

The SOR alleges security concerns under Guideline F (Financial Considerations) and Guideline B (Foreign Influence). 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 Applicant, and recommended referral to an administrative judge to determine whether a clearance should be granted or denied.

On August 24, 2009, Applicant responded to the SOR allegations and requested a hearing before an administrative judge. Applicant's attorney entered his appearance on September 8, 2009, in a companion case. On September 9, 2009, I granted Applicant's counsel a delay to accommodate his schedule. The case was assigned to me on October 8, 2009, and with all parties' agreement, a joint hearing was scheduled. DOHA issued a notice of hearing on November 3, 2009. The hearing was convened as scheduled on November 25, 2009. Department Counsel offered Government Exhibits (GE) 1 through 7. GE 1-5 were admitted without objection. Applicant objected to GE 6, and the document was not admitted. GE 7 was considered for administrative notice purposes only. Applicant testified and submitted Applicant Exhibits (AE) 1A through 6A, which were admitted without objection. AE 7 was received on December 28, 2009, and admitted over the Government's objections. DOHA received the transcript of the hearing (Tr.) on December 9, 2009. The record was closed on December 28, 2009.

Procedural Issue

At Applicants' request, and with the Government's acquiescence, I conducted a joint hearing. The same attorney represented both Applicant and her spouse (ISCR Case No. 09-02708).

Administrative Notice

Department Counsel requested I take administrative notice of certain facts relating to Egypt. The request and the attached documents were marked and included in the record as Government Exhibit (GE) 7 for identification. Applicant objected to my consideration of GE 7. The documents were considered for administrative notice purposes only.

Findings of Fact

Applicant admitted SOR ¶¶ 2.a, 2.b, 2.e (in part), and 2.f. She denied all remaining allegations. Her admissions are incorporated as findings of fact. After a thorough review of the evidence of record, and having considered Applicant's demeanor and testimony, I make the following additional findings of fact.

Applicant is a 54-year-old Arabic linguist working for a defense contractor. She was born, raised, and educated in the Arab Republic of Egypt (Egypt), where she received a psychology degree in 1979.

Applicant first travelled to the United States in 1979. She and her husband stayed with her husband's Egyptian-born uncle for approximately one year. His uncle is a 76-year-old professor at a U.S. university. Before immigrating to the United States, his uncle was a member of an Arab terrorist organization. He was granted asylum in 1963, became a naturalized U.S. citizen, and has been living in the United States since. He has two U.S. born adult children: one is a professor at a U.S. university and the other a physician (Tr. 105-106).

Applicant knew that her husband's uncle's associated with a terrorist organization when he was a young man. Her spouse disclosed his uncle's affiliation during a background interview (Tr. 193). To Applicant's knowledge, her husband's uncle is no longer associated with any terrorist organizations. Applicant testified she hates her husband's uncle because he is a womanizer and left his wife. She no longer affiliates with his uncle. Applicant and her spouse testified they have never been involved in politics or associated with any terrorist organizations.

Applicant married her spouse in 1977 in Egypt; they immigrated to the United States in 1984. Applicant and her spouse became naturalized U.S. citizens in 1993. They have three adult children who are citizens and residents of the United States. Two of the children were born in Egypt and became naturalized U.S. citizens in 1994. The third child was born in the United States. Applicant worked as a homemaker from 1977 until May 2007, when she took a position with a government contractor as an Arabic linguist.

Applicant's parents are deceased. She has three sisters. Two sisters are resident and naturalized citizens of the United States. The third sister is a citizen and resident of Egypt. Applicant is very close to her. Prior to 2006, they had personal contact every year or every two years. Since 2006, they have telephone contact approximately twice a month (Tr. 102, 123-124). Her sister in Egypt has three children; two of them are U.S. citizens. The third child is applying for a green card. Her and her husband have not worked for the Egyptian government, and they have not been involved in politics, or associated with organizations adverse to the United States. Her husband owns a construction company which he is selling to immigrate to the United States. Applicant applied for her sister's U.S. residency in November 1996, and it has been approved. The whole family is immigrating to the United States in the near future.

Applicant and her siblings inherited a home and three acres of land in Egypt when their father died in 1999. She claimed she sold her interest in the home to one of her sisters. The land has been in her family since the 1800s, and they have title to the land. She and her sisters share an equal interest in the land. She claimed they have not been able to sell it because over 17 of her relatives live on it. She claimed the land is still in her father's name. She intends to renounce her interest in the land. She presented no documentary evidence to support her claims or to establish the value of the land and home she inherited.

Applicant travelled to Egypt with her children in 1997, 1999, 2000, 2002, and 2003. She took her children sightseeing in Egypt and to visit with relatives. While in Egypt, they stayed with her sister. Her spouse accompanied them on one of the trips, but she cannot recall which trip (Tr. 133). She repeatedly stated she considers the United States her country and reaffirmed her loyalty to the United States. The United States is the country where she and her husband chose to live and raise their children. Her family never worked for the Egyptian government. She testified her family in Egypt is composed of mostly wealthy investors, who never had a need to work for the government (Tr. 135).

Applicant's husband travelled to Egypt in December 1994. He also travelled to Egypt on three other occasions: in April 2000, to visit his mother who was terminally ill; in August 2000, to bury his mother; and in May 2002, to renounce his mother's inheritance.² His last visit to Egypt was in 2007, for personal medical reasons. He denied any of these visits were business related (Tr. 192).

Her spouse has two brothers and one sister who are citizens and residents of Egypt. His sister was a professor at an Egyptian university. She is now a homemaker. She is married to an Egyptian who is the chief engineer for a large U.S. corporation doing business in Egypt. Because of his job, they are planning to move to the United States in the near future. Applicant's spouse testified that he is not close to his siblings and has infrequent contact with them. His contacts are limited to infrequent telephone calls and email exchanges during holidays or special occasions. He averred that his siblings are pro-American and have never been involved with politics or worked for the Egyptian government. One of his brothers worked as the [REDACTED].³ The other was the "former [REDACTED]" in Egypt. As of November 2004, he was the partner and director of an international relations company (AE 4). Applicant had a third brother who was killed by sniper fire while in a [REDACTED] in another Middle East country. At the time, he was the "[REDACTED]" (AE 4).

Applicant's husband's aunt, her sister and her husband, and one of their three children are citizens and residents of Egypt. His aunt lives in an Egyptian apartment rented by her husband since 1996. He testified his aunt pays the rent – approximately \$8 monthly. He denied providing any financial support for his aunt. He explained that she is old, sick, and has no children. He rented the apartment for her because she was afraid that being an old woman, she would be evicted unless she has the protection of a man. Applicant denied that her signature is on the lease contract.

² In a 2005 background interview, Applicant's husband indicated he was in the process of inheriting around \$50,000-\$60,000 from his mother's estate (GE 8). He provided no documentary evidence to show he renounced his mother's estate.

³ Applicant's husband's November 2004 email indicates his brother was the "[REDACTED]" (AE 4).

Applicant's spouse was admitted to the practice of law in a U.S. state in 1992. Shortly thereafter, he established his own law firm and practiced law until 2003. While practicing law in the United States, Applicant advertised he was licensed to practice law in Egypt, that his law firm was dedicated to the practice of law in Egypt, and that he was certified by the Egyptian government as an international arbitrator (Tr. 200, GEs 9 and 12). He denied he ever practiced law in Egypt. He claimed he only provided advice and translated documents (Tr. 210). During cross examination, he stated he stopped representing clients in Egypt in 2004 (Tr. 267). On December 12, 1994, Applicant's spouse travelled to Egypt to represent a U.S. client in a monetary claim (AE 4).

Applicant's spouse denied that from approximately 1996-1998 to 2003, he had business interests with or provided legal advice to his former law professor, and to his brother-in-law, both citizens and residents of Egypt. However, in his answers to question 12 of his 2003, 2004, and 2006 of his security clearance applications (asking whether he had any foreign property, business connections, of financial interests), he disclosed that from 1998 to present he had a legal business cooperation agreement with his former law professor, and that he had a "corresponding office, telephone, and fax" with his brother-in-law. He further disclosed that from 2001 to present, he was certified by the Egyptian government as an international arbitrator. He never had a client in his capacity as international arbitrator (Tr. 205).

Applicant's spouse testified that he and his law professor are only acquaintances, and that they have not talked to each other since 2005, when he and Applicant moved to their current state of residence. He met the professor as a law student and had contact with him while living in Egypt. He had no contact with the law professor from 1984 until 1994. In 1994, he travelled to Egypt to represent a U.S. client, and he met with the professor. Thereafter, they had contact approximately every two years. He provided legal advice to his law professor in 1996-1997.

Applicant's spouse represented his nephew and her sister's husband in a wrongful damages lawsuit on behalf of his nephew in the United States. His nephew was born in the United States. Because of his nephew's lack of legal capacity, his brother-in-law signed the representation documents and managed the lawsuit on behalf of his son (Tr. 204).

From 1992 to around 2005, Applicant's spouse provided free consultation to Egyptian consulate personnel in the United States concerning U.S. legal matters. He also provided comments for publication on international legal issues to a Middle Eastern country newspaper. Applicant's spouse never provided legal advice to the Egyptian consulate itself. He only advised Egyptian consulate personnel on their personal legal issues. He represented an Egyptian embassy attaché in a lawsuit, other embassy personnel on contract litigation, and provided consultation on domestic matters. He stopped providing legal advice to Egyptian consulate personnel in January 2005 (Tr. 206, 265).

In 2001-2002, Applicant's husband started working as an Arabic linguist. He was deployed in 2003 to a Middle East country in support of a U.S. agency. Commensurate with his duties, he was granted a top secret security clearance in early 2004, which was later withdrawn. There is no evidence that he compromised or caused others to compromise classified information. His performance as a linguist has been outstanding. He is considered to be an asset to his organization. He has been commended for his strong analytical skills, leadership, deep historical knowledge, and ability to work in diverse teams. He is also considered to be a credible and honest person.

In November 2003, a \$45,877 federal tax lien was filed by the Internal Revenue Service (IRS) against Applicant and her husband for unpaid federal taxes for calendar years 1993, 1994, 1995, 1999, 2000, and 2001. Final notices of intent to levy and enforcement action were issued on December 31, 2002, for tax year 1993; on February 15, 2003, for tax years 1994, 1995, 1999, 2000, and 2001; and on March 17, 2006, for tax year 2002. For tax year 1993, Applicant and her husband's 1997 and 1998 tax returns were offset on March 8, 2004, to pay part of their debt. For tax year 1994, Applicant and her husband made three \$500 partial payments in August, September, and October 2006 (AE 7, Tab C, Tax Payer Advocate Service letter to Applicant and her spouse, dated May 30, 2008, with enclosure). They paid their IRS tax debt and the federal tax lien was released on June 3, 2009 (AE 6). She disclosed her federal tax lien in her security clearance application.

Section 28 of Applicant's May 2007 security clearance application asked her to disclose whether in the last seven years she had been over 180 days delinquent on any debts, and whether she was currently over 90 days delinquent on any debt. Applicant answered "No," and failed to disclose she and her husband were indebted to the IRS for unpaid federal taxes for years 1994, 1995, 1999, 2000, and 2001. I consider this an inadvertent omission because she disclosed that she had a \$45,000 federal tax lien filed against her in 2003. She also failed to disclose the debts alleged in SOR ¶¶ 1.b-1.f.⁴

SOR ¶¶ 1.b and 1.c allege that Applicant is indebted on two delinquent medical accounts for \$365 each. Applicant denied both allegations claiming they are not her medical debts. She claimed she is never sick and has not been to the doctor in a long time. She testified she found about the delinquent debts in 2006-2007 when she applied for her position (Tr. 116). She claimed she called the collection agency and disputed the accounts. She presented no documentary evidence to support her claims. However, considering the lack of identification of the creditor on the CBRs, it would have been difficult for her to ascertain whether these were her debts.

⁴ The SOR did not allege that Applicant failed to disclose these debts under Guideline E. As such, this information cannot be used as a separate basis to deny Applicant's security clearance. Notwithstanding, I may consider any behavior not alleged in the SOR to: assess her credibility; evaluate her evidence of extenuation, mitigation, or changed circumstances; assess her possible rehabilitation; determine the applicability of the AGs; and conduct the whole-person analysis. ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006).

SOR ¶ 1.d alleges that she is indebted to a large retailer for \$4,536. Applicant denied this allegation. She explained that around 2004, she purchased a home warranty from the retailer for approximately \$600. Initially, she was making monthly payments of \$84. For some unexplained reason, the payments were increased and she was asked to pay \$120 a month, which she paid for some time. In 2005, the retailer increased the interest and the monthly payments again. She refused to make any more payments. She claimed she disputed the charges in writing and that the retailer never answered her complaints. When the retailer again asked her for payment, she suggested that the retailer sue her (Tr. 119). She claimed she had documentary evidence at home showing she disputed the charges (Tr. 97, 116-117). She failed to produce it at the hearing or with her post-hearing submissions.

SOR ¶ 1.e alleges that she is indebted on a bank credit card account for \$3,882. Applicant denied this allegation because she has never had a personal credit card with the bank. Applicant and her spouse's documents show they have been disputing account number 3206, for \$3,882, since November 2006. Applicant's spouse's records show he had another credit account with the same bank (number 6326 for \$7,397), which became delinquent in 2002, and was charged off in May 2007. In December 2008, he settled this account for \$1,331, and paid it (AE 7, Tab D). Applicant and her husband believe account 3206 is a fraudulent account, and the bank has failed to provide them with evidence to show it is their account.

SOR ¶ 1.f alleges that she is indebted to a utility company for \$606. Applicant denied this allegation. She explained that she moved out of her home in June 2005, and turned the utilities off. After hurricane Katrina, the utility service company charged her \$3,000. She claimed she disputed the initial charge in writing, and the company reduced the debt to \$606. Applicant claimed she again disputed the account because the home was unoccupied and, after Katrina, the utility company was not able to provide service during a lengthy period. She claimed she had documentary evidence at home showing she disputed the charges (Tr. 122). She failed to produce it at the hearing or with her post-hearing submissions.

Except for the above mentioned delinquent accounts and one additional charged off bank account (not alleged in the SOR), her 2007, 2008, and 2009 credit reports show Applicant has a clean financial record with no other delinquencies indicated. Applicant testified she is good with her finances and that she does not have any financial problems.

Applicant's references consider her to be a patriotic, loyal, and proud U.S. citizen. She considers the United States her country, and indicated there is no other place she would like to be. She and her husband elected to immigrate and raise their children in the United States. She has lived in the United States for 26 years and is encouraging her sister and her family in Egypt to emigrate and become U.S. citizens. She expressed her gratitude for the benefits she and her family have received and enjoyed in the United States. There is no evidence to show that she or any member of

her immediate family has ever done anything to threaten the security of the United States.

Her references consider Applicant to be conscientious, thorough, and a hard worker. She is also considered to be a credible and honest person. She received their highest recommendation, and they would trust her with the interests of the United States.

Egypt is the most populous country in the Arab world. It is a republic with a developing economy and has a strong executive. Egypt is an important and strategic partner of the United States. The United States and Egypt enjoy a vibrant and friendly relationship based on shared mutual interest in Middle East peace and stability, strengthening trade relations, and promoting regional security. Egypt played a key role during the 1990-1991 Gulf crisis, and the United States and Egypt participate in combined military exercises. The Egyptian government receives substantial U.S. foreign aid.

Despite governmental action against terrorists, the threat of terrorism in Egypt remains high. Over the years, Egypt has suffered from numerous terrorist attacks. Major terrorist attacks where foreigners (including Americans) have been killed have occurred most recently in 2005, 2006, 2008, and 2009. Terrorists in Egypt target U.S. interests to exploit and undermine U.S. national security interests. Terrorist groups conduct intelligence activities as effectively as state intelligence services. In addition to terrorism, extremist activities in certain areas of Egypt have created instability and public disorder.

The State Department notes that Egypt's human rights record is poor and serious abuses continue in many areas. Problems include: limitations on the right of citizens to change their government; torture; arbitrary arrest; prolonged detention; poor conditions in prisons; executive branch limits on an independent judiciary; political prisoners and detainees; and restrictions on freedom of press, assembly, association, religion, and Internet freedom. Torture occurs in Egyptian detention centers. Government corruption and lack of transparency persist.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. They provide explanations for each guideline and list potentially disqualifying conditions and mitigating conditions, which must be considered 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 goal is to achieve a fair, impartial, and commonsense decision. 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. (AG ¶ 2(c).)

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 the decision-making process, the government has the initial burden of establishing controverted facts alleged in the SOR by “substantial evidence.”⁵ Once the government has produced substantial evidence of a disqualifying condition, the burden shifts to applicant to produce evidence “to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by department counsel, and [applicant] has the ultimate burden of persuasion as to obtaining a favorable clearance decision.” Directive ¶ E3.1.15. The burden of disproving a mitigating condition never shifts to the government.⁶

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 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* Executive Order 12968 (Aug. 2, 1995), Section 3.

Analysis

Guideline F, Financial Considerations

Under Guideline F, the security concern is that failure or inability to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. AG ¶ 18.

⁵ See Directive ¶ E3.1.14. “Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the record.” ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). “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).

⁶ See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

In November 2003, the IRS filed a \$45,877 federal tax lien against Applicant and her husband for unpaid federal taxes for calendar years 1993, 1994, 1995, 1999, 2000, and 2001. Their 1997 and 1998 tax returns were offset on March 8, 2004, and applied to their debt. Applicant and her husband started negotiating with the IRS in 2006, and in 2009 their tax debt was paid and the lien was released.

I find for Applicant on the debts alleged in SOR ¶¶ 1.b and 1.c, because the available information is not sufficient to identify the creditor. I also find for Applicant on SOR ¶ 1.e. Her evidence shows she and her husband have been disputing the debt since November 2006, and their dispute is sufficiently reasonable to justify non-payment subject to judicial determination of financial responsibility.

Applicant is indebted to a large retailer for \$4,536 (SOR ¶ 1.d). She purchased a home warranty from the retailer and was making payments on her contract until the retailer increased the interest and the monthly payments. She then refused to make any more payments. She claimed she disputed the charges in writing and that the retailer never answered her complaints. When the retailer asked her for payment again, she suggested that the retailer sue her. Applicant also claimed she disputed the debt in writing alleged in SOR ¶ 1.f for utility services she did not receive. She failed to produce documentary evidence showing she disputed either debt. Her evidence is not sufficient to show the basis of her disputes are reasonable.

The IRS lien and her delinquent debts trigger the applicability of disqualifying conditions AG ¶ 19(a): “inability or unwillingness to satisfy debts,” and AG ¶ 19(c): “a history of not meeting financial obligations.”

AG ¶ 20 lists six conditions that could mitigate the financial considerations security concerns:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person’s control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances;
- (c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control;
- (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts;

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue; and

(f) the affluence resulted from a legal source of income.

Considering the record as a whole, I conclude that none of the mitigating conditions fully apply. Applicant's behavior is recent because two of her debts are unresolved. The evidence is not sufficient to fully raise: circumstances beyond her control; that she received financial counseling; that she made good-faith efforts to resolve the two outstanding delinquent debts; or that she had a reasonable basis to dispute the legitimacy of her delinquent debts.

Applicant receives credit for paying her federal tax debt, for reasonably disputing other debts, and for having a relatively clean financial record with seemingly no financial problems. Notwithstanding, considering the evidence as a whole, including her demeanor and testimony, her failure to show diligence and efforts to resolve her financial obligations shows lack of judgment or unwillingness to abide by rules and regulations. Her behavior raises questions about her reliability, trustworthiness, and ability to protect classified information.

Guideline B, Foreign Influence

Under Guideline B, the Government's concern is stated in AG ¶ 6 as follows:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, he or she 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.

AG ¶ 7 sets out three conditions that raise a security concern and may be disqualifying in this case:

(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;

(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; and

(e) a substantial business, financial, or property interest in a foreign country, or in any foreign own or foreign operated business, which could subject the individual to heightened risk of foreign influence or exploitation.

The mere possession of close family ties with a person in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if only one relative lives in a foreign country and an applicant has contacts with that relative, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information.⁷

Applicant has frequent contacts and a close relationship of affection or obligation with her sister, aunt, and through her spouse, with her in-laws who are citizens and residents of Egypt. The closeness of the relationship is shown by Applicant's telephone and email contacts with them, directly or through her husband, and her and her spouse's travel to Egypt to visit their family. Additionally, she co-owns with her siblings real estate they inherited from her father in Egypt.

Applicant's spouse was a member of the Egyptian security forces. He has long-time friends, business partners or associates in Egypt, some of whom are or were members of the Egyptian security services. He continued his association with the Egyptian government when he provided legal advice to Egyptian embassy personnel in the United States, and by meeting with Egyptian government personnel attending training in the United States. His comments for publication on international legal issues to a Middle Eastern country newspaper likely brought him to the attention of Egyptian government officials, and possibly terrorist organizations. His brothers are or were high level officials of the Egyptian government. His contacts create a heightened risk of foreign pressure or attempted exploitation because there is always the possibility that Egyptian agents, or terrorists operating in Egypt, may exploit the opportunity to obtain sensitive or classified U.S. information.

The threat of terrorism in Egypt is high. Over the years, Egypt has suffered from numerous terrorist attacks. Terrorists in Egypt target U.S. interests to exploit and undermine U.S. national security interests. They conduct intelligence activities as effectively as state intelligence services. There is also the possibility that terrorists, extremists, or criminal organizations may exploit the opportunity to obtain sensitive or classified U.S. information.

⁷ See ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001).

The Government produced substantial evidence raising these three potentially disqualifying conditions, and the burden shifted to Applicant to produce evidence and prove a mitigating condition. The burden of disproving a mitigating condition never shifts to the Government.

Six Foreign Influence Mitigating Conditions under AG ¶ 8 are potentially applicable to these disqualifying conditions:

(a) 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.;

(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 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;

(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;

(d) the foreign contacts and activities are on U.S. Government business or are approved by the cognizant security authority;

(e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country; and

(f) the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual.

Considering the record as a whole, I conclude that none of the mitigating conditions fully apply. Applicant did not establish that it is unlikely she will be placed in a position of having to choose between the interests of her relatives and her in-laws and the U.S. interests. Her contacts are not casual or infrequent. The contacts are not U.S. Government sanctioned. And, she has not established that the value of the property is insignificant.

In light of the relations between Egypt and the United States and the high threat of terrorism in Egypt, Applicant's close relationship with her and her spouse's relatives

and friends creates a risk of foreign inducement, manipulation, pressure, or coercion by the Egyptian government or terrorist organizations operating in Egypt. Her contact and close relationship with her relatives could potentially force her to choose between the United States and the interests of her relatives in Egypt. Available information sustains a conclusion that there is a risk that the Egyptian government, or terrorist organizations operating in Egypt, may attempt to exploit Applicant directly, or by exploiting Applicant's relatives or her husband's relatives. Applicant's situation creates a potential conflict of interest between Applicant's obligations to protect sensitive information and her desire or obligation to help herself, or help her family if a foreign interest were to attempt to exploit them.

AG ¶ 8(b) partially applies because Applicant has a long-standing relationship and demonstrated loyalty to the United States. She and her family have lived in the United States during the last 26 years. By all accounts, they are patriotic Americans who consider the United States their country. There is no evidence that either Applicant or any member of her family has ever done anything against the U.S. interests.

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 relevant 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.

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. AG ¶ 2(c).

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Applicant is an educated woman, and a good mother and wife. She and her husband supported the war on terror working as Arabic linguists and by his deployment to a Middle East country in support of a U.S. agency. There is no evidence that Applicant or her immediate family compromised or caused others to compromise classified information.

Applicant is a patriotic, loyal, and proud U.S. citizen. She considers the United States her country, and there is no other place she would rather be. She and her

husband elected to immigrate and raise their children in the United States. She has lived in the United States for 26 years and is encouraging her sister and her family in Egypt to emigrate and become U.S. citizens. She expressed her gratitude for the benefits she and her family have received and enjoyed in the United States. There is no evidence to show that she or any member of her immediate family has ever done anything to threaten the security of the United States.

Applicant is considered to be conscientious, thorough, and a hard worker. She received their highest recommendations from her references as a credible and honest person. They would trust her with the interests of the United States.

Nevertheless, considering the record as a whole, Applicant's handling of her financial affairs and her contacts with relatives in Egypt, leave me with doubts about Applicant's eligibility for a security clearance. "Because of the extreme sensitivity of security matters, there is a strong presumption against granting a security clearance. Whenever any doubt is raised . . . it is deemed best to err on the side of the government's compelling interest in security by denying or revoking [a] clearance." *Dorfmont v. Brown*, 913 F.2d 1399, 1401 (9th Cir. 1990).

After weighing the disqualifying and mitigating conditions, all the facts and circumstances, in the context of the whole-person, I conclude Applicant failed to mitigate the financial considerations and foreign influence security concerns.

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 F:	AGAINST APPLICANT
Subparagraphs 1.a - 1.c, 1.e:	For Applicant
Subparagraphs 1.d, 1f:	Against Applicant
Paragraph 2, Guideline B:	AGAINST APPLICANT
Subparagraphs 2.a-2.c, 2.e, 2.f:	Against Applicant
Subparagraph 2.d:	For Applicant

Conclusion

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant eligibility for a security clearance for Applicant. Eligibility for a security clearance is denied.

JUAN J. RIVERA
Administrative Judge