



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)
)
) ISCR Case No. 07-18831
)
)
Applicant for Security Clearance)

Appearances

For Government: Fahryn E. Hoffman, Esquire, Department Counsel
For Applicant: *Pro Se*

October 31, 2008

Decision

CREAN, Thomas M., Administrative Judge:

Applicant submitted his Electronic Questionnaire for Investigation Processing (e-QIP) on November 15, 2005. On May 19, 2008, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing security concerns for Applicant under Guideline B, Foreign Influence. 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 MAY 23, 2008. He answered the SOR in writing on May 27, 2008, admitting all factual allegations in the SOR with a detailed explanation. He requested a hearing before an administrative judge. Department counsel was prepared to proceed on September 2, 2008, and I was assigned the case on September 4, 2008. DOHA issued a notice of hearing on September 15, 2008, and I convened the hearing as scheduled on October 9, 2008. The government offered two exhibits, marked Gov. Ex. 1-2, which were received without

objection. Applicant submitted nine exhibits, marked App. Ex. A-I, which were received without objection. Applicant testified on his behalf. DOHA received the transcript of the hearing (Tr.) on October 17, 2008. Based upon a review of the case file, pleadings, exhibits, and testimony, eligibility for access to classified information is granted.

Procedural and Evidentiary Rulings

Request for Administrative Notice

Department Counsel submitted requests for administrative notice of certain facts relating to both Iraq and United Arab Emirates (UAE). (Tr. 14-15) The requests and the supporting documents were not admitted into evidence but were included in the record as Hearing Exhibits 1 and 2. Applicant had no objection to the requests for administrative notice and the attached documents. The facts administratively noticed are set out in the Findings of Fact.

Findings of Fact

After a thorough review of the pleadings, transcript, and exhibits, I make the following essential findings of fact. Applicant admitted the factual allegations in the SOR with explanation.

Applicant is a 41-year-old interpreter/translator who has worked for a defense contractor at a sensitive location performing sensitive translations. He worked at that location for about a year until the SOR was issued. He held an interim security clearance during that time. He is highly regarded and valued by the United States military for his work as an interpreter (Tr. 30-31, 43-44; App. Ex. A, Letter of Recommendation, dated December 22, 2006; App. Ex. B, Letter, dated December 22, 2006; App. Ex. C, Service certificate, undated; App. Ex. D, Performance Certificate, dated December 19, 2006; App. Ex. E, Performance Certificate, dated February 2006). He is now working for another defense contractor as an interpreter/translator on non-classified material. He will resume working for the defense contractor as an interpreter/translator when cleared for access to classified information. He is also employed as a furniture salesman when he is not working as a translator/interpreter. He is married with four children. His wife and children were all born in United States and are United States citizens (Tr. 27-31, 41-43; Gov. Ex. 1, e-QIP, dated November 15, 2005)

Applicant was born in Iraq in 1967. His father worked in the United Arab Emirates (UAE) while the family stayed in Iraq. The situation for the family because of religious, ethnic, and political issues and their father's absence became intolerable, so in 1974 the family moved to the UAE to be with their father. Applicant was seven years old at the time. Neither Applicant nor his family members have been to Iraq since they left in 1974.

Applicant lived in the UAE from 1974 until 1993. He completed his schooling, through high school, in the UAE. He tried to become a UAE citizen in 1983 when he completed high school, and again in 1989. He did not qualify for UAE citizenship. He also tried to join the UAE Air Force in 1983 after graduating from high school. The only way to become a UAE citizen is to marry a UAE citizen. A person can also be sponsored for UAE citizenship by a member of the royal family. Since Applicant did not marry a UAE citizen and did not have royal family connections, he was arbitrarily denied UAE citizenship (Tr. 29-35, 80-81; Gov. Ex. 2, Interrogatories, dated April 14, 2008).

Applicant and his sister came to the United States on November 15, 1993, for a visit, and he remained. He has been in the United States for the last 15 years. He received his permanent resident card in 1995 shortly before his original visa for the United States expired. He married his wife in November 1994, and became a United States citizen as soon as he could in July 2000 (Tr. 35-37). He has never been to Iraq since he left in 1974. He returned to the UAE to see his family twice since coming to the United States. He returned in February 2005 when his mother was sick, and October 2007 to visit for the religious holidays. He stays with his relatives when he visits. He also has visited two nephews in Canada who he visited a number of times. The last time was a few weeks before the hearing to celebrate the end of a religious period (Tr. 25-26, 59-61, 78-81).

Applicant and his wife own the house in which they reside. They also own a former residence now a rental house in another state. Both houses have a mortgage. He also has a checking and savings account in a bank in the United States. Applicant's wife is a customer service representative for a retail chain. Neither Applicant nor his wife own any foreign property or have any foreign assets. He does not belong to any professional or cultural organizations and he has no business or professional contacts outside the United States (Tr. 36-43).

Applicant had an Iraqi passport when he came to the United States in 1993. The passport expired in 1995. He returned the expired passport to the Iraqi Embassy on January 11, 2007. He also informed the Embassy that he renounced his Iraqi citizenship (Tr. 28, App. Ex. G, Postal Receipt, dated January 11, 2007). Applicant believed he was not considered an Iraqi citizen when he received his United States permanent residence status and his Iraqi passport had expired. (Tr. 48-50). Applicant was issued a United States passport on February 26, 2001, shortly after becoming a United States citizen (See Gov. Ex. 2, Interrogatories, dated April 14, 2008 at exhibit B).

Applicant admits his mother, four brothers, and two sisters are citizens of Iraq but residents of the UAE. He admits that two sisters and their husbands are citizens and residents of the UAE. He admits he has a childhood friend who is a citizen and resident of the UAE, and a member of the UAE Air Force. He also admits to traveling to the UAE in 2005 and 2007 (See Response to SOR, dated May 27, 2008).

Applicant's mother was born in Iraq in 1941 and lived there until she emigrated to the UAE with her children in 1974. The family moved because they were living in a Baghdad neighborhood where she was home alone with four daughters and no husband residing in the home. Their family was not of the same religion of the neighbors. She also wanted to reunite and live with her husband and the children's father. Applicant's mother is not employed outside the home, and is supported by Applicant's brother and sisters with whom she lives. Applicant will occasionally send her money, usually during religious holidays. However, she does not talk to him because she is upset with him for unknown reasons. When they did talk, they discussed her health and his sibling. His mother came to the United States to visit him in 2003 or 2004 and stayed for a month. She receives her health care through the UAE health clinics. Applicant believes his mother visited Iraq a few times after she left there until the Iraqi invasion of Kuwait. She has not visited Iraq since then. It is not considered safe for his family to go to Iraq because of terrorism and the constant fighting between the Sunni and Shi'ite religious groups. His mother cannot become a UAE citizen because UAE citizenship can be obtained only if the person marries a UAE citizen or is sponsored by the royal family (Tr. 43-48). Applicant has distant relatives in Iraq but has no contact with them. His mother has contact with them about once a year. She has sent them some money to assist them, usually during the religious holidays (Tr. 48-56, 58-59).

Applicant has four brothers and four sisters, all residents of UAE. All except two sisters, who are married to UAE citizens, may be citizens of Iraq. When the family left Iraq in 1974, they carried the "S" series Iraqi passport. Iraqi citizens with this passport are considered to have the "Ottoman" citizenship which is no longer recognized by the new Iraqi government. The family members, to include his mother, brothers, and non-UAE citizen sisters, tried to get new updated passports but their requests were denied. In effect, Applicant's family members in UAE, except for the two married sisters, are not citizens of any country (Tr. 48-54; App. Ex. F, U.S. State Department notice on "S" type Iraqi passports, dated October 8, 2008).

Applicant's oldest brother is a real estate agent in UAE. He is married with four children, two of which live in Canada. Applicant talks to his brother monthly during calls initiated by either of them. Applicant has sent him funds when he needs it for prescription drugs and food. Another brother is a maintenance inspector for a government agency, has three children, and lives in the same house with his mother. Applicant last talked to this brother in October 2007 during his visit to UAE. Another brother is an actor in commercials. He also has three children and lives in the same house with his mother. He talks to this brother about once every other month. His fourth brother works in advertising, has two sons, and also lives in the same house with their mother. Applicant usually communicates with him over the internet on a monthly basis (Tr. 61-66).

One of Applicant's sisters is a homemaker and married to a UAE citizen who is a petroleum engineer working for a UAE government agency. He talks to her about once every few months. They last talked before the latest religious holiday. Another sister is

also a homemaker and married to a UAE citizen who works as a communications engineer for a government agency. This sister and her husband were educated in the United States. His two brothers-in-law are not fully supportive of United States foreign policy. These two sisters are citizens of the UAE since they married UAE citizens (Tr. 66-73). He has two other sisters, one is married and a housewife, the other is not married and a doctor. They are not citizens of the UAE even though the housewife is married to a UAE citizen and eligible for UAE citizenship. Applicant has borrowed money from his sisters when he needed it and also sent them money when they needed it. He does not talk to his mother, siblings, or in-laws about his work. None of his brothers or brothers-in-law served in the UAE military (Tr. 73-77, 81-83).

Applicant's boyhood friend is a pilot and officer in the UAE Air Force. His friend visited him in the United States twice when the friend was sent to the United States for additional training. He also talks to him about once or twice a year by telephone (Tr. 83-87).

A United States led coalition in 2003 removed the Ba'ath regime from power in Iraq after more than 30 years of rule. A new democratic government is being formed with citizens participating in democratic elections. However, remnants of the former regime, transnational terrorists, and criminal elements remain very active in the country. There are continuous attacks against military and civilian targets. There are planned and random killings, extortions, and kidnappings. There were reports of arbitrary deprivation of life, torture, impunity, and poor prison conditions. Civic life and the social fabric remained under intense strain from the active insurgency, as well as from a continuing shortage of basic services and staples. However, the new government's success in building an accommodating structure for the exercise of civil liberties, although burdened by the heritage of dictatorship and disregard for law, was clearly shown in the citizens' embrace of freedoms of speech and press, peaceful assembly, association, and religion. While major problems still remain, they are of a far less magnitude and nature than previously (See Hearing Exhibit 1).

The UAE is a federation of individual ruled emirates. The government is a federal republic with a president and council of ministers. Its laws and practices come from Islamic ideals and beliefs. Only 15% to 20% of the people living in the UAE are considered citizens. Educational standards are high and continue to improve.

The UAE has significant gas and oil reserves which are expected to last into the next century. This gives the UAE significant resources to invest around the world. The UAE is a member of the United Nations, the Arab League, and the Gulf Cooperation Council. It has diplomatic relations with more than 60 countries including the United States and the other major industrial nations. UAE is also active in the Organization of Petroleum Exporting Countries and the Organization of Arab Petroleum Exporting Countries.

The United States and UAE have had friendly relations since 1971. Friendly petroleum commercial relations developed into friendly government-to-government ties

including security assistance. The relationship increased dramatically as a result of the United States led coalition campaign to end the Iraqi occupation of Kuwait in 1991. In 2002, the United States and the UAE launched a strategic partnership dialogue covering virtually every aspect of the relationship. The UAE has been a key partner in the War on Terror, and UAE ports host more U.S. Navy ships than any other port outside the U.S. While the UAE has cooperated with the United States on terrorism, the UAE was one of three countries to recognize the Taliban rule in Afghanistan.

The country is one of the leading United States and coalition partners in the region against terrorism, providing military, diplomatic and financial assistance. In general, United States intelligence agencies report that terrorists have targeted United States personnel and interests to collect intelligence through human espionage and by other means. Travelers are advised by the State Department to be cautious of their surroundings and to maintain a high level of vigilance.

There are limited human rights problems due to lack of elections, a questionably independent judiciary, and restrictions on civil liberties in the UAE. There are no reports of arbitrary or unlawful deprivation of life and no politically motivated disappearances. There are no reports of torture which is prohibited by the constitution. However, flogging is a recognized punishment. Prison conditions vary throughout the country with women receiving better treatment than men. Arbitrary arrests and detention are prohibited but there are reports of the government holding people without charges. While the law prohibits arrests and searches without probable cause, incidents do take place in practice. Fair and public but not timely trials are provided. United States' companies have been convicted of violating export control laws for their trading with UAE companies (Hearing Exhibit 2).

Policies

When evaluating an Applicant's suitability for a security clearance, the Administrative Judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an Applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The Administrative Judge's over-arching adjudicative goal is a fair, impartial and common sense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept." The Administrative Judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to

classified information will be resolved in favor of national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the Applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The Applicant has the ultimate burden of persuasion as to obtaining a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. 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.

Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline B: Foreign Influence

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 the United States interests, or is vulnerable to pressure or coercion by any foreign interests. 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 consideration 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 (AG ¶ 6).

Applicant has foreign contacts through his mother, four brothers, and two sisters who are considered for security clearance purposes citizens of Iraq but residents of the UAE. He also has foreign contacts with two sisters and their husbands who are citizens and residents of the UAE. He also has foreign contact with a boyhood friend who is a citizen and resident of the UAE and an officer in the UAE Air Force. The government

has established that these contacts raise security concerns under Foreign Influence Disqualifying Conditions (FI DC) AG ¶ 7(a) "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"; and FI DC AG ¶ 7(b) "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". Each individual contact by itself may not create a risk of foreign influence, but the totality of the contacts may indicate a risk of foreign influence.

The government has alleged in the SOR a security concern because Applicant's family members are citizens of Iraq. The government established the allegation of Iraqi citizenship based solely on the admission of Applicant in his response to the SOR that his family members are citizens of Iraq. However, Applicant credibly testified that he and his mother and siblings left Iraq in 1974 for the UAE because of political and social pressures in Iraq and to join their father who was working in the UAE. The family has not been back to Iraq in 34 years. Applicant has not been to Iraq since he left at age seven. The present Iraqi government does not consider the family members Iraqi citizens since they did not vote in the latest elections held by the new government. The family members hold only the "S" series Iraqi passport which is no longer recognized as valid by the Iraqi government. Iraq will not issue them a new passport because they are not considered Iraqi citizens. In addition, the family members not married to UAE citizens cannot become citizens of the UAE under the UAE criteria for citizenship. They are in fact stateless people. They have no country in which they can call themselves citizens. Applicant has no contact or connection to any persons now in Iraq. His mother occasionally talks to distant relatives still residing in Iraq. While the country of Iraq presents security clearance issues, I find under the circumstances that Applicant and his family have such minimal contacts with Iraq that there is no security concern based on Iraqi citizenship of the family. There still remains a security concern for the contacts Applicant has with his family members residing in the UAE.

Under the old adjudicative guidelines, a disqualifying condition based on foreign family members could not be mitigated unless an applicant could establish that the family members were not "in a position to be exploited." The Appeal Board consistently applied this mitigating condition narrowly, holding that its underlying premise was that an applicant should not be placed in a position where he is forced to make a choice between the interest of the family member and the interest of the United States. (See, ISCR Case No. 03-17620, (App. Bd, Apr. 17, 2006); ISCR Case No. 03-24933, (App. Bd. Jul. 28, 2005); ISCR Case No. 03-02382, (App. Bd. Feb. 15, 2005); and ISCR Case No. 03-15205, (App. Bd. Jan. 21, 2005)). Thus, an administrative judge was not permitted to apply a balancing test to assess the extent of the security risk. Under the new guidelines, however, the potentially conflicting loyalties may be weighed to determine if an applicant can be expected to resolve any conflict in favor of the U.S. interest.

Since Applicant admitted the SOR allegations and the government produced substantial evidence by way of exhibits to raise the disqualifying conditions in AG ¶ 7(a), and (b), the burden shifted to Applicant to produce evidence to rebut, explain, extenuate, or mitigate the security concerns (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)).

In determining if Applicant's contacts with his family members and friend in UAE cause security concerns, I considered that UAE is an ally of the United States, has a defense agreement with the United States, and is one of the United States' trading partners. I considered that UAE is a member of the United Nations, the Arab League, the Gulf Cooperating Counsel, and other international organizations. I also considered the United States relationship with the UAE. More United States Navy ships make port visits to the UAE than any port outside the United States. The UAE partners with the United States and other countries in the fight against global terrorism. There are no indications that the UAE targets United States citizens to provide economic or other sensitive information. There are issues of terrorist activities in the UAE but not any more than in any other country.

While the UAE is a country that is friendly to the United States, it could engage in espionage against United States interests. Friendly countries may have profound disagreements with the United States and some have engaged in espionage against United States economic, scientific, or technical interests. A friendly relationship is not determinative, but it makes it less likely that a foreign government would attempt to exploit a United States citizen through relatives or associates in that country. The UAE is not a hostile country, nor are its interests inimical to the United States. The United States and UAE are democracies, enjoy good relations, and are trading partners. It would be considered an act unfriendly to the interest of the United States for the UAE to coerce its residents to pressure their United States relatives to provide economic or other espionage information against the interest of the United States. It is reasonable to consider that UAE would not take any action to jeopardize their friendly position with the United States because of their need for trade and defense assistance from the United States. There is terrorism in the UAE but it is no more prevalent than in any other country. UAE does take steps to limit terrorist activities. The threat of terrorist action against residents of the UAE to coerce United States citizens is no greater than most other countries in the region. While none of the considerations by themselves dispose of the issue, they are all factors to be considered in determining Applicant's vulnerability to pressure or coercion from his family members in UAE.

Applicant has raised Foreign Influence Mitigating Conditions (FI MC) ¶ 8(a) "the nature of the relationship 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 interest of the United States". Applicant's mother is a housewife who lives with some of her children and their families. Applicant's siblings and their spouses are professionals who

worked for both private businesses and the UAE government. Applicant talked to his mother frequently in the past even though now they do not talk as much. He talks to his various siblings more often. Applicant made two trips to UAE since he left there in 1993 to come to the United States. His mother has visited him and his family in the United States. Some of his siblings and their spouses have been educated in the United States.

It is clear that there is a close family relationship. His contacts with his immediate family are frequent and not casual. The information Applicant presented concerning his family members' living conditions, life style, and professions show it is unlikely Applicant will be placed in a position to choose between the interests of his family in the UAE and the interests of the United States. Applicant established his family members in UAE are ordinary citizens leading normal lives, and that they do not present a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion. The positions and activities of his family and the nature of the UAE government and terrorist activities show that it is unlikely that Applicant will be placed in a position of being coerced or pressured to choose between these people and his interests in protecting the national security of the United States. FI MC ¶ 8(a) applies.

Applicant also raised FI MC ¶ 8(b) "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 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". Applicant's vulnerability to duress is also important. Applicant has been in the United States for over 15 years, and a United States citizen for over eight years. His wife is a native born citizen and resident of the United States. His four children were born in the United States and reside in the United States with their parents. Applicant's assets are in the United States. Applicant's two trips to UAE were to visit family. He visited his sick mother and for a religious holiday. He traveled on his United States passport. I also considered that Applicant performed very well for the United States in a sensitive and important task in defense of the United States (See ISCR Case No. 07-000343 at 2 (App. Bd. Feb. 5, 2008), ("an applicant's proven record of action on defense of the U.S. is very important and can lead to a favorable result for an applicant in a Guideline B case"). Applicant has a normal sense of loyalty or obligation to his family in UAE. But he also has long standing relationship and connections in the United States. He has demonstrated that these relationships will lead him to resolve any conflict of interest in favor of the United States. Applicant has demonstrated that he is not unusually vulnerable to duress. FI MC ¶ 8(b) applies.

Applicant raised in regard to his boyhood friend FI MC ¶ 8(c) "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". Applicant has the burden of presenting information to refute, extenuate, or mitigate the security concerns raised by the government. Applicant's contacts with his boyhood friend who is a member of the UAE Air Force are casual and infrequent. He has seen the friend when the friend came to the United States for training with the United States Air Force.

He saw him on his visits to the UAE. Their telephone or e-mail contacts are minimal, usually to exchange greetings during religious holidays. There is little likelihood that the contacts with his friend could create a risk for foreign influence or exploitation. Accordingly, FI MC 8(c) applies to his friend in UAE.

In sum, Applicant has met his heavy burden to show that the contacts with his family and friend in the UAE do not cause a security concern. I conclude the Foreign Influence Mitigating Conditions, at AGs ¶¶ 8(a), (b), and (c), are established.

Whole Person Concept

Under the whole person concept, the 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. The 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) 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.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances in this case. The "whole person" concept requires consideration of all available information about Applicant, not a single item in isolation, to reach a common sense determination concerning Applicant's security worthiness. Applicant's family in UAE both individually and collectively are not in positions and circumstances that make it likely Applicant will be placed in a position to choose between the interests of his family and the interest of the United States, or that he can be exploited, pressured, or coerced because of them. His contacts with his family in UAE are strong but they do not create a conflict of interest between the family members and his loyalty to the United States. Applicant has been in the United States for over 15 years and a citizen of the United States for over eight years. His wife and children were born here and are United States citizens. He performed well and successfully in defense of the United States in a sensitive position. His travels to UAE were for pleasure to visit family members and not connected to the UAE government. He established that his contacts with his family and friend in UAE do not indicate a security risk.

Applicant's life story is an example of the success of many immigrants to the United States. He came to the United States to better himself through education. He remained here, became a United States citizen, established himself in his community, and worked to obtain a better life in the United States. He performed well in a sensitive position in defense of the United States. His family enjoys a typical United States life style and he successfully contributed to the United States. Overall, on balance the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising from foreign influence.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline B:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

THOMAS M. CREAN
Administrative Judge