



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



In the matter of:)
)
-----) ISCR Case No. 08-01209
SSN: -----)
)
Applicant for Security Clearance)

Appearances

For Government: Fahryn Hoffman, Esquire and
Tovah Minster, Esquire, Department Counsel

For Applicant: *Pro Se*

September 16, 2009

Decision

HARVEY, Mark, Administrative Judge:

Applicant, his father, and his two brothers were born in the United States. In 1997, Applicant moved to the United Kingdom at the behest of his company. In 2004, he became a citizen of the United Kingdom. Between 2004 and 2007, he voted in a U.K. election, used U.K. medical benefits, and obtained a U.K. passport. When he learned these preferences for the United Kingdom raised a serious security concern, he gave his U.K. passport to his security manager, and renounced his U.K. citizenship. He now lives in the United States, and participates in U.S. elections. He has substantial investments in the United States and relatively minimal investments in Spain and the United Kingdom. Foreign preference security concerns are mitigated. Eligibility for access to classified information is granted.

Statement of the Case

On March 18, 2008, Applicant submitted a Security Clearance Application (e-QIP version) (hereinafter SF-86) (Government Exhibit (GE) 1). On March 10, 2009, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to him, alleging security concerns under Guideline C, Foreign Preference (GE 5). The

action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1990), 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. The SOR detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for him, and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

On March 26, 2009, Applicant responded to the SOR and requested a hearing before an administrative judge (GE 6). On May 13, 2009, Department Counsel was prepared to proceed. On May 15, 2009, the case was assigned to me. On May 19, 2009, DOHA issued a hearing notice setting the hearing for June 9, 2009 (GE 4). The hearing was held on June 9, 2009, as scheduled. At the hearing, Department Counsel offered three exhibits (GE 1-3) (Transcript (Tr.) 20), and Applicant offered six exhibits (Tr. 22-24; AE A-F). There were no objections, and I admitted GE 1-3 (Tr. 20-21), and AE A-F (Tr. 22-24). Additionally, I admitted the SOR, response to the SOR and the hearing notice (GE 4-6). On June 17, 2009, I received the hearing transcript. I granted several post-hearing delays to give Applicant time to divest himself of his property and bank accounts in the United Kingdom and to renounce his U.K. citizenship (Tr. 116, 143, 145). On August 14, 2009, Department Counsel provided AE G-S to me, and indicated there was no objection to admission of AE G-S into evidence. On August 15, 2009, I admitted AE G-S into evidence and closed the record that same day.

Procedural Ruling

Applicant and Department Counsel did not object to me taking administrative notice of some facts about the relationship between the United States and the United Kingdom (Tr. 117). See the United Kingdom section of the Findings of Fact of this decision, *infra*, for the facts administratively noticed. The information administratively noticed is from "Background Note: United Kingdom," (March 2009), from the U.S. Department of State website. The documents from the Department of State website pertaining to the United Kingdom are labeled Hearing Exhibit I and attached to Applicant's Exhibits.

Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 05-11292 at 4 n.1 (App. Bd. Apr. 12, 2007); ISCR Case No. 02-24875 at 2 (App. Bd. Oct. 12, 2006) (citing ISCR Case No. 02-18668 at 3 (App. Bd. Feb. 10, 2004) and *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n.4 (3d Cir. 1986)). Usually administrative notice in ISCR proceedings is accorded to facts that are either well known or from government reports. See Stein, *Administrative Law*, Section 25.01 (Bender & Co. 2006) (listing fifteen types of facts for administrative notice).

Findings of Fact¹

Applicant admitted the SOR allegations in his response to the SOR with explanations (GE 6). His admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence of record, I make the following findings of fact.

Applicant is a 54-year-old engineer employed by a large government contractor (Tr. 6, 25). The same government contractor has employed him for 32 years (Tr. 25). He advises and assists about 50 engineers (Tr. 27). He earned a master's degree in electronic engineering in 1977 (Tr. 6). Applicant has held a Secret clearance since the late 1970s (Tr. 7, 45). When necessary, he has also held a Top Secret clearance and access to Sensitive Compartmented Information (SCI) (Tr. 45). In 1985, his SCI access was revoked because of his mother's connections to Spain (Tr. 46). He does not have any children (Tr. 115).

Applicant became a U.S. citizen at birth (Tr. 26). When he was nine, he and his family moved to Spain (Tr. 27, 28). When he was 11, he moved to England (Tr. 27, 28). He lived in England until he was 18 (Tr. 28). In England, he attended an American curriculum school, and his classmates were all Americans (Tr. 28). Around 1973, he returned to the United States. He attended college in the United States and earned his bachelor and master's degrees (Tr. 29). He has never served in the U.S. military (GE 1). Applicant has two brothers, who were both born in the United States (Tr. 86). One of his brothers has dual U.K. and U.S. citizenship (Tr. 86). Both of his brothers currently live in the United States (Tr. 115). All of his aunts, uncles, and cousins on his father's side of the family live in the United States (Tr. 115).

In 1997, Applicant moved back to England on behalf of his corporate employer (Tr. 30). Approximately every two years, his employer asked him to extend his stay in England, and Applicant agreed to do so (Tr. 31). Every couple of years, Applicant renewed his U.K. work permit, and his company paid the renewal fees (Tr. 60-61). In 2007, Applicant moved back to the United States (Tr. 31).

Applicant married in 1991 and divorced in 2000 (Tr. 33; GE 1). His former spouse was a U.S. citizen (GE 1). He is not currently married. Applicant owns a rental property in the United States that he purchased in 1989 (Tr. 33). His U.S. property does not have a mortgage and is worth about \$350,000 (Tr. 34). Applicant has several U.S. investments in mutual fund-type and brokerage-type accounts (Tr. 35). His net worth is about \$3.5 million (Tr. 36). At his hearing, Applicant estimated 85 percent of his net worth was invested in the United States (Tr. 36). Because he did not need the money that was in his foreign accounts, he did not withdraw any funds from them (Tr. 112). He offered to close the foreign accounts upon request (Tr. 112). Applicant has traveled throughout Europe on several occasions and to Africa (Tr. 57-59).

¹The facts in this decision do not specifically describe employment, names of witnesses or locations in order to protect Applicant and his family's privacy. The cited sources contain more specific information.

In the 1940's, Applicant's mother moved to the United States from Spain (Tr. 108). His mother's brother also came to the United States and married a U.S. citizen (Tr. 109). His mother's brother's children were born in the United States (Tr. 109).

Applicant's father and mother moved to Spain in 2000 or 2001 (Tr. 63). His mother died in 2002. His father is an 87-year-old, blind, U.S. citizen (Tr. 63-65; GE 1). His father once owned three properties in the United States; however, his father subsequently sold his U.S. properties (Tr. 87). Applicant's father was probably allowed to remain in Spain because of his mother's Spanish citizenship (Tr. 69).

Foreign preference and the United Kingdom

Applicant sought citizenship in the United Kingdom in 2004 (SOR ¶ 1.a; Tr. 47, 53-56). When he applied for U.K. citizenship, he did not know his security clearance was still in effect because he had not actually had access to classified information for about eight years (Tr. 97, 132-133). He applied for the U.K. passport because it would facilitate travel throughout Europe (Tr. 62; AE B). He applied for U.K. citizenship because his friends recommended that he essentially become a citizen of Europe (Tr. 99-100; AE B). Another factor was he noted that his father's life in Spain was very comfortable under the circumstances (Tr. 101). Applicant was considering retiring in Europe (Tr. 81). He did not remember the specifics of the ceremony where his U.K. citizenship was approved (Tr. 56). On June 16, 2009, Applicant paid a \$765 fee and filed to renounce his U.K. citizenship (AE G, H). On June 23, 2009, the U.K. embassy acknowledged receipt of his application to renounce his citizenship (AE I). On August 7, 2009, a representative of the U.K. government informed Applicant that he ceased to be a U.K. citizen effective August 7, 2009 (AE S).

On May 26, 2005, Applicant's U.K. passport was issued, and it is scheduled to expire on May 26, 2015 (SOR ¶ 1.b; Tr. 47-48; GE 2). He kept the security office informed about applying for a U.K. passport, and he was ready to relinquish his U.K. passport if it was deemed to cause a security problem (Tr. 68). He brought his U.K. passport to a meeting with an investigator in case the investigator wanted to keep it; however, the investigator did not ask for it (Tr. 98). He offered to relinquish his U.K. passport; however, no one specifically told him that it was very important for him to relinquish his U.K. passport (Tr. 135-136). He used the U.K. passport to enter the United Kingdom (Tr. 83). He did not exclusively use his U.K. passport for his foreign travel. For example, he used his U.S. passport to travel in Africa after receiving his U.K. passport, and to enter the United States (Tr. 83-85). On May 19, 2009, Applicant surrendered his U.K. passport to his facility security officer (Tr. 48, 96; AE A).

In May 2005, Applicant voted in a U.K. election (SOR ¶ 1.c; Tr. 72-74). He made an effort to vote in U.S. elections while he lived in the U.K.; however, the U.S. absentee ballots arrived too late for him to vote (Tr. 74-76). Since returning to the U.S. in 2007, Applicant has not voted in any U.K. elections, and he has voted in a U.S. election (Tr. 76).

Applicant received healthcare benefits funded by the U.K. government (SOR ¶ 1.d; Tr. 65-66, 76-77). The healthcare benefits in the U.K. are available to all and are not limited to those holding U.K. citizenship (Tr. 67, 140-141).

Since September 2002, Applicant has co-owned a house in the United Kingdom that he inherited (SOR ¶ 1.e; Tr. 85). His share of the U.K. home was one sixth (Tr. 36). When there is a tenant in the property, the monthly rent is about \$5,600 (Tr. 42). He paid an annual income tax to the United Kingdom on the rent derived from the property (SOR ¶ 1.e; Tr. 78-79). However, the U.K. taxes paid were subsequently refunded (Tr. 87). He is attempting to ensure his foreign tax paid was accurately and appropriately reflected on his U.S. tax return (Tr. 79). Since approximately 1997, Applicant maintained two bank accounts in the United Kingdom with an estimated \$10,000 in his bank accounts (SOR ¶ 1.h; Tr. 37-38). After his hearing, he closed his bank accounts in the United Kingdom (AE G). He wanted to sell his real estate interests in the United Kingdom; however, he was not able to do so. His family members, who also own a share of the properties, would not consent to a sale while the real estate market is in recession (AE G).

Applicant said he has always been willing to renounce his U.K. citizenship upon request of security officials (Tr. 96-99). He investigated the process for renouncing his U.K. citizenship (Tr. 114). He does not intend to live permanently in the United Kingdom (Tr. 103). He has not purchased property in the United Kingdom (Tr. 103-104). He is looking into purchasing real estate in the United States (Tr. 105).

Foreign preference and Spain

Since September 2002, Applicant has co-owned a condominium (condo) in Spain valued at about \$150,000 that he inherited (SOR ¶¶ 1.f and 1.g; Tr. 36-38, 85). His father lives in the condo (Tr. 37). Some tax was withheld from his bank statement and Applicant is researching whether he can get a refund (Tr. 88-89). Since approximately 2002, Applicant maintained two bank accounts in Spain with a current estimated balance of \$110,000 (SOR ¶ 1.i; Tr. 37-38). He has a part ownership in a time share (similar to a hotel room) in Spain (Tr. 37). He has never used the time-share property (Tr. 90). After his hearing, Applicant closed his bank accounts in Spain (AE G). He wanted to sell his real estate interests in Spain; however, he was not able to do so. His family members, who also own a share of the properties, would not consent to a sale while the real estate market is in recession (AE G).

Character evidence

Applicant provided several character statements from friends, colleagues and a supervisor (AE C-F). Some have known Applicant for many years. They emphasize his loyalty to the United States, dedication, integrity, trustworthiness, and professionalism.

United Kingdom

The United Kingdom has a lengthy democratic tradition, and follows the rule of law. It is a founding member of the North Atlantic Treaty Organization (NATO). The United Kingdom is a nuclear power and a permanent member of the United Nations' Security Council. The State Department succinctly summarizes the national security relationship between the United States and the United Kingdom:

The United Kingdom stood shoulder to shoulder with the United States following the September 11, 2001 terrorist attacks in the U.S., and its military forces are part of the coalition force in Afghanistan. The U.K. force in Afghanistan stood at 8,300 as of March 1, 2009. U.K. forces are primarily based in the Helmand region, where they are on the front line in the war against continued Taliban operations. In addition, the U.K. has contributed more than £510 million (approximately \$723.4 million) to Afghan reconstruction—the second-largest donor after the United States. The U.K. was the United States' main coalition partner in Operation Iraqi Freedom and continues to have troops deployed in Iraq to help stabilize and rebuild the country.

The United Kingdom is one of the United States' closest allies. The two countries were allies in two World Wars, the Korean War, the Cold War, and the first Persian Gulf War. This close relationship is enhanced by common language, ideals, and democratic practices. In addition to being an important trading partner, the United States and the United Kingdom share the world's largest foreign direct investment partnership. In 2007, the United Kingdom's investment in the United States totaled \$411 billion and sustained more than one million U.S. jobs. In 2007, the United States' investment in the United Kingdom totaled \$399 billion.

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no 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 Applicant's 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 overarching adjudicative goal is a fair, impartial and

commonsense 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 [A]pplicant concerned.” See Exec. Or. 10865 § 7. See *also* Executive Order 12968 (Aug. 2, 1995), Section 3. Thus, nothing in this Decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant’s allegiance, loyalty, or patriotism. 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 or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[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

Upon consideration of all the facts in evidence, and after application of all appropriate legal precepts, factors, and conditions, including those described briefly above, I conclude Guideline C (Foreign Preference) is the relevant security concern with respect to the allegations set forth in the SOR.

Foreign Preference

AG ¶ 9 articulates the Government's concern about foreign preference, stating, "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." Conditions under AG ¶ 10 that could raise a security concern and may be disqualifying in this case include:

(a) exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen or through the foreign citizenship of a family member. This includes but is not limited to:

- (1) possession of a current foreign passport;
- (2) military service or a willingness to bear arms for a foreign country;
- (3) accepting educational, medical, retirement, social welfare, or other such benefits from a foreign country;
- (4) residence in a foreign country to meet citizenship requirements;
- (5) using foreign citizenship to protect financial or business interests in another country;
- (6) seeking or holding political office in a foreign country; and
- (7) voting in a foreign election.

(b) action to acquire or obtain recognition of a foreign citizenship by an American citizen;

(c) performing or attempting to perform duties, or otherwise acting, so as to serve the interests of a foreign person, group, organization, or government in conflict with the national security interest; and

(d) any statement or action that shows allegiance to a country other than the United States: for example, declaration of intent to renounce United States citizenship; renunciation of United States citizenship.

Applicant became a U.S. citizen by virtue of his birth in the United States. His parents took him to the United Kingdom and Spain when he was a minor. After completion of his secondary education, Applicant returned to the United States and earned his bachelor and master's degrees. In 1997, he returned to the United Kingdom at the behest of his government contractor employer. In 2004, he became a U.K. citizen. His residency in the U.K. was one factor that supported the United Kingdom's decision to grant him U.K. citizenship. He lived in the U.K. from 2004 to 2007, and received the benefits and performed the obligations of a U.K. citizen. For example, he voted in a U.K.

election, received U.K. medical benefits, and obtained and used a U.K. passport. Disqualifying conditions under AG ¶¶ 10(a)(1), 10(a)(3), 10(a)(4), and 10(a)(7) apply. The decision to become a U.K. citizen as a mature adult and U.S. citizen, as well as statements necessarily made in connection with obtaining U.K. citizenship, establish AG ¶¶ 10(b) and 10(d).

Under AG ¶ 11, conditions that could mitigate security concerns include:

- (a) dual citizenship is based solely on parents' citizenship or birth in a foreign country;
- (b) the individual has expressed a willingness to renounce dual citizenship;
- (c) exercise of the rights, privileges, or obligations of foreign citizenship occurred before the individual became a U.S. citizen or when the individual was a minor;
- (d) use of a foreign passport is approved by the cognizant security authority;
- (e) the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated; and
- (f) the vote in a foreign election was encouraged by the United States Government.

Applicant exercised the rights, privileges, and obligations of U.K. citizenship from 2004 to 2007. Applicant moved back to the United States in 2007. On May 19, 2009, Applicant surrendered his U.K. passport to his facility security officer. In June 2009, Applicant applied to renounce his U.K. citizenship. On August 7, 2009, an agent of the U.K. government informed Applicant that he ceased to be a U.K. citizen effective August 7, 2009. Applicant divested himself of his bank accounts in Spain and the United Kingdom. AG ¶¶ 11(b) and 11(e) apply. Foreign preference security concerns are more fully mitigated under the Whole Person Concept, *infra*.

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) 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 commonsense judgment based upon careful consideration of the guidelines and the whole person concept. I have incorporated my comments under Guideline C in my whole person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

The security concern relating to Spain is mitigated. Applicant's connections to Spain relate to his elderly father living in a condo in Spain, and Applicant's part ownership of that condo as well as his part ownership of a time-share property in Spain. Applicant attempted to divest himself of his property in Spain; however, he was not able to do so because of objections from his family members, who are co-owners. Applicant is not a citizen of Spain, and his connections to Spain are limited. Applicant's connections to the United States are relatively strong, and the evidence of foreign connections or preferences relating to Spain is very limited.

Applicant's relationship with the United Kingdom, and the attributes of foreign preference relating to the United Kingdom raised a bona fide security concern. He obtained and used a U.K. passport, became a U.K. citizen in 2004, and enjoyed the attributes and obligations of U.K. citizenship from 2004 to 2007. He received medical benefits from the U.K. government and voted in a U.K. election. However, once he learned that his actions relating to the United Kingdom raised a security concern, he acted decisively to cut those ties to the United Kingdom. He surrendered his U.K. passport to his facility security officer, renounced his U.K. citizenship, and closed his U.K. bank accounts.

A Guideline C decision concerning the United Kingdom does not require consideration of the geopolitical situations in the United Kingdom, or the dangers existing or not existing in the United Kingdom.² The relationship between the United States and the United Kingdom is especially close in the area of national security. From the time when the United States joined the allies in World War I in 1916 to the present time, the United Kingdom has been one of the United States' closest military and diplomatic allies. Through many of those years, the United States and the United Kingdom confronted the Soviet Union and its satellite countries in Central Europe as part of NATO. Thousands of U.K. military personnel have trained in the United States, and fought along with U.S. military personnel over more than nine decades. Currently, U.K. and U.S. military personnel serve together under combat conditions in Afghanistan and Iraq. The U.S. operates bases in the U.K. This very close relationship is one of

² See *Generally* ISCR Case No. 04-02630 at 3 (App. Bd. May 23, 2007) (remanding because of insufficient discussion of geopolitical situation and suggesting expansion of whole person discussion for Guideline B case). There are no Appeal Board decisions that require a similar analysis of geopolitical matters.

mutual trust, where highly classified information is routinely shared between the United Kingdom and the United States. It is extraordinarily unlikely that officials of the United Kingdom government would ask Applicant to compromise classified information.

Applicant's relationship with the United States is stronger than his relationship with the United Kingdom or any other foreign country. He was born in the United States. He asserts citizenship in one country, the United States. His father and siblings are U.S. citizens. Applicant has chosen to live in the United States. The United States has provided his post-secondary education. He pays taxes to the United States. He owns real estate in the United States and has about 3.5 million dollars invested in U.S. companies. Both of his siblings live in the United States. He has worked for more than 30 years for a U.S. defense contractor, contributing to the national defense of the United States. He recently voted in a U.S. election. I am confident he would inform security authorities of any attempt to obtain classified information from him.

Applicant provided statements from friends, colleagues and supervisors. His character references evidence his dedication, responsibility, trustworthiness, professionalism, reliability, and integrity. Although the possibility of attempted exploitation of Applicant is very low, Applicant's strong connections to the United States and especially to his U.S. defense-related employment establish "such deep and longstanding relationships and loyalties in the U.S., he can be expected to resolve any conflict of interest in favor of the U.S. interest."

After weighing the evidence of his connections to and preference for the United Kingdom, Spain, and the United States, and all the facts in this decision, I conclude Applicant has carried his burden of mitigating the foreign preference security concerns.

I take this position based on the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), my "careful consideration of the whole person factors"³ and supporting evidence, my application of the pertinent factors under the Adjudicative Process, all the evidence in this decision, and my interpretation of my responsibilities under the Guidelines. For the reasons stated, I conclude he is eligible for access to classified information.

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 C:	FOR APPLICANT
Subparagraphs 1.a to 1.i:	For Applicant

³See ISCR Case No. 04-06242 at 2 (App. Bd. June 28, 2006).

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.

Mark Harvey
Administrative Judge