



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
) ISCR Case No. 09-00268
SSN:)
)
Applicant for Security Clearance)

Appearances

For Government: Melvin A. Howry, Esquire, Department Counsel
For Applicant: *Pro se*

October 6, 2010

Decision

HENRY, Mary E., Administrative Judge:

Based upon a review of the case file, pleadings, and exhibits, I deny Applicant's eligibility for access to classified information.

Applicant signed his Electronic Questionnaire for Investigations Processing (e-QIP) on April 16, 2008. The Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guidelines B, C, and E on March 8, 2010. 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 adjudicative guidelines (AG) implemented on September 1, 2006.

Applicant acknowledged receipt of the SOR on March 12, 2010. He submitted a notarized, written response to the SOR allegations dated March 26, 2010, and requested a decision on the written record in lieu of a hearing.

Department Counsel prepared a File of Relevant Material (FORM) and mailed Applicant a complete copy on June 7, 2010. Applicant received the FORM on July 7, 2010. He had 30 days from receipt of the FORM to file objections and submit material in refutation, extenuation, or mitigation. He did not submit a response. DOHA assigned this case to me on September 1, 2010. The Government submitted eight exhibits, which have been marked as Items 1-8 and admitted into the record. Applicant's response to the SOR has been marked and admitted as Item 3, and the SOR has been marked as Item 1.

Evidentiary Ruling

Request for Administrative Notice

Department Counsel submitted a formal request that I take administrative notice of certain facts relating to Israel. The request and the attached documents were not admitted into evidence, but were included in the record as Exhibits I-VII. The facts administratively noticed will be limited to matters of general knowledge and matters not subject to reasonable dispute, and are set out in the Findings of Fact below.

Findings of Fact

In his Answer to the SOR, Applicant admitted the factual allegations in ¶¶ 1.a(1)-1.a(5), and 2.a-2.h of the SOR. His admissions are incorporated herein as findings of fact. He denied the factual allegations in ¶¶ 3.a-3.c of the SOR.¹ He also provided additional information to support his request for eligibility for a security clearance. After a complete and thorough review of the evidence of record, I make the following additional findings of fact.

Applicant, who is 79 years old, owns a company which contracts with the Department of Defense on defense-related products. He has held a secret clearance since 1995 without incident.²

Applicant was born in Iran in 1931. His family moved to Israel in 1949. Along with his family members, he became an Israeli citizen. His family returned to Iran in 1952, where they remained until 1979. With the fall of the government of the Shah of Iran, he

¹When SOR allegations are controverted, the government bears the burden of producing evidence sufficient to prove controverted allegations. Directive, ¶ E3.1.14. "That burden has two components. First, the government must establish by substantial evidence that the facts and events alleged in the SOR indeed took place. Second, the government must establish a nexus between the existence of the established facts and events and a legitimate security concern." See ISCR Case No. 07-18525 at 4 (App. Bd. Feb. 18, 2009), (concurring and dissenting, in part) (citations omitted). 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. 08-06605 at 3 (App. Bd. Feb. 4, 2010); ISCR Case No. 08-07290 at 2 (App. Bd. Nov. 17, 2009).

²Item 5 (Security clearance application).

and his family moved to the United States. His family owned property and businesses in Iran, which were seized around 1980 by the new Iranian government.³

Applicant married in February 1960. He has four children, ages 48, 47, 43, and 35. His wife and children were born in Iran. As he did in 1987, they became naturalized citizens of the United States between 1985 and 1988. Applicant has a passport issued by the United States in July 2004. This passport will expire in July 2014.⁴

Applicant claims dual citizenship with Israel, but not with Iran. In 2006, Applicant applied to renew his Israeli passport that expired in 1979. Israel issued him a new passport on October 8, 2006, which will expire on September 8, 2016.⁵ Applicant obtained this passport because he understood that as an Israeli citizen, he was required to have an Israeli passport. Since 2006, Applicant has used his Israeli passport to enter and leave Israel. Prior to October 2006, he used his U.S. passport to enter and leave Israel. He uses his U.S. passport for his travels to other countries in the world.⁶

Applicant owns two businesses in the United States. For almost 20 years, he has owned and operated a manufacturing business, which has contracts with the Department of Defense. Since 1986, he has been a partner in an investment business with family members. The investment business owns and manages four hotels, 150 apartment units, five restaurants, and a water/sewer development project in the United States. The investment business is also a partner in four other hotels in the United States. The value of his business and investments in the United States is unknown.⁷

Since 1973, Applicant, his brother, uncles, and cousins have owned 22.5 acres of undeveloped land in Israel. His ownership share is 12.5%. He also owns an apartment in Israel valued in 2008 at \$800,000, which his family uses when they travel to Israel. In 2008, he, his wife, and his children purchased a 16-story commercial building in Israel for \$55,000,000. He financed 87% of this purchase. His tenants in this building include the Israeli government, who was a tenant when he purchased the building. The property is managed by a local professional property management company, which works directly with the tenants, negotiates the rental contracts, and performs the needed repairs. He is not directly involved in the daily operations of this building.⁸

³Item 7.

⁴Item 5; Item 6.

⁵Applicant's Israeli passport shows these dates, not the August 10, 2006 and August 9, 2016 dates identified in the SOR. Items 1 and 6.

⁶Item 4-Item 6.

⁷Item 5; Item 7.

⁸Item 3; Item 7.

Applicant's closest family members, his wife, children, and brother, are U.S. citizens, who live and work in the United States. His relatives in Israel are more distant, such as uncles and cousins. The level of contact with these relatives is unknown. He maintains contact with one old friend, who is a high ranking official in the Israeli government. He visits with his friend for personal reasons when he is in Israel. They do not discuss work-related matters or his businesses. Applicant's investment clients in Israel comprise about 7% of his clients.⁹

Applicant and his immediate family established a philanthropic foundation in Israel which focuses on education. Applicant indicates he has philanthropic enterprises in the United States, but the nature and type of these enterprises are unknown. From 1998 through 2008, Applicant traveled at least once a year to Israel. During this same period of time, he traveled to many countries around the world, including Turkey, Greece, the United Arab Emirates, China, Japan, United Kingdom, Argentina, Uruguay, Australia, New Zealand, and continental Europe.¹⁰

In his response to the SOR and in his personal interview, Applicant indicated he would give up his Israeli citizenship to obtain his security clearance. He is willing to do so because "his allegiance is to the United States above all other nations - it is to the United States that I owe my ultimate loyalty."¹¹

When he completed his e-QIP April 16, 2008, Applicant answered "no" to the following questions:

Section 17. Your Foreign Activities

- c. Have you ever had any contact with a foreign government, its establishments (embassies or consulates), or its representatives, whether inside or outside the U.S., other than on official U.S. Government business? (Does not include routine visa applications and border crossing contacts.)
- d. In the last 7 years, have you had an active passport that was issued by a foreign government?

Applicant denies any "contact" with the Israel government that would require an affirmative response to 17c and 17d. His local professional property manager handles all tenancy issues. He has no direct contact with the Israel government about the use of this building or tenancy issues. Applicant states that he submitted an Electronic

⁹Item 5; Item 7.

¹⁰Item 5; Item 7.

¹¹Item 3; Item 7.

Personnel Security Questionnaire in 2005.¹² Module 15 asked if he had an active foreign passport within the last seven years and he answered “no”, as his old Israeli passport had expired in 1979. He prepared his 2008 e-QIP, using his 2005 responses as a starting point. His prior “no” answer was missed and not corrected. He acknowledged his dual citizenship with Israel in Section 8d.¹³

Applicant denies falsifying material facts about his Israeli passport when he met with the security clearance investigator in July 2008. Applicant states that he intended to communicate to the investigator that he “was not sure that I would renew my Israeli passport but ultimately decided to do so.” He states that he thought the line of questioning was about why he waited so long to renew his Israeli passport not whether he had one or not.¹⁴

ISRAEL

I take administrative notice of the following facts. In 1948, Israel became an independent nation. It immediately engaged in a war with all of its neighbors. Armed conflict has marked every decade of Israel’s existence. Despite these conflicts, Israel developed a vibrant parliamentary democracy with relatively fragile governments.

Israel’s foreign policy focuses largely on its region, Europe, and the United States. Israel views Iran as an existential threat due to its nuclear ambitions and support for anti-Israel terrorists. Israel seeks to achieve peace with its neighbors. Israel negotiated peace treaties with Egypt in 1979 and Jordan in 1994, but has not with Syria and Lebanon. In 2006, Israel and Syria, where Hezbollah controls the south, engaged in a 34-day war after Hezbollah kidnapped two Israeli soldiers in July 2006. The parties agreed to a cease-fire, which is holding and is monitored by the United Nations. Israel negotiated a series of agreements with the Palestinians in the 1990s, but this process ended in 2000. Talks with the Palestinian Liberation Organization (PLO) resumed in 2007. A peace agreement has not yet been reached.

Israel and the United States developed a close friendship based on common democratic values, religious affinities, and security interests. The United States-Israel bilateral relations are multidimensional. The United States is the principal proponent of the Arab-Israeli peace process, but the United States and Israel views differ on some issues, such as the Golan Heights, Jerusalem, and settlements. The United States supported Israel’s 2006 campaign against Hezbollah and Hamas, and its 2008/2009 offensive against Hamas as acts of self-defense. The current administration considers Israel a strong ally of the United States.

¹²This document is not in the record.

¹³Item 3; Item 4.

¹⁴Item 3; Item 7.

The United States and Israel concluded a free-trade agreement in 1985 and Israel is a prominent recipient of U.S. foreign aid. The United States and Israel have close security relations. Issues between the United States and Israel include Israel's military sales, Israel's inadequate protection of U.S. intellectual property, and espionage-related cases. In 1986, Israel and the United States signed an agreement for Israeli participation in the Strategic Defense Initiative, under which Israel is developing the Arrow anti-ballistic missile with a significant financial contribution from the United States.

Israel is a major trading partner with the United States, United Kingdom, and Germany. Israel has a diversified, technologically advanced economy. Government ownership is decreasing and private sector ownership of business is increasing. Israel is an active collector of information and technology in the United States. In the past, Israel has recruited U.S. citizens to spy for it and has received classified information as a result.¹⁵

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used 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 overarching adjudicative goal is a fair, impartial, and commonsense 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, an applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." An

¹⁵Exhibits I-VII.

applicant has the ultimate burden of persuasion for 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 an 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

AG ¶ 6 expresses the security concern regarding 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 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 describes the disqualifying conditions that could raise security concerns. I have considered all the conditions, and especially the following:

- (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-owned or foreign-operated business, which could subject the individual to heightened risk of foreign influence or exploitation.

Applicant, his wife, and his children are all U.S. citizens and reside in the United States. Applicant, but not his wife and children, claims dual citizenship with Israel. He, his wife, and children became U.S. citizens over 20 years ago. His relationships with his wife and children are not a security concern. He has distant relatives in Israel with whom he has owned for nearly forty years, an undeveloped piece of property in Israel. The extent of his contacts with these individuals is unknown. His extended family relationships are not *per se* a reason to deny Applicant a security clearance, but these relationships must be considered in deciding whether to grant Applicant a clearance. These distant family relationships were not shown to create a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion or to create a potential conflict of interest with his obligations to protect sensitive information.

Applicant, however, owns two properties in Israel, which together are worth almost \$56,000,000. The Israeli government rents office space in his commercial property. In addition, Applicant owns an undeveloped piece of land with distant relatives, has a family educational foundation in Israel, and has a long-time friend whom he meets when he is in Israel. This friend holds a high-level position in the Israeli government. As with his family, his relationship with his friend, his foundation, and his property are not *per se* reasons to deny Applicant a security clearance, but must be considered in deciding whether to grant Applicant a clearance. The Government must establish that his friend, his foundation, and his property ownership create a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion or create a potential conflict of interest between his obligations to protect sensitive information and his desire to protect his property or help his friend.

In determining if a heightened risk exists, I must look at Applicant's relationship with his friend, the nature of his foundation, and his property interests as well as the activities of the government of Israel and terrorist organizations operating in Israel.¹⁶ The risk that an applicant could be targeted for manipulation or induced into compromising classified information is real, not theoretical. Applicant's friend, his foundation, and his property interests raise a heightened risk of security concerns because of the espionage activities of the Israeli government and its known efforts to recruit U.S. citizens.

Under the guidelines, 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.

¹⁶See ISCR Case No. 07-05809 (App. Bd. May 27, 2008).

interests. In determining if Applicant's contacts and property in Israel cause security concerns, I considered that Israel and the United States have a close relationship and that Israel cooperates with the United States in the fight against terrorism. That said, there is evidence that the Israeli government targets United States citizens for protected information. While none of these considerations by themselves dispose of the issue, they are all factors to be considered in determining Applicant's vulnerability to pressure or coercion because of his friend and his business investments. Because of the espionage activities of Israel, Applicant's property, foundation, and contacts with his friend in Israel raise a heightened risk concern under AG ¶¶ 7(a), (b) and (e).

AG ¶ 8 provides conditions that could mitigate security concerns:

(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 altemncy 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.

I have considered all the mitigating conditions and conclude that Applicant has not mitigated the Government's security concerns about his contacts with Israel with the exception of the undeveloped land. His ownership share in this parcel of land is small and is not likely to be create a conflict of interest for him. Guideline B is found against Applicant, except for SOR ¶ 2.h.

Guideline C, Foreign Preference

Under AG ¶ 9 the security concern involving foreign preference arises, “[w]hen an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.”

AG ¶ 10 describes the disqualifying conditions that could raise security concerns. I have considered all the conditions, and especially the following:

(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; and
- (5) using foreign citizenship to protect financial or business interests in another country.

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

Applicant renewed his Israeli passport nearly 20 years after he became a U.S. citizen and 27 years after his prior Israeli passport expired. By renewing his Israeli passport, he sought recognition of his Israeli citizenship. After he renewed his Israeli passport, he purchased a commercial property worth \$55,000,000. The Government has established a security concern under Guideline C.

Under AG ¶ 11, the following conditions may mitigate the government’s security concerns in this case:

(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 claims Israeli citizenship along with his U. S. citizenship, although he states that his only allegiance is to the United States. Besides his Israel passport, he owns two expensive properties in Israel. He owns many properties in the United States and a U.S. business. Applicant indicated a willingness to renounce his Israeli citizenship, but has not done so.

Applicant voluntarily chose to renew his Israeli passport many years after he became a U.S. citizen. Even though he claimed dual citizenship with Israel, Applicant traveled to and from Israel on his U.S. passport for many years prior to renewing his Israeli passport. He provided no evidence that Israel pressured him, as an Israeli citizen, to obtain a passport. Thus, his explanation that he renewed the Israeli passport because he believed that as an Israeli citizen he was required to have a passport is not credible. After renewing his Israeli passport, he used it to enter into and travel in Israel for his own purposes, not on behalf of a governmental authority. He also purchased property in 2008 in Israel. He continues to hold his Israeli passport. By so doing, he exhibits a preference for Israel. Applicant has not mitigated the Government's security concerns under Guideline C, despite his expressed willingness to renounce his Israeli citizenship for a security clearance.

Guideline E, Personal Conduct

AG ¶ 15 expresses the security concern pertaining to personal conduct:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities; and

(b) deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative.

For AG ¶ 16(a) to apply, Applicant's omission, concealment or falsification in his answer must be deliberate. Applicant answered "no" to questions 17c and 17d on his e-QIP. He indicated that he did not have an active foreign passport nor did he have contacts with a foreign government, its embassies, or representatives. He omitted material facts about his Israeli passport and contacts in Israel when he completed his e-QIP. This information is material to the evaluation of Applicant's trustworthiness to hold a security clearance and to his honesty. In his response, he denies that he had an intent to hide this information from the Government. When a falsification allegation is controverted, the Government has the burden of proving it. Proof of an omission, standing alone, does not establish or prove an applicant's intent or state of mind when the omission occurred. An administrative judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning an applicant's intent or state of mind at the time the omission occurred.¹⁷

When he completed his e-QIP in April 2008, Applicant knew he had an active Israeli passport, which had been issued to him 18 months earlier. The Government has established its case under Guideline E as to SOR ¶ 3(b).

Applicant denied having governmental contacts in Israel. He uses a professional property manager to handle all matters, including leasing agreements, related to the tenants in his commercial building. He does not have any direct contact with the tenants, including the Israel government tenants. Because he uses a professional property manager and he did not understand foreign "contacts" to be contacts by his property manager, I conclude that he did not intentionally falsify his answer to Question 17c or attempt to hide information about his foreign contacts from the Government. SOR ¶ 3.a is found in favor of Applicant.

For AG ¶ 16(b) to apply, Applicant must have deliberately provided false or misleading information to the security clearance investigator about the existence of a current Israeli passport. Applicant denies intentionally or deliberately providing false information about his Israeli passport. He states that he intended to communicate to the investigator that he was not sure if he would renew his Israeli passport, but that he ultimately decided to do so. Applicant's explanation is not plausible because he renewed his Israeli passport 18 months before he completed his e-QIP. He decided long before he completed his e-QIP and met with the security clearance investigator to renew his Israeli passport after 25 years without a valid passport. He possessed an active Israeli passport at the time he met with the investigator. I find that Applicant deliberately provided false and misleading information to the security clearance investigator. The Government established its case under AG ¶ 16(b).

I have reviewed the mitigating conditions under AG ¶ 17 and conclude that none of the mitigating conditions are applicable in this case.

¹⁷ See ISCR Case No. 03-09483 at 4 (App. Bd. Nov. 17, 2004)(explaining holding in ISCR Case No. 02-23133 at 5 (App. Bd. Jun. 9, 2004)).

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 an applicant's conduct and all 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.

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. The decision to grant or deny a security clearance requires a careful weighing of all relevant factors, both favorable and unfavorable. In so doing, an administrative judge must review all the evidence of record, not a single item in isolation, to determine if a security concern is established and then whether it is mitigated. A determination of an applicant's eligibility for a security clearance should not be made as punishment for specific past conduct, but on a reasonable and careful evaluation of all the evidence of record to decide if a nexus exists between established facts and a legitimate security concern.

In reaching a conclusion, I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Applicant is a highly sophisticated businessman, who owns property in the United States and Israel. He is experienced in completing forms and is familiar with complicated documents. He understands the need to read all documents carefully before signing them. He knew that he had an active Israeli passport and chose not to reveal this information on his e-QIP or to the security clearance investigator. He owns two properties in Israel by choice. He continues to claim dual citizenship with Israel and has not renounced his Israeli citizenship. For many years, he did not hold an active Israeli passport. Four years ago, he decided to renew his long-expired Israeli passport. He has not surrendered or destroyed his Israeli passport. By these actions, he has shown a preference for Israel, and through his property ownership, he has the potential to be influenced or coerced by the Israeli government.

Overall, the record evidence leaves me with questions or doubts as to Applicant's eligibility and suitability for a security clearance. For the above reasons, I conclude Applicant has not mitigated the security concerns arising under the guidelines for foreign influence, foreign preference, and personal conduct.

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:	AGAINST APPLICANT
Subparagraph 1.a (1):	Against Applicant
Subparagraph 1.a (2):	Against Applicant
Subparagraph 1.a (3):	Against Applicant
Subparagraph 1.a (4):	Against Applicant
Subparagraph 1.a (5):	Against Applicant
Paragraph 2, Guideline B:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Subparagraph 2.b:	Against Applicant
Subparagraph 2.c:	Against Applicant
Subparagraph 2.d:	Against Applicant
Subparagraph 2.e:	Against Applicant
Subparagraph 2.f:	Against Applicant
Subparagraph 2.g:	Against Applicant
Subparagraph 2.h:	For Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraph 3.a:	For Applicant
Subparagraph 3.b:	Against Applicant
Subparagraph 3.c:	Against Applicant

Conclusion

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

MARY E. HENRY
Administrative Judge