guidelines (AG). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's over-arching adjudicative goal is a fair, impartial and common sense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the Applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." *See* Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is not necessarily a determination as to the loyalty of the applicant. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance

Initially, the government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The government has the burden of establishing controverted facts alleged in the SOR. *See Egan*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." *See v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. *See* ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant 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). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; *see* AG ¶ 2(b).

Analysis

Guideline B, Foreign Influence

The SOR alleges Applicant's spouse is a dual citizen of Egypt and Canada and resides with him in the U.S. (¶ 1.a); his brother is a dual citizen of Egypt and the U.S. and resides in the U.S. (¶ 1.b); his two sisters are citizens and residents of Egypt (¶ 1.c); he receives military retirement pay from Egypt based on his service in the Egyptian army (¶ 1.d); he owns an apartment in Egypt (1.e); and he traveled to Egypt "in at least or after" March 2007 (¶ 1.f). The security concern under this guideline is set out in AG ¶ 6 as follows:

> Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.

Guideline B is not limited to countries hostile to the United States. "The United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States." ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004).

Furthermore, friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security. Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. *See* ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at **15-16 (App. Bd. Mar. 29, 2002). Nevertheless, the nature of a nation's government, its relationship with the U.S., and its human rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, or the country is known to conduct intelligence operations against the U.S. In considering the nature of the

government, an administrative judge must also consider any terrorist activity in the country at issue. *See generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006) (reversing decision to grant clearance where administrative judge did not consider terrorist activity in area where family members resided).

At the hearing, Applicant displayed some antipathy and resentment toward Egypt as a result of his forced retirement from the Army and treatment as a second class citizen because of his religion. Antipathy toward a foreign government is not dispositive under Guideline B, because a person can be vulnerable to foreign influence without having any positive or favorable feelings toward the foreign government. *See* ISCR Case No. 99-0424 at 36-37 (App. Bd. Feb. 8, 2001), 2001 DOHA LEXIS 59.

A disqualifying condition under this guideline may be raised by "contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion." AG ¶ 7(a). In assessing whether there is a "heightened risk," the issue is whether the risk of foreign influence is greater than it would be if the person resided in the U.S. The term "foreign" is broader than officially recognized governments and extends to non-U.S. and anti-U.S. groups operating in a foreign country. "[T]here is a rebuttable presumption that a person has ties of affection for, or obligation to, the immediate family members of the person's spouse." ISCR Case No. 01-03120, 2002 DOHA LEXIS 94 at * 8 (App. Bd. Feb. 20, 2002). The totality of an applicant's family ties to a foreign country as well as each individual family tie must be considered. ISCR Case No. 01-22693 at 7 (App. Bd. Sep. 22, 2003).

The citizenship and residences of Applicant's mother-in-law and grandchildren were not alleged in the SOR. However, conduct not alleged in the SOR may be considered: "(a) to assess an applicant's credibility; (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation; (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for whole person analysis under Directive Section 6.3." ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006) (citations omitted). Additionally, the Appeal Board has determined that even though crucial security concerns are not alleged in the SOR, the Judge may consider those security concerns when they are relevant and factually related to a disqualifying condition that was alleged in the SOR. ISCR 05-01820 at 3 n.4 (App. Bd. Dec. 14, 2006) (citing ISCR Case No. 01-18860 at 8 (App. Bd. Mar. 17, 2003) and ISCR Case No. 02-00305 at 4 (App. Bd. Feb. 12, 2003)). I have considered the evidence concerning Applicant's mother-in-law, brother-in-law, and grandchildren for the limited purpose of evaluating the totality of his family ties in Egypt, evaluating his vulnerability to indirect foreign influence exercised through his spouse and sisters, and in my whole person analysis set out below. I conclude AG ¶ 7(a) is raised.

A disqualifying condition also may be raised by "connections to a foreign person, group, government, or country that create a potential conflict of interest between the

individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information." AG ¶ 7(b). For the same reasons applicable to AG ¶ 7(a), I conclude AG ¶ 7(b) also is raised.

A security concern may be raised if an applicant is "sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion" AG ¶ 7(d). Applicant's spouse obtained Canadian citizenship after leaving Egypt, and she now resides in the U.S. and intends to become a U.S. citizen. Her dual citizenship, based solely on her place of birth and parentage, does not raise a significant security concern. However, the presence of her mother in Egypt raises a "heightened risk" of indirect attempts to influence Applicant through his spouse and her mother. Based on the presence of Applicant's mother-in-law in Egypt, I conclude AG ¶ 7(d) also is raised.

A security concern also may be raised by "a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign-operated business, which could subject the individual to heightened risk of foreign influence or exploitation." AG ¶ 7(e). Although Applicant's apartment is now quite valuable, his reluctance to surrender it is based on its bargain rental rate, not its resale value or sentimental value. Because it is a rental property, it has no resale value to Applicant. He has used it only once since he moved to the U.S. On the other hand, his military retirement pay is economically important to him. I conclude that his entitlement to continued military retirement pay raises AG ¶ 7(e).

Since the government produced substantial evidence to raise the disqualifying conditions in AG ¶¶ 7(a), (b), (d), and (e), the burden shifted to Applicant to produce evidence to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the government. *See* ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

Security concerns under this guideline can be mitigated by showing that "the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S." AG ¶ 8(a). Applicant has infrequent contact with his sisters and their families, but has feelings of obligation toward them. He has not rebutted the presumption that he has feelings of affection or obligation toward his mother-in-law. Egypt and the U.S. are friends and allies, and there is no evidence that Egyptian intelligence services target the U.S. Thus, it is unlikely that the Egyptian government would cut off Applicant's military retirement pay to gain information from him. Nevertheless, terrorist and criminal elements operating in Egypt pose the threat of placing Applicant in a position of having to choose between the interests of his family members and the interests of the U.S. I conclude AG ¶ 8(a) is not established.

Security concerns under this guideline also can be mitigated by showing "there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest." AG ¶ 8(b). Applicant's sense of loyalty or obligation to Egypt appears to be minimal, but his sense of loyalty or obligation to his family members is not minimal. On the other hand, he has longstanding relationships and loyalties to the U.S. He worked for the U.S. Embassy in Cairo for almost nine years after his retirement for the Egyptian Army. He was trusted and highly regarded by embassy officials. He also worked for almost 11 years at the American University in Cairo, a non-governmental organization, but one that projects U.S. influence in the area. He has worked for U.S. government contractors continuously since 1997. He, his son, and his brother are U.S. citizens, and his spouse intends to become a U.S. citizen. He owns a home in the U.S. He allowed his Egyptian passport to expire in 2002, and he used his U.S. passport when he visited Egypt in 2007. He recently surrendered his expired passport to his facility security officer so that it could be destroyed. I conclude AG ¶ 8(b) is established.

Security concerns under this guideline also may be mitigated by showing that "contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation." AG ¶ 8(c). There is a rebuttable presumption that contacts with an immediate family member in a foreign country are not casual. ISCR Case No. 00-0484 at 5 (App. Bd. Feb. 1, 2002). Applicant's contacts with his sisters are infrequent, but he has not rebutted the presumption that they are not casual. I conclude AG ¶ 8(c) is not established.

Applicant's travel to Egypt was solely to assist his son in an unsuccessful attempt to marry an Egyptian woman. He used his U.S. passport for this visit. I conclude his visit to Egypt in March 2007 has no independent security significance. *See* ISCR Case No. 02-26978 (App. Bd. Sep 21, 2005).

Guideline C, Foreign Preference

The SOR alleges Applicant served in the Egyptian Army for 18 years while an Egyptian citizen and before becoming a U.S. citizen (¶ 2.a), he desires to retain his Egyptian citizenship to remain eligible to receive his military retirement pay (¶ 2.b), and he receives military retirement pay from the Egyptian Army (¶ 2.c).

The concern under this guideline is as follows: "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." AG ¶ 9. Dual citizenship standing alone is not sufficient to warrant an adverse security clearance decision. ISCR Case No. 99-0454 at 5, 2000 WL 1805219 (App. Bd. Oct. 17, 2000). Under Guideline C, "the issue is not whether an applicant is a dual national, but rather whether an applicant shows a preference for a foreign country through actions." ISCR Case No. 98-0252 at 5 (App. Bd. Sep 15, 1999).

A disqualifying condition under this guideline may arise from "exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen," including but not limited to "military service," "accepting educational, medical, retirement, social welfare, or other such benefits from a foreign country" or "using foreign citizenship to protect financial or other business interests in another country." AG ¶¶ 10(a)(2), (3) and (4). Applicant's military service occurred before he became a U.S. citizen, and it does not raise a disqualifying condition. However, his acceptance of military retirement pay and the medical benefits associated with his status as a retired military officer and his unwillingness to cause termination of his retirement pay by relinquishing his Egyptian citizenship raise this disqualifying condition, shifting the burden to him to rebut, explain, extenuate, or mitigate the facts.

Security concerns under this guideline may be mitigated by evidence that "dual citizenship is based solely on parents' citizenship or birth in a foreign country." AG ¶ 11(a). Applicant acquired Egyptian citizenship at birth, but he has continued to exercise it by receiving military retirement pay from the Egyptian government. Thus, I conclude AG ¶ 11(a) is not established. No other enumerated mitigating conditions are established.

Whole Person Concept

Under the whole person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all the circumstances. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

> (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 extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent 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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall common sense judgment based upon careful consideration of the guidelines and the whole person concept. Some of the factors in AG ¶ 2(a) were addressed above, but some warrant additional comment.

Applicant is a mature, well-educated adult with strong ties to the U.S. and a long record of service to the U.S. He does not have the financial resources to retire, and he feels that an adverse clearance decision will cost him his current job. He has a modest income, and he relies on his military retirement pay to support himself and his family. However, "the consequences to an applicant's career and the financial well-being of

himself or his family are not a relevant consideration in an adjudication of an applicant's security eligibility." ISCR Case No. 02-09220 at 5 (App. Bd. Sep. 28, 2004). Applicant made it clear at the hearing that he is unwilling to relinquish his military retirement pay.

After weighing the disqualifying and mitigating conditions under Guidelines B and C, and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns based on foreign influence, but he has not mitigated the security concerns based on his exercise of Egyptian citizenship. Accordingly, I conclude he has not carried his burden of showing that it is clearly consistent with the national interest to grant him eligibility for access to classified information.

Formal Findings

I make the following formal findings for or against Applicant on the allegations set forth in the SOR, as required by Directive ¶ E3.1.25 of Enclosure 3:

Paragraph 1, Guideline B (Foreign Influence):	FOR APPLICANT
Subparagraphs 1.a-1.f:	For Applicant
Paragraph 2, Guideline C (Foreign Preference):	AGAINST APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraph 2.b:	Against Applicant
Subparagraph 2.c:	Against Applicant

Conclusion

In light of all of the circumstances, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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LeRoy F. Foreman
Administrative Judge