



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 09-00267

Appearances

For Government: Alison O’Connell, Esquire, Department Counsel
For Applicant: *Pro se*

April 25, 2011

Decision

WESLEY, Roger C., Administrative Judge:

Based upon a review of the pleadings, exhibits, and testimony, I conclude that Applicant did not mitigate the security concerns regarding his foreign preference and foreign influence. Eligibility for access to classified information is denied.

Statement of the Case

On June 25, 2010, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR), detailing reasons why DOHA could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. 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 (AGs) implemented by the Department of Defense on September 1, 2006.

Applicant responded to the SOR on July 24, 2010, and elected to have his case decided on the basis of the written record. Applicant received the File of Relevant

Material (FORM) on January 10, 2011, and did not respond with any information within the 30 days permitted. The case was assigned to me on March 24, 2010.

Besides its 12 exhibits (characterized as Items), the Government requested administrative notice of six documents: *Background Note: Egypt*, U.S. Department of State (March 2010); *Egypt Country Specific Information*, U.S. Department of State (September 2010); *Country Reports on Terrorism 2009: Chapter 2, Country reports: Middle East and North Africa Overview*, U.S. Department of State (August 2010); *Country Reports on Terrorism 2009: Foreign Terrorist Organizations*, U.S. Department of State (August 2010); *Human Rights Report: Egypt*, U.S. Department of State (March 2010); and *Egypt: Background and U.S. Relations*, CRS Report to Congress (May 2009).

Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 05-11292 (App. Bd. April 12, 2007). Administrative notice is appropriate for noticing facts or government reports that are well known. See *Stein*, Administrative Law, Sec. 25.01 (Bender & Co. 2006). For good cause shown, administrative notice was granted with respect to the above-named background reports addressing the geopolitical situation in Egypt. Administrative notice was extended to the documents themselves, consistent with the provisions of Rule 201 of Fed. R. Evid. This notice did not foreclose Applicant from challenging the accuracy and reliability of the information contained in the reports addressing Egypt's current status.

Summary of Pleadings

Under Guideline C, Applicant allegedly (a) applied for and received an Egyptian passport in November 2004, even though he became a naturalized U.S. citizen in about 1991; (b) receives a monthly pension from his Egyptian army service with a retirement rank of captain; (c) has a bank account in Egypt and has accumulated about \$17,000 USD; (d) will inherit properties in Egypt; and (e) may return to Egypt to live once he retires.

Under Guideline B, Applicant allegedly (a) has a mother who is a citizen and resident of Egypt; (b) has two brothers and two sisters who are citizens and residents of Egypt; (c) has one sister who is employed by the Egyptian government; (d) has nieces and nephews who are citizens and residents of Egypt; (e) maintains regular contact with his family members in Egypt; and (f) traveled to Egypt in at least 1991, 1993, 1995, 1996, 1998, 1999, 2000, 2001, 2004, 2007, and 2009.

In his response to the SOR, Applicant admitted all the allegations with explanations. He explained that he is a highly-ethical individual, who has worked hard to continue to be the good citizen he has always been. He claimed he has never used his Egyptian passport after becoming a U.S. citizen for travel purposes and uses it only as evidence of his birth when visiting family members in Egypt. He claims that most jobs in Egypt are government-owned, and he only travels to Egypt to visit his family.

Findings of Fact

Applicant is a 56-year-old senior staff electronic engineer for a defense contractor who seeks a security clearance. The allegations covered in the SOR and admitted to by Applicant are adopted as relevant and material findings. Additional findings follow.

Background

Applicant was born in Egypt. He attended schools in Egypt and earned a bachelor's degree in engineering in 1977. Upon graduating from college, he was commissioned to serve in the Egyptian Army. He served between 1978 and 1984, and was approved to attend military education classes in the United States. (Item 7)

While in the United States, Applicant met a U.S. citizen, who he married in July 1983. (Item 5) He has no children from this marriage and divorced his wife in September 1986. (Item 5)

Applicant accepted early retirement from the Egyptian Army in 1984 and moved to the United States the same year. He was naturalized as a U.S. citizen in 1991 (Item 5) and maintains dual citizenship with Egypt. Since immigrating to the United States, Applicant earned a master's degree in business administration from an accredited U.S. college in April 1995. He has no U.S. military service.

While Applicant expressed his exclusive allegiance to the United States, he has declined to consider renouncing or relinquishing his Egyptian citizenship. (Item 8) His cited reasons are several. Loss of his Egyptian citizenship would place him at risk to forfeiture of his inheritance rights in Egypt. (Item 8) Applicant expects to inherit 1/5 of one and a half of his mother's houses when she expires. (Item 7) Additionally, maintaining his Egyptian citizenship has helped Applicant to better care for his family members, who reside in Egypt. (Item 8) Medical care, land purchases, and other official business transactions are easier to pursue with Egyptian citizenship. (Item 8) Without Egyptian citizenship, he will not be able to conduct business in Egypt on behalf of his mother and siblings. (Item 8)

Applicant renewed his Egyptian passport in November 2004. (Item 4). It is valid until November 2011. He has never used his Egyptian passport for travel, and maintains it only so he can provide proof of his birth in Egypt to Egyptian officials, if needed. (Item 4) Although open to relinquishing his Egyptian passport, he claims he does not know how to do so. So, his present intention is to retain his Egyptian passport until it expires. (Item 4)

Based on his Egyptian military retirement, Applicant receives a government pension of about \$150 a month in U.S. dollars. (Item 8) In accordance with his disbursement instructions, the pension proceeds are deposited directly into a savings account that he holds in an Egyptian bank. (Item 8) He has a current balance in this account of about \$17,000, a considerable increase over the \$10,000 balance he

reported. (Item 8) This account includes his military pension deposits and some savings. (Item 7) He has no other assets or accounts in Egypt. (Items 7 and 8)

Since becoming a U.S. citizen, Applicant has not voted in an Egyptian election, run for public office in Egypt, or served in the Egyptian military. (Item 8) He has stated a desire to retire to Egypt in the future (when he reaches retirement age) to enable him to be closer to his family. (Item 8)

Applicant's mother, two brothers, and two sisters all are citizens and residents of Egypt. Besides his immediate family, he also has nieces and nephews who are citizens and residents of Egypt. (Item 1) His mother's sole source of income is from her deceased husband's retirement from the state-run newspaper. (Item 7) His two brothers work at public high schools, one as a general manager, and the other as a vice principal. (Item 7)

One of Applicant's sisters is a tax auditor, possibly for the Egyptian government's tax department. (Item 7) His other sister and her husband work for the Egyptian agricultural ministry as a senior account manager and engineer, respectively. (Item 7) Applicant stays in touch with all of his family members by phone, email, or text messaging about twice a month. (Item 8)

Records reveal that Applicant has traveled frequently to Egypt between 1991 and 2009 to visit family members. He acknowledged his regular pleasure visits to Egypt in 1991, 1993, 1995, 1996, 1998, 1999, 2000, 2001, 2004, 2007, and 2009 to visit his immediate family members and other relatives. (Item 8) He assured that during his many visits he never experienced any problems with customs officials or local authorities. On these visits, he encountered no evidence of monitoring by a foreign government and engaged in no activity or behavior that could place him in a position of compromise. (Item 8)

Egypt's country status

Egypt is the most populous country in the Arab world and the second most-populous country on the African continent. *Background Note: Egypt, supra*, at 2, U.S. Department of State (March 2010). It is a republic with a strong executive and a developing economy that relies extensively on U.S. aid. *See id.*, at 4-6; Egypt Country Specific Information, *supra*, at 1, U.S. Department of State (September 2010). Hosni Mubarak succeeded Anwar Sadat as Egypt's president following Sadat's assassination by Islamic extremists in October 1981. He was confirmed by popular referendum for four additional six-year terms in September 2005.¹ *See Background Note: Egypt, supra*, at 4.

Over the past 40 years, Egypt has been a strong military and strategic partner of the United States. *See Background Note: Egypt, supra*, at 8 In the past, it has played

¹ Recent reports out of Egypt following Mubarak's resignation suggest possible constitutional changes in Egyptian succession and voting procedures. At this time, it is too early to tell what effects, if any, these discussed changes will have on selections and elections of new Egyptian leaders and the stabilization of Egypt's political, economic, and social institutions. At the present time, it is too soon to make reliable predictions as to how Egypt's relations with its neighbors and Western allies will progress.

an important role in Middle East security and peace initiatives in the Gulf crisis and in joint military exercises. The United States and Egypt have long enjoyed a strong and friendly geopolitical relationship based on shared mutual interests in Middle East peace and stability, revitalizing the Egyptian economy, strengthening trade relations, and promoting regional security. See *Background Note: Egypt; supra; Egypt: Background and U.S. Relations, supra*, at 6.

Despite strong U.S.-Egyptian strategic interests, Egypt has continued to suffer from terrorist attacks in recent years. See *Background Note: Egypt, supra*, at 5. These attacks generally coincide with major local holidays and strike near tourist sites. See *Egypt Country Specific Information, supra*, at 3. In April 2009, for instance, the Egyptian government “uncovered a 49-person Hezbollah cell clandestinely operating in Egypt.” See *Egypt: Background and U.S. Relations, supra*, at 20. Criminal networks that may be associated with terrorist groups in the region, including Hezbollah, have used tunnels located in Egypt’s northern Sinai region to smuggle humans, weapons, and other contraband into Israel and the Gaza Strip. See *Country Reports on Terrorism 2009: Chapter 2-Country Reports: Middle East and North Africa Overview, supra*, at 3.

Egypt’s human rights record is considered poor by U.S. State Department standards, and serious abuses continue in many areas. See *Human rights Report: Egypt, supra*, at 1; *Egypt: Background and U.S. Relations, supra* (noting the inherent tensions and contradictions facing U.S.-Egyptian relations as a result of the Egyptian government’s repressive human rights practices).

Egypt considers all children born to Egyptian fathers to be Egyptian citizens, even if the Egyptian birth certificate or passport is not issued. Dual nationals residing in Egypt for more than six months require proof of Egyptian citizenship, such as a family I.D. card. Male dual nationals staying in Egypt for more than six months from the date of arrival and who have not completed military service must obtain an exemption certificate through the Ministry of Defense before they can leave Egypt. Individuals who travel to Egypt on their Egyptian passports are normally treated as Egyptian citizens by the local government. Available consular assistance for those traveling on Egyptian passports is extremely limited. See *Egypt Country Specific Information, supra*, at 7.

Endorsements

Applicant provided no endorsements or performance evaluations on his behalf. Nor did he provide any proof of community and civic contributions. Afforded an opportunity to supplement the record, he provided no additional information about his work and personal life.

Policies

The AGs list guidelines to be used by administrative judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual’s reliability, trustworthiness, and ability to protect classified information. These guidelines include “[c]onditions that could raise a

security concern and may be disqualifying” (disqualifying conditions), if any, and many of the “[c]onditions that could mitigate security concerns.” These guidelines must be considered before deciding whether or not a security clearance should be granted, continued, or denied. The guidelines do not require administrative judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision. Each of the guidelines is to be evaluated in the context of the whole person in accordance with AG ¶ 2(c).

In addition to the relevant AGs, administrative judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in AG ¶ 2(a) of the revised AGs, which are intended to assist the judges in reaching a fair and impartial commonsense decision based upon a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant’s life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant’s conduct, the relevant guidelines are to be considered together with the following AG ¶ 2(a) factors: (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.

Viewing the issues raised and evidence as a whole, the following individual guidelines are pertinent in this case:

Foreign Preference

The Concern: When an individual acts in such a way as to indicate 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. See AG ¶ 9.

Foreign Influence

The Concern: 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. See AG ¶ 6.

Burden of Proof

By virtue of the principles and policies framed by the AGs, a decision to grant or continue an applicant's security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires administrative judges to make a commonsense appraisal of the evidence accumulated in the record, the ultimate determination of an applicant's eligibility for a security clearance depends, in large part, on the relevance and materiality of that evidence. See *Kungys v. United States*, 485 U.S. 759, 792-800 (1988). As with all adversarial proceedings, the judge may draw only those inferences which have a reasonable and logical basis from the evidence of record. Conversely, the judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government's initial burden is twofold: (1) it must prove by substantial evidence any controverted facts alleged in the SOR, and (2) it must demonstrate that the facts proven have a material bearing to the applicant's eligibility to obtain or maintain a security clearance. The required materiality showing, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a security clearance. Rather, the judge must consider and weigh the cognizable risks that an applicant may deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the evidentiary burden shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation, or mitigation. Based on the requirement of Exec. Or. 10865 that all security clearances be clearly consistent with the national interest, the applicant has the ultimate burden of demonstrating his or her clearance eligibility. "[S]ecurity-clearance determinations should err, if they must, on the side of denials." See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

Analysis

Applicant is a senior staff electronic engineer for a defense contractor who seeks a security clearance. Born and raised in Egypt, Applicant immigrated to the United States in 1984 after completing his schooling and military service in Egypt. After becoming a naturalized U.S. citizen in 1991 and receiving a U.S. passport, he retained his Egyptian citizenship and passport and became a dual citizen with Egypt. His dual citizenship status enables him to retain all of the rights, privileges, and responsibilities that inhere with Egyptian citizenship. And when his Egyptian passport was due to expire, he renewed it in 2004 and continues to carry it with him for evidentiary purposes when he travels to Egypt to visit his relatives.

Security concerns in this case relate to both foreign preference and foreign influence associated with Applicant's longstanding family and property ties to Egypt, his retaining his Egyptian citizenship with no expressed intentions to consider renouncing or relinquishing it, and his renewal of his Egyptian passport with the intention of retaining it for citizenship evidentiary purposes when he travels to Egypt to see his family.

Foreign Preference

Dual citizenship concerns necessarily entail allegiance assessments and invite critical considerations over acts indicating a preference for the interests of the foreign country over the interests of the United States. The issues, as such, raise concerns over Applicant's preference for a foreign country over the United States. By virtue of his retaining his Egyptian citizenship, accepting pension privileges, preserving inheritance entitlements, keeping an Egyptian bank account, and renewing his Egyptian passport after becoming a naturalized U.S. citizen, Applicant exercised active citizenship with Egypt. His actions create considerable doubts about which country he prefers.

Afforded opportunities to surrender his Egyptian passport and consider renouncing his Egyptian citizenship to the Egyptian Embassy, or other authorized public authority, Applicant declined to do so. As a result, Applicant may not claim any of the mitigating conditions available for surrenders of foreign passports and renouncements of foreign citizenship. Whether Applicant's collective actions reflect an overall preference for his birth country (Egypt), or retained dual citizenship options that are not incompatible with his imposed fiduciary duties to the United States, are issues that require reconciling with the security requirements demanded of those who are afforded access to classified information.

Since becoming a naturalized U.S. citizen, Applicant has taken several actions and exercised Egyptian privileges that reflect active indicia of dual citizenship. Specifically, he retained his Egyptian passport and used his passport to provide Egyptian citizenship evidence during his regular travels to Egypt between 1991 and 2009. Applicant also exercises privileges of Egyptian citizenship in other discrete ways: He continues to receive a monthly pension from his Egyptian army service; he retains an Egyptian bank account that continues to increase in size; he preserved his inheritance rights; and he considered retirement to Egypt when he reaches retirement age. He declined to take any active steps to date to surrender his Egyptian passport and expressed no tangible willingness to renounce his Egyptian citizenship.

In assessing split-preference cases, the Appeal Board has looked to indicia of active exercise of dual citizenship. Where the subject applicant has relied on his foreign citizenship and passport to own and service property in a foreign country that restricts ownership and inheritance rights to residents and individuals with citizenship in that country, the Board has considered such actions to constitute important considerations of preference. See ISCR Case No. 16098 at 2 (App. Bd. May 29, 2003). Because holding a security clearance involves a fiduciary relationship between the Government and the clearance holder, preference questions acquire added security significance. See *Snepp v. United States*, 444 U.S. 507, 511 n.6 (1980). Split

preferences (as here) can place increased strains on the clearance holder where conflicts over safeguarding classified materials and protecting the clearance holder's private foreign interests arise.

Here, Applicant used his Egyptian birth and citizen status to retain and use his Egyptian passport when traveling to Egypt (even if limited to evidentiary purposes) and renew his Egyptian passport that enables him to enter and exit Egypt with minimum amounts of interference and inconvenience. His retention of his Egyptian citizenship and passport enables him to qualify for acceptance of prospective inheritance benefits and continued receipt of his Egyptian military pension benefits. His actions represent material indicia of a preference for Egypt that cannot be easily reconciled with the split preference he has shown for many years for his adopted country, the United States.

Preference questions require predictive judgments about how an applicant can be trusted in the future to honor his fiduciary responsibilities to the Government. In Applicant's case, he was manifestly aware of the security significance of his choosing to retain his Egyptian citizenship and an Egyptian passport while continuing to hold a U.S. security clearance. For he has declined to take any actions to surrender and renounce after being apprised of the Government's concerns in the SOR. While his choices may be understandable, they also reflect a current and ongoing preference for his roots in Egypt over his expressed allegiances for the United States.

Because Applicant retains his Egyptian citizenship and Egyptian passport while holding U.S. citizenship and a U.S. passport, the Government may apply certain provisions of disqualifying condition (DC) ¶ 10(a) of AG ¶ 9, "exercise of any right, privilege or obligations of foreign citizenship after becoming a U.S. citizen or through the foreign citizenship of a family member." This DC 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.

Specifically, DC ¶ 10(a)(1), (3) and (5) both apply to the established facts and circumstances herein. By retaining his Egyptian citizenship and passport, Applicant is able to accept and preserve special travel, pension and inheritance rights in Egypt that are not currently available to non-Egyptian residents and citizens.

Were Applicant to renounce his Egyptian citizenship and unconditionally surrender his Egyptian passport, he risks a potential forfeiture of his pension and inheritance rights and increased surveillance and inconvenience when he travels to Egypt to visit his family members. His election to retain the Egyptian citizenship and passport represent entirely rational and understandable choices on Applicant's part. They also reflect clear preferences for his home country of Egypt, where he could retire in the future. No mitigating conditions are available to Applicant under the facts presented.

Whole-person precepts do not enable Applicant to circumvent conclusions reached through an analysis of the individual disqualifying and mitigating conditions of the foreign preference guideline. Afforded an opportunity to provide endorsements, personnel evaluations, and other data about himself, he declined to do so.

Overall, Applicant is not able to persuade that his current preference is still with the United States. Because he made considerable use of Egyptian privileges associated with his retaining and exercising his Egyptian citizenship privileges and passport, he manifested a preference for Egypt under the criteria as established by the Appeal Board. Applicant fails to absolve himself of foreign preference concerns associated with the presented issue of whether his preference lies with his adopted country (United States), or the country where he was born and raised (Egypt). Unfavorable conclusions warrant with respect to the allegations covered by subparagraph 1.a of Guideline C.

Foreign Influence

Applicant and his family have deep roots in Egypt, a country with historically good relations with the United States, but also one occupied by terrorist groups and credited with a poor human rights record. With the fall of the Mubarak government, it is still too soon to make any sound predictive assessments about Egypt's political future and economic well-being.

The Government urges security concerns over risks that Applicant's family members residing in Egypt, who either are employed by the Egyptian government or receive government retirement benefits, might be placed at risk to disclose material information about Applicant. Applicant still has his mother, two brothers, and two sisters who reside in Egypt and maintain regular contact with Applicant. His Egyptian contacts provide potential opportunities to exploit his retirement savings and other cash assets in his bank account in Egypt as he further considers potential plans for retirement in Egypt.

Because he still has his mother and four siblings with likely government affiliations residing in Egypt, he could be subject to undue foreign influence by Egyptian government authorities to access sensitive proprietary information in Applicant's possession or control. As such, he and his family present potential heightened security risks covered by disqualifying condition (DC) ¶ 7(a), "contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion," of the

AGs for foreign influence. The citizenship/residence status of these family members in Egypt, combined with Applicant's own demonstrated preference for the country, do pose some potential concerns for Applicant because of the risks of undue foreign influence that could potentially affect his use of his monetary assets and close immediate and extended family ties in Egypt.

Applicant has both family members and material assets in Egypt that he pays close attention to on a regular basis. Since becoming a U.S. citizen, he has made regular trips to Egypt to visit his family members, and he carries his Egyptian passport with him on these trips for Egyptian birth validation purposes. Possession of Egyptian and U.S. passports on his family visits can enhance the risks of his movements being monitored and scrutinized. Potential conflicts that might be associated with his having close family members, a bank account, and dual passports in his possession during his trips to Egypt are potentially major ones. And from all that is known, most of Applicant's family members are either employed by the Egypt government or receive government retirement benefits, and are sources of potentially serious conflicts in the relatively unstructured and uncontrolled political and security environment of present-day Egypt.

Because most of Applicant's living family members residing in Egypt with government affiliations or connections have potential conflict situations with Applicant that could place them at risk to pressure and compromise, application of ¶ DC 7(b), "connection 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," is warranted herein.

The AGs governing collateral clearances do not dictate *per se* results or mandate particular outcomes for applicants with relatives who are citizens/residents of foreign countries in general. What is considered to be an acceptable risk in one foreign country may not be in another. While foreign influence cases must by practical necessity be weighed on a case-by-case basis, guidelines are available for referencing in the supplied materials and country information about Egypt. Unlike the old AGs, the new ones do take into account the country's demonstrated relations with the United States as an important consideration in gauging whether the particular relatives with citizenship and residency elsewhere create a heightened security risk. The geopolitical aims and policies of the particular foreign regime involved do matter.

Based on his case-specific circumstances, MC ¶ 8(a), "the nature of the relationships with foreign persons, the country in which these persons are located, or the persons or activities of these 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." is partially available to Applicant. Current security and political conditions in Egypt pose some heightened security risks that could subject them to potential pressures and influence from Egyptian government and military officials.

Of little benefit to Applicant is MC ¶ 8(b), "there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group,

government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest.” Applicant’s preferences and commitments to the United States are not sufficiently demonstrated under these circumstances to neutralize potential conflicts that are implicit in his monetary interests and relationships with his immediate family members and other relatives in Egypt. MC ¶ 8(c), “contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create risk for foreign influence or exploitation,” has little applicability, too, based on Applicant’s exhibited frequent communications and regular visits with his family members in Egypt.

MC ¶ 8(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.” is not available to Applicant. His financial interests in Egypt are considerable and are likely to continue to grow as they have over the course of the past three years.

Not available to Applicant either is MC ¶ 8(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.” There is no evidence presented in the record that Applicant promptly notified and briefed his employer on his returns from his visits to Egypt between 1991 and 2009.

Whole-person assessment is not available to minimize Applicant’s exposure to any potential conflicts of interests with his Egyptian family members residing in Egypt. Without any endorsements, personnel evaluations, or other pertinent data to evaluate Applicant’s overall security risks, any discounting of security risks assigned through the use of the disqualifying and mitigating conditions of the foreign influence guideline cannot be safely made.

Overall, security concerns attributable to Applicant’s having property interests and family members residing in Egypt are not sufficiently mitigated to permit safe predictive judgments about Applicant’s ability to withstand any Egyptian risks of undue influence. Unfavorable conclusions warrant with respect to the allegations covered by Guideline B.

Formal Findings

In reviewing the allegations of the SOR in the context of the findings of fact, conclusions, and the factors and conditions listed above, I make the following separate formal findings with respect to Applicant’s eligibility for a security clearance.

| | |
|-----------------------------------|-------------------|
| GUIDELINE C (FOREIGN PREFERENCE): | AGAINST APPLICANT |
| Subparagraph 1.a: | Against Applicant |

GUIDELINE B (FOREIGN INFLUENCE):

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

Conclusions

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue Applicant's security clearance. Clearance is denied.

Roger C. Wesley
Administrative Judge

