



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



In the matter of:

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ISCR Case No. 09-08245

Applicant for Security Clearance

Appearances

For Government: Candace L. Garcia, Esquire, Department Counsel

For Applicant: *Pro se*

March 29, 2011

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant is a native U.S. citizen who was raised and educated in Greece. A resident of the United States since 2000, he did not register for the U.S. Selective Service because he was unaware of the requirement to do so until he was too old to register. He returned to Greece in November 2008 to serve two months of compulsory military service in the Greek army, and is the legal owner with his brother of two properties in Greece worth around \$150,000 US. Applicant initiated the process to renounce his Greek citizenship in July 2010, but the foreign preference concerns are not fully mitigated. Clearance denied.

Statement of the Case

On May 17, 2010, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing the security concerns under Guideline C, Foreign Preference, Guideline B, Foreign Influence, and Guideline E, Personal Conduct, which provided the basis for its preliminary decision to deny him a security clearance. DOHA took the action 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) effective within the Department of Defense on September 1, 2006.

Applicant responded to the SOR on May 27, 2010, and he requested a hearing. On June 30, 2010, the case was assigned to me to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On July 2, 2010, I scheduled a hearing for July 20, 2010.

I convened the hearing as scheduled. Before the introduction of any evidence, I was notified that the Government had amended the SOR, in part to strike Guideline B, as set forth below. Three Government exhibits (Ex. 1-3) were admitted into evidence without objection. Applicant testified as reflected in a transcript (Tr.) received on July 29, 2010.

At Applicant's request, I held the record open until August 10, 2010, for him to document actions to relinquish his foreign citizenship. On August 9, 2010, Applicant forwarded a letter addressed to the Consulate of Greece. In response, Department Counsel noted there was no proof the letter had been mailed, and she proposed reopening the record for Applicant to provide evidence of mailing. On August 30, 2010, Applicant forwarded a certified mail receipt of that date. Applicant was granted until September 10, 2010, to clarify the record about the date he applied to renounce his foreign citizenship. On September 8, 2010, Applicant explained that he re-sent his application in response to the Government's concerns about mailing, and he submitted a letter from the Greek Consulate verifying receipt of his application to renounce his Greek citizenship. Department Counsel did not object to the admission of Applicant's letter of August 9, 2010 (Ex. A), the certified mail receipt (Ex. B), or his explanation with attached letter from the Greek Consulate (Ex. C), and the documents were entered into evidence.

Procedural Issues

On June 16, 2010, the Government amended the SOR to delete Guideline B and allegations concerning the Greek citizenship and residency of family members and Applicant's travels to Greece; to allege under Guideline C those allegations previously under Guideline B concerning Applicant's ownership of property in Greece and maintenance of a bank account in Greece; and to renumber as ¶ 2.a the Guideline E concern related to failure to register with the U.S. Selective Service. Applicant responded to the SOR on June 24, 2010. Guideline C, ¶ 1 of the amended SOR, now reads as follows:

a. You exercise dual citizenship with Greece and the United States by:

(1) Serving in the Greek Army from November 2008 to January 2009 even though you are a United States citizen by reason of your birth in the United States and have resided in the United States since at least 2000.

(2) You own at least two properties in Greece for a total value of approximately \$240,000.00.

(3) You maintain a bank account in Greece with a balance of approximately \$5,000.00.

Findings of Fact

In addition to the Guideline C concerns, the amended SOR alleges under Guideline E, Personal Conduct, that Applicant has not registered with the United State Selective Service System (SOR 2.a). In his response of June 24, 2010, Applicant admitted his service in the Greek Army (SOR 1.a(1)), but he denied SOR 1.a(2) and 1.a(3). Applicant did not respond to SOR 2.a, although he admitted in his May 27, 2010 response to the original SOR that he had not registered with the Selective Service because he was not made aware of the requirement until he was too old to register.

After considering the pleadings, exhibits, and transcript, I make the following findings of fact.

Applicant is a 33-year-old test engineer, who has worked for his current employer since May 2009. (Ex. 1.) He was granted an interim security clearance four or five months after he began his employment, and he held that clearance until May 2010. (Tr. 36.)

Applicant was born in the United States in July 1977. His parents are both resident citizens of their native Greece, although his father also possesses dual citizenship with the United States (Ex. 1.), apparently through a previous marriage to a U.S. citizen. (Ex. 2.) In 1979, Applicant moved with his parents to Greece, where he was raised and educated. (Tr. 35.) At age 18, he did not register with the United States Selective Service because he was living in Greece and not aware of any requirement to do so.¹ He officially registered as a

¹ Under the Selective Service System (50 U.S.C. App. § 451 et seq.), it is the duty of every male citizen of the United States, and every other male person now or hereafter in the United States, who, on the day or days fixed for the first or any subsequent registration, is between the ages of eighteen and twenty-six, to present himself for and submit to registration at such time or times and place or places, and in such manner, as shall be determined by proclamation of the President and by rules and regulations prescribed hereunder. 50 U.S.C. App. § 453. Under 50 U.S.C. § 462(a), the knowing failure, neglect, or refusal to perform any duty required under the Selective Service Act is punishable by a term of imprisonment of up to five years and/or a fine of not more than \$10,000, although indictment must be within five years after the last day before the male turns 26 or within five years after the last day before the male registers, whichever is first. In 1982, the Selective Service Act was amended under Public Law 97-252 to provide that those persons who fail to comply with the registration requirement are ineligible for any form of assistance or benefit (loans, grants, or work assistance) provided under Title IV of the Higher Education Act of 1965 for instruction beginning after June 30, 1983 (50 U.S.C. App. § 453(f)(1)). In November 1985, a statutory bar to employment with the executive branch of the federal government was enacted for those persons who were required to register under the Selective Service Act and who knowingly and willfully had not registered before the requirement terminated or became inapplicable to them (5 U.S.C. § 3328). In November 1986, pursuant to Public Law 99-661, the Selective Service Act was amended to make some non-registrants eligible for educational assistance and other federal benefits:

(g) A person may not be denied a right, privilege, or benefit under Federal Law by reason of failure to present himself for and submit to registration under section 3 [section 453 of this Appendix] if--

(1) the requirement for the person to so register has terminated or become inapplicable to the person; and
(2) the person shows by the preponderance of the evidence that the failure of the person to register was not a knowing and willful failure to register. 50 U.S.C. App. § 462(g).

Greek citizen in Greece for the first time, to sit for national university examinations. He obtained his Greek passport in September 1996 for identification. It was valid for five years. (Ex. 1.) He was not sure whether he could use his U.S. passport for that purpose and did not want to take a chance that he would be denied the examinations. (Tr. 39-42.) Applicant received a free college education in Greece as a benefit available to permanent residents who pass the entrance examinations. (Ex. 39.)

In early July 2000 Applicant came to the United States. (Tr. 35, 65.) He wanted to see the United States, and to improve his English so that he could pursue his graduate education here. He did not intend to remain in the United States permanently. (Tr. 38.) He returned to Greece in September 2000 to finish his degree, which was awarded to him in October 2000, and he returned to the United States in November 2000. (Tr. 65.) Applicant took a couple of courses at a public university in the United States starting in January 2001, and worked part-time as a cook at a pizza restaurant from September 2002 to June 2003. He then pursued his master's degree in engineering full-time, which was awarded to him in October 2005. (Ex. 1.) From October 2005 to June 2006, Applicant held an internship with a computer company in the United States. (Ex. 1; Tr. 37.) After his contract ended, he was unemployed for a couple of months. In August 2006, he started working as a test engineer in the United States. (Ex. 1.)

Applicant traveled to Greece yearly for a two or three-week stay to visit his parents and to vacation. He had an educational deferment from compulsory military service for Greece until 2003. When the deferment ended and he failed to enlist, he was adjudged by a court in Greece as a "deserter" and not permitted to travel to Greece without completing his military service. (Tr. 82-83.) Around 2004, the law changed, and those male Greek citizens who had not served in the Greek military could visit Greece for up to one month. During a trip to Greece in 2005, Applicant was informed by a Greek official at the airport that he could not leave the country without fulfilling his one-year of compulsory military service. Applicant was allowed to depart Greece after he brought up the change in the law. In 2007, the military service requirement was reduced from one year to six months for those Greek citizens who had established permanent residency and employment abroad for seven years. And those persons could visit Greece for a stay up to six months. (Tr. 47-51.) To be eligible, Applicant had to register his U.S. permanent residency status with the Greek Consulate every six months, which he apparently did. (Tr. 51-52.)

While Applicant's Greek passport was still valid, he took both his Greek and U.S. passports with him when he traveled to Greece. He presented his U.S. passport to access customs because the line was shorter than for those persons holding passports from European Union member nations. His current U.S. passport was issued to him in April 2004. (Ex. 1; Tr. 44, 88-89, 91.) He usually brought funds with him from the United States to pay his expenses in Greece. For a three-week trip in 2007, he brought \$5,000 into Greece. He did not change the currency into Euros because of a poor exchange rate for the dollar at the time, and his father gave him some Euros. Applicant opened a bank account in Greece in his and his brother's names into which he deposited the \$5,000 instead of bringing the money back into the United States so that he would have funds to spend in Greece in the future. (Tr. 66-67.) Applicant used his Greek identification card to

open the account because it was easier than using his U.S. passport ("If you use the American passport, it takes more time and they give you a hard time"). (Tr. 68.)

In September 2007, Applicant and his brother, who is a citizen of Greece with permanent residency in the United States, bought their current residence, a two-family home, in the United States. (Ex. 1; Tr. 69-70.) In September 2008, Applicant resigned from his employment and returned to Greece for family reasons. His mother was depressed because both of her sons were living in the United States, and so he went to see her. (Ex. 1; Tr. 45-46.) Unemployed but looking to work in Greece or the United States (Tr. 53-54.), Applicant decided to fulfill the basic training component of his compulsory six-months of active duty military service for Greece. As a citizen of Greece, Applicant would be ineligible for employment in Greece if he did not fulfill his military obligation. He completed his basic training in the Greek Army from November 17, 2008 to January 12, 2009. (Ex. 1, 2; Tr. 31-32, 46, 54.)

Uncertain whether he would be able to land a job in Greece (Tr. 75.), Applicant returned to the United States in January 2009 because it offered better job opportunities and he did not like the crime or overcrowding in the Greek capital. He decided to make his permanent home in the United States. (Tr. 38-39, 47, 77-78.) Applicant understood that he could fulfill the four months remaining of his compulsory military service for Greece by paying a fee when he turns 35. The fee is now around 800 Euros for each month of service not completed. (Ex. 2; Tr. 32.)

Applicant was unemployed until May 2009, when he began working for his present employer as a test engineer. He completed an Electronic Questionnaire for Investigations Processing (e-QIP) on July 15, 2009, on which he indicated that he had dual citizenship with Greece and the United States since October 1995. He responded "No" to whether he had registered with the U.S. Selective Service System and indicated, "I was not aware of the agency."² He disclosed his service at the enlisted rank in the Greek Army from November 2008 to January 2009, and added:

All Greek citizens are obligated to serve army. If you are permanent resident abroad though, you serve a reduced time and you have the right to do it in different time frames. I served 2 months, which is the basic training, and I still owe 4 months which I have to do if I stay in Greece for more than six months.

Applicant indicated that he was sharing his residence with his brother, a Greek citizen. Concerning any foreign activities, Applicant disclosed that he had \$5,000 US on deposit in a foreign bank account, and that he "inherited" three apartments in Greece valued at \$240,000 total. He indicated that he had previously held a Greek passport from September 1996 to September 2001, and that he had made many short trips to Greece totaling 160 days between August 2004 and January 2009. (Ex. 1.)

² After being asked for his Selective Service registration number on the e-QIP, Applicant accessed the Selective Service System website, which understandably showed no record under his social security number since he had not registered. Applicant then attempted to register and discovered that he was ineligible to do so because he was older than 26. (Tr. 72-73.)

On October 20, 2009, Applicant was interviewed by a Government investigator. He indicated that he obtained a Greek passport (now expired) for educational benefits, but he never used it for travel and had relinquished it to his employer. He indicated that he would renounce his Greek citizenship if required to maintain a security clearance and believed renunciation would not affect his financial accounts or property in Greece. He denied any intent to fulfill the four months remaining of his compulsory foreign military service obligation because he intended to stay in the United States. Applicant admitted voting in two national elections for prime minister in Greece between 1995 and 2000. Applicant admitted that he had \$5,000 US on deposit in a bank account in Greece, and that he owns two properties in Greece. Applicant denied receiving any income from these residences, although he would be taking possession on his parents' deaths. Applicant did not intend to relinquish ownership of the foreign properties without financial compensation. He denied any preference for Greece. (Ex. 2.)

As of July 2010, Applicant planned to remain in the United States. He did not intend to pay the fee in lieu of completing his compulsory military service for Greece unless he moved back to Greece. (Tr. 55.) Applicant would consider returning to Greece if he won a million dollars or if he was "financially independent." (Tr. 69.)

Applicant co-owns with his brother two parcels of developed multi-family residential real estate in Greece that have a total value around \$150,000 US. His father built a multi-family home on the coast in 1995 that he put in Applicant's and his brother's names from the beginning to avoid transfer taxes. (Tr. 57-58.) In 2004, Applicant's father deeded a city property containing multiple apartments. (Ex. 2.) Because of a condition on the deeds, Applicant and his brother cannot sell the properties without the consent of their parents. (Tr. 98.) According to Applicant, taxes are not assessed annually on the real estate, but are levied on the income received in rent. To lower his own taxes on rental income, Applicant's father opened a tax account in Greece in Applicant's name using Applicant's Greek ID to open the account.³ (Tr. 92.) For tax purposes, Applicant is listed as the landlord entitled to the rental income from three apartments, one in the city building and two units at the coast. (Tr. 58-61.) Applicant allows his parents to keep the rental income that they collect from his apartments. His parents need the money to pay their living expenses. (Tr. 93-100.) Applicant does not believe that he needs to maintain Greek citizenship to hold property in Greece. He does not know if the tax rate is lower for Greek citizens than for foreigners. (Tr. 101-02.) He reports only the rental income (around \$5,000 to \$6,000 yearly) on his tax forms for Greece and does not declare his income from U.S. sources. (Tr. 102-03.) Applicant does not list any foreign income on his U.S. taxes because he does not receive it. (Tr. 104.) Applicant intends to keep an apartment in Greece after his parents die for a place to stay when he travels to Greece. He intends to rent out the remaining property for extra income. (Tr. 62.)

³ Applicant testified that the rental income split among his, his brother's, and his father's tax accounts in Greece totaled 18,000 Euros a year, and income of less than 12,000 Euros was not subject to taxation. "That's why they have split it in three different accounts." (Tr. 104-05.)

Applicant has not been to Greece since January 2009. He was considering but not decided on traveling to Greece in summer 2010 due to the expensive airfare. Should he again travel to Greece before he turns 35, he does not intend to stay any longer than six months unless he quits his job with the U.S. defense contractor. Applicant does not foresee moving back to Greece in the near future due to the economic situation in Greece (no jobs, Greek government almost bankrupt). (Tr. 106.)

On August 9, 2010, Applicant sent a letter to the Consulate General of Greece expressing his desire to renounce his Greek citizenship. (Ex. A.) Applicant re-sent a copy of the letter to the Consulate by certified mail on August 30, 2010. (Ex. B, C.) As of September 3, 2010, the Consulate had received the documentation required to initiate the process for renunciation of Greek citizenship. (Ex. C.)

Applicant's salary with the U.S. defense contractor is \$65,000 annually. (Tr. 105.) Applicant and his brother's home in the United States is valued at around \$320,000, and their mortgage is \$200,000. (Tr. 69.) Their parents are retired and now spend half of the year with them in the United States, most recently in spring 2010. (Tr. 70-71.) Applicant has about \$100,000 in U.S. accounts, including \$35,000 in the equity market. (Tr. 79.) As of July 2010, he intended for him or his brother to close their bank account in Greece sometime that summer. (Tr. 92.) Applicant has close ties to some second cousins who are U.S. native citizens and live nearby. (Tr. 105.)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 required to 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, they 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. Under Directive ¶ E3.1.14, the government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant

is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion when seeking to obtain 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 that the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information. Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Foreign Preference

The security concern about foreign preference is set out in AG ¶ 9:

When an individual acts in such a way 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.

Applicant is a dual citizen of the United States from birth, and of Greece where he was raised. Given Applicant spent his formative years in Greece, his active exercise of Greek citizenship before he came to the United States in 2000 is to be expected. The salient concern in this case is whether Applicant actively exercised his Greek citizenship after he reached an age and established ties to his native U.S. to where exercise of Greek citizenship shows a foreign preference for Greece over the United States. With that in mind, AG ¶ 10(a), “exercise of any right, privilege, or foreign citizenship after becoming a U.S. citizen or through the foreign citizenship of a family member,” applies.

AG 10(a)(1), “possession of a current foreign passport,” applies to a limited extent. Applicant acquired a Greek passport in September 1996 because he believed it was needed for identification to sit for university examinations in Greece. He did not know at the time that his U.S. passport would have sufficed for that purpose. Moreover, he did not use his Greek passport for foreign travel. Apparently, he had both his U.S. and Greek passports in his possession when he returned to Greece in September 2000 to finish his bachelor’s degree. Albeit for convenience (the line was shorter), he presented his U.S. passport to enter Greece. And he made no effort to renew that passport, which expired in 2001, and it has since been turned over to his employer. AG ¶ 10(a)(3), “accepting educational, medical, retirement, social welfare, or other such benefits from a foreign

country,” pertinent to his free university education in Greece, and AG ¶ 10(a)(7), “voting in a foreign election,” occurred while he was a young adult living in Greece and a U.S. citizen in name only. They no longer raise significant security concerns, even if AG ¶ 11(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,” does not squarely apply.

As of July 2010, Applicant had a Greek ID card that was used by his father to open a tax account for the income from the rental of three apartments in Applicant’s name in Greece. It is unclear when his father opened the tax account or when Applicant obtained the ID. Applicant indicated on his e-QIP that he held citizenship with Greece only since 1995, when he would have been 17 or 18. Efforts to obtain recognition of Greek citizenship would implicate AG ¶ 10(b), “action to acquire or obtain recognition of a foreign citizenship by an American citizen.” But without evidence that Applicant was required to prove Greek citizenship to open the account or to maintain the account, AG ¶ 10(a)(5), “using foreign citizenship to protect financial or business interests in another country,” does not apply to the use of the Greek ID to open the tax account. In 2007, Applicant chose to use his Greek ID card to open a bank account in Greece because it would be easier for him. Again, absent proof that he would have been ineligible to open or maintain the bank account as a U.S. citizen, AG ¶ 10(a)(5) is not implicated. However, the Adjudicative Guidelines are not designed to enumerate every circumstance that might give rise to a security concern. Applicant’s use of the ID card in 2007 was an active exercise of his Greek citizenship in knowing preference over his U.S. citizenship after he had established significant ties to the U.S., most notably employment and home ownership. Moreover, Applicant’s completion of two months of the required six months of compulsory military service for Greece from November 2008 to January 2009 implicates AG ¶ 10(a)(2), “military service or a willingness to bear arms for a foreign country.” While he acted to preserve his option of living and working in Greece rather than out of a desire to bear arms for Greece, his decision to enlist raises significant concerns about whether he can be counted on to make decisions in the U.S. interest.

Based on the record evidence that indicates Applicant acted to acquire Greek citizenship in 1995, AG ¶ 11(a), “dual citizenship is based solely on parents’ citizenship or birth in a foreign country,” is difficult to apply. AG ¶ 11(b), “the individual has expressed a willingness to renounce dual citizenship,” is established by his application to relinquish his Greek citizenship in late August 2010, after his hearing. And custody of his expired Greek passport was turned over to his employer before his October 20, 2009 interview (see AG ¶ 11(e), “the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated”). These actions are consistent with his United States citizenship, but are insufficient to fully mitigate the foreign preference concerns in this case. As of the record closure in this case, formal action had not been taken on his application to renounce his Greek citizenship. Assuming that his foreign citizenship is revoked, Applicant has not shown a persuasive preference for the United States. Although he testified that Greece and he had changed as of early 2009, he admitted that he would consider moving back to Greece if he was “financially independent.” Even while living in the U.S., he kept himself apprised of the changes in the laws in Greece concerning compulsory military service and limitations on length of stay in Greece for those expatriates who have not completed their

service. At the same time, despite his U.S. citizenship from birth and continuous residency in the U.S. since 2000, he made no effort to determine by July 2009 whether he had a U.S. military or registration obligation in the United States.

Personal Conduct

The security concern for personal conduct is set out in AG ¶ 15:

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.

Applicant did not register with the U.S. Selective Service System within 30 days of the date he turned 18. When he came to the United States in July 2000, he was 23 years old, of an eligible age to register, and he did not do so. The non-registrant can face criminal prosecution under 50 U.S.C. § 462, and may be ineligible for federal student loans or employment. Yet under 50 U.S.C. §451, a person may not be denied a right, privilege, or benefit under Federal law by reason of failure to register if the requirement for the person to register has terminated or become inapplicable to the person and the failure to register was not knowing and willful. Applicant testified credibly that he was not advised of the requirement to register by the U.S. Embassy in Greece when he obtained his first U.S. passport. (Tr. 34.) And there is no evidence showing that he knew of the requirement before he was given the e-QIP in July 2009. He made an effort at that time to verify whether he was somehow registered, and on discovering that he was not, he then attempted to register without success. Applicant's failure to register was not knowing and willful. Therefore, there are no personal conduct security concerns.

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 his conduct and all relevant circumstances in light of 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.

Applicant's foreign preference concerns relate to Greece, a country with a democratic government and an ally of the United States. That said, the interests of even the best of allies may not always be aligned. The U.S. Government does encourage its citizens to remain dual nationals because of the complications that might ensue from obligations owed to the country of second nationality. Applicant's willingness to comply with his military service obligation in Greece, after eight years of residency in the United States and home ownership here, shows an equivocal commitment to the United States as recently as late 2008. Applicant's application to renounce his Greek citizenship, especially at the eleventh hour, is not sufficient to persuade me that he can be counted on to honor his fiduciary obligations to the U.S. government. Whether it be using his Greek ID card to open a bank account to avoid the hassles apparently given American citizens, or completing boot camp for Greece so that he can work in Greece in the future, he demonstrated a preference for Greece. He decided to stay in the United States because of more favorable job and security climates rather than out of a commitment to the United States. And he would consider returning to Greece if he could live there comfortably. Applicant is a law-abiding citizen of good character. But he failed to carry his burden of mitigating the foreign preference security concerns.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the amended 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

Paragraph 2, Guideline E: FOR APPLICANT

Subparagraph 2.a: For 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.

Elizabeth M. Matchinski
Administrative Judge