



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



In the matter of: )  
)  
(Redacted) ) ISCR Case No. 10-01840  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Eric Borgstrom, Esq., Department Counsel  
For Applicant: *Pro se*

February 28, 2011

**Decision**

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines C (Foreign Preference) and B (Foreign Influence). Eligibility for access to classified information is granted.

**Statement of the Case**

Applicant submitted a security clearance application on September 28, 2009. On September 13, 2010, the Defense Office of Hearings and Appeals (DOHA) sent him a Statement of Reasons (SOR) detailing the basis for its preliminary decision to deny his application, citing security concerns under Guidelines C and B. DOHA acted 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 by the Department of Defense on September 1, 2006.

Applicant answered the SOR on September 28, 2010, and requested a hearing before an administrative judge. DOHA received the request on September 30, 2010.

Department Counsel was ready to proceed on October 31, 2010, and the case was assigned to me on November 3, 2010. DOHA issued a notice of hearing on November 12, 2010, scheduling it for December 10, 2010. I convened the hearing as scheduled. Government Exhibits (GX) 1 through 5 were admitted in evidence without objection. Applicant testified and submitted Applicant's Exhibits (AX) A through S, which were admitted without objection. DOHA received the transcript (Tr.) on December 20, 2010.

### **Administrative Notice**

Department Counsel requested that I take administrative notice of relevant facts about Greece. The request and supporting documents are attached to the record as Hearing Exhibit (HX) I. I took administrative notice as requested by Department Counsel. The facts administratively noticed are set out below in my findings of fact.

### **Correction of Transcript**

Applicant submitted three pages of proposed corrections to the transcript, which are attached to the record as HX II. Without objection by Department Counsel, I have incorporated his proposed changes. Department Counsel's comments regarding the proposed corrections are attached to the record as HX III.

### **Findings of Fact**

In his answer to the SOR, Applicant admitted the allegations in SOR ¶¶ 1.a-1.b and 2.a-2.d, but he denied that the facts alleged showed foreign preference or constituted a security concern. His admissions in his answer and at the hearing are incorporated in my findings of fact.

Applicant is a 66-year-old native of Greece. His father was a citizen of Greece and his mother was a citizen of the United States. (Tr. 33-34.) When Applicant was three years old, his father was killed in a shipping accident. In 1955, his mother decided that she, Applicant's sister, and Applicant should return to the United States, and they have all lived in the United States since then. (Tr. 34.) All living members of his immediate family live in the United States. (Tr. 70.)

Applicant's security clearance application indicated that he became a naturalized U.S. citizen in April 1962. The naturalization certificate is not included in the record. Because his mother is a native-born U.S. citizen, it is likely that he received a certificate of citizenship rather than a naturalization certificate. In any event, it is clear that he is a dual citizen of the United States and Greece. He was born in 1944, when Greece was occupied by Germany and there was no U.S. embassy with which to register his birth. (Tr. 57.) He completed grade school, high school, and college in the United States. He graduated from a law school in the United States in June 1969 and was admitted to practice as a lawyer in the same year. (Tr. 34-35; AX A.) He is unmarried and has no children.

Applicant inherited some agricultural land in Greece from his father in 1947, which he owns jointly with his mother and his sister. The estimated value of this property is about \$100,000. He also inherited a house in Greece from his grandmother in 1964, which he owns jointly with his sister. The house is worth about \$50,000.

Applicant was commissioned as an officer in the United States Coast Guard Reserve in October 1968, and he served on active duty in the Coast Guard from April 1970 to October 1973. He stayed in the Coast Guard Reserve after being released from active duty and attained the rank of lieutenant commander. He was discharged from the Coast Guard Reserve with an honorable discharge. (Tr. 36; GX 1 at 16; AX B.)

After his active duty military service, Applicant returned to the practice of law, specializing in maritime law, admiralty proceedings, and international commercial law. He eventually became the general counsel for a group of shipping companies.

Applicant retired from practicing law after 20 years. In 1992, he organized a company that provides freight forwarding, ship chartering, and steam ship line agency services. He and his partner are the sole and equal owners of the company. His partner became the president of the company, and Applicant became the vice-president and the facility security officer. (Tr. 37.) This company earns about 15% of its total revenue from its freight forwarding of U.S. military materials to Greece, and the remainder of its revenue from commercial non-military, non-governmental contracts. It does not act as a freight forwarder for any foreign country other than Greece. The company's annual revenue is about \$1 million, of which about \$150,000 is from freight forwarding contracts with Greece. (Tr. 79-80.)

Applicant and his partner also organized a similar freight forwarding company based in Greece. Originally, he and his partner each had a one-third interest in the Greek company, and the remaining one-third was held by Greek partners, who manage the company. Applicant and his partner sit on the board of directors of the Greek company. They now each own a one-sixth interest in the Greek company and the remaining two-thirds is held by the Greek partners. (Tr. 38, 73.) Applicant attends the annual and special meetings of the board of directors, which are held in Greece. The shipping company transports military equipment from the United States to Greece under the Foreign Military Sales program.

Applicant has occasional meetings with the military attaché at the Greek Embassy in Washington, D.C. to coordinate the shipment of military equipment from the United States to Greece. All of his contacts with the Greek embassy in the United States have been related to his freight forwarding contracts with the Greek government. He has no social contact outside of business meetings. He has never attended embassy functions or receptions. (Tr. 94-95.)

The Greek company derives about 50% of its revenue from contracts with the Greek government. Its contract with the Greek government covers all transfers of military materials and dual-use materials from the United States to Greece. It does not

act as the freight forwarder for any other country, but it does have other private commercial contracts. (Tr. 74-78.) Applicant testified that he did not know the annual gross revenue for the Greek-based company. (Tr. 80.) This company does not have U.S. security clearance, but was required to obtain a clearance from the Greek government and a North Atlantic Treaty Organization (NATO) clearance. (Tr. 86.)

Applicant owns a 25% interest in a U.S.-flagged ocean going ship. (Applicant's Memorandum in Support of His Answer to SOR at 3.) He also sits on the board of directors of a Liberian shipping company based in Greece. He helped organize the Liberian company, but he does not have an ownership interest in it. It is wholly owned by Greek investors. This company ships cargo that cannot be put in containers, either because it is too large or it is dry cargo. Applicant's U.S.-based freight forwarding company is the shipping company's agent in the United States. (Tr. 83-84.) Applicant has received compensation for being a director of the shipping company. He did not receive anything in 2009, but he believes he may have received about \$50,000 in the past. (Tr. 85.)

In 1994, Applicant's U.S.-based company successfully bid on a contract from the Greek Ministry of Justice to provide ocean transportation to Greece for all arms, munitions, and military supplies acquired by Greece in the United States, and to provide return transportation when items must be returned to the United States for repairs or other reasons. (Tr. 38-39.) Except for a period between 1998 and 2000, Applicant's company has continually held this contract from 1994 to the present. (Tr. 39.)

In July 1994, the Greek embassy informed the U.S. Defense Logistics Agency (DLA) that the Hellenic Ministry of Defense and Applicant's freight forwarding company had signed a transportation contract and requested that the freight forwarding company be granted a security clearance. (AX C.) In August 1994, DLA forwarded the request for facility clearance to the Defense Investigative Service (DIS), citing the directives pertaining to the U.S. Military Assistance Program, and requesting that DIS respond directly to the Greek embassy. (AX D.) DIS in turn forwarded the request to the Defense Industrial Security Clearance Office (DISCO) and notified Applicant's company of the need for designated employees of the facility to obtain security clearances. (AX E; AX F.)

In September 1994, the president of Applicant's company executed a "Certificate Pertaining to Foreign Interests," in which he disclosed that he and Applicant owned the freight forwarding company in equal shares, that they each owned a one-third interest in the Greek shipping company, and that the freight forwarding company acts as agent for the shipping company with respect to all military cargo being shipped from the United States for the Greek Armed Forces. (AX I.) In October 1994, Applicant's company was notified that they had received a favorable adjudication of their involvement in foreign interests. (AX J.)

In December 1994, Applicant received a security clearance and his company was granted a facility clearance. (AX G; AX H.) In January 1995 and November 1995,

however, Applicant was advised that his facility would not be cleared for storage of classified materials until an additional employee was cleared and the company's transportation plan was approved. (AX K; AX L.) In July 1996, Applicant was advised that a transportation plan must be included in each contract that involved the international transfer of classified material. (AX N.) In December 1996, Applicant was advised that his transportation plan was approved. His company was commended for maintaining "a highly satisfactory security posture" and for an employee's high-quality record keeping and overall knowledge of the National Industrial Security Program. (AX M.) Applicant's facility was inspected and received satisfactory ratings in September 1997, February 2005, and August 2006. (AX O, P, and Q.) Inspections in October 2009 and August 2010 revealed minor administrative deficiencies. (AX R and S.)

The terms of sale of the military materials sold to Greece by the United States provide that the passing of title takes place at a U.S. military depot where the materials are stored or at the Greek freight forwarder's warehouse in the United States. Therefore, there must be a Greek agent in the United States to take delivery. Applicant's Greek freight forwarding company does not have an office in the United States, and so they assign the freight forwarding function to Applicant's U.S.-based company and inform the Greek Ministry of Defense of the assignment. The Greek Ministry of Defense in turn notifies the military attaché in the Greek embassy in the United States, who is responsible for administering the contracts for purchase and transportation of military materials. The Greek military attaché then informs the United States government agencies that Applicant's company is the freight forwarder for Greece, and the United States government gives clearance to transport the materials. The information is entered in the Military Assistance Program Address Directory, so that everyone involved in the transaction, especially the depots, know whom they should contact and where they should send the materials. (Tr. 40-43.)

Applicant held a Greek passport from childhood until he learned that it raised security issues. He used his Greek passport to enter Greece and his U.S. passport to reenter the United States. (Tr. 65.) He used the Greek passport because the lines were shorter and he was not limited to a 60-day stay. (Tr. 65-66.) He also used his Greek passport number as identification for his Greek bank accounts, his utility accounts, and the titles of the property he had inherited from his family. Based on his experience before he obtained a Greek passport in the 1980s, he does not believe that using a Greek passport resulted in more favorable treatment than using a U.S. passport. (Tr. 67.) However, he testified that he prefers to retain his dual citizenship because it is useful for his business. He would consider renouncing his Greek citizenship if he were told that it was inconsistent with his obligations to the United States. (Tr. 58.)

Applicant owns an automobile in Greece, but he does not have a Greek driver's license. He uses an international driver's license that he obtained in the United States. (Tr. 70.)

Applicant's travel to Greece is mostly business-related, although he does take vacation time and visits his extended family and friends while in Greece. He spent about 120 days in Greece during 2009. (Tr. 71.)

In January 2010, he notified the DISCO of his intention to obtain a Greek identification card as a form of local identification in place of his Greek passport. (GX 5.) There is no indication that the DISCO had concerns about him obtaining a Greek identification card. He surrendered his passport to Greek authorities in April 2010. He obtained a Greek identity card from the local police headquarters, and now uses the number of his Greek identity card on these accounts and documents. (Tr. 54; GX 3 at 3; GX 4 at 4-5.) He uses his U.S. passport for travel to Greece and other countries. He testified that it is necessary to be a Greek citizen to obtain a Greek identity card. He surmised that the only advantage of carrying a Greek identity card was that he might be able to avoid severe penalties for overstaying his 60-day visit by doing "a little bit of talking" with officials at the airport, but he has never tried it. (Tr. 90-91.)

Applicant maintains a personal bank account in Greece, with an average balance of about \$11,000, that he uses to pay bills incurred in Greece. He testified that it is "very troublesome" to make transfers from a U.S. Bank to pay telephone bills, utility bills, and the like. Greek citizenship is not required to open a bank account, but some form of identification is required. A U.S. passport is acceptable identification. (Tr. 59-60.)

Applicant occasionally stays in the house he inherited from his grandmother, but when he is working he stays in an apartment in Athens that he has rented for about ten years. (Tr. 61-62.) The land that he inherited from his father is occupied by a caretaker, and the minimal income derived from the land goes to the caretaker. (Tr.63.)

Greece is a developed and stable democracy with a modern economy. It is a constitutional republic and a multiparty parliamentary democracy, with an estimated population of 11 million. It has been a member of the North Atlantic Treaty Organization (NATO) since 1952 and it is an important ally of the United States. The two countries maintain a mutual defense cooperation agreement. Greece provided peacekeeping and training contingents for Bosnia, Kosovo, and Afghanistan.

The Greek economy is a predominately service economy, which includes tourism and accounts for over 73% of the gross domestic product. Almost 9% of the world's merchant fleet is Greek-owned, making the Greek fleet the largest in the world. Greek authorities have participated in the container security initiative and cooperated with the United States on information sharing as well and the training of Greek security and customs officials and judicial personnel.

In 2008, U.S. exports to Greece were \$2.4 million, accounting for 2.7% of Greece's total imports for the year. The top U.S. exports are defense-related materials.

Domestic terrorism increased in 2009, with more than 430 security incidents, more than have been recorded in the previous 20 years. The high level of terrorism

continued into 2010. Targets have included the Greek government, security forces, and law enforcement personnel; U.S.-affiliated businesses, U.S.-affiliated banks, the Athens Stock Exchange, and U.S. and other foreign embassies. Greece has become an entry point for illegal immigrants from the Middle East and South Asia, and is a likely transit route for terrorists traveling to Europe and the United States. The Greek government generally respected the rights of its citizens, and there is an independent and impartial judiciary that allows citizens to seek compensation for violations of individual rights. Civilian authorities have generally maintained effective control of the security forces, although some abuse by security forces was reported during the increased level of terrorism in 2009.

## **Policies**

“[N]o one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to “control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the AG. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden

of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 92-1106 at 3, 1993 WL 545051 at \*3 (App. Bd. Oct. 7, 1993).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## Analysis

### Guideline C, Foreign Preference

The SOR alleges Applicant obtained and maintains a Greek Identity Card, for use in lieu of a Greek passport, as a form of identification in order to do business in Greece and access his bank account, utility accounts and tax accounts in Greece (¶ 1.a). It also alleges he maintains his Greek citizenship to protect his assets in Greece (¶ 1.b).

The security concern relating to Guideline C is set out in AG ¶ 9: “When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.” A disqualifying condition may arise from “exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen,” including but not limited to “possession of a current foreign passport” and “using foreign citizenship to protect financial or business interests in another country.” AG ¶¶ 10(a)(1) and (5).

Dual citizenship standing alone is not sufficient to warrant an adverse security clearance decision. ISCR Case No. 99-0454 at 5, 2000 WL 1805219 (App. Bd. Oct. 17, 2000). Under Guideline C, “the issue is not whether an applicant is a dual national, but rather whether an applicant shows a preference for a foreign country through actions.” ISCR Case No. 98-0252 at 5 (App. Bd. Sep. 15, 1999).

The security concern under this guideline is not limited to countries hostile to the U.S. “Under the facts of a given case, an applicant’s preference, explicit or implied, even for a nation with which the U.S. has enjoyed long and peaceful relations, might pose a challenge to U.S. interests.” ADP Case No. 07-14939 at 4 (App. Bd. Mar. 11, 2009).

Applicant surrendered his Greek passport when he learned that it raised security concerns. He obtained a Greek identity card, which is available only to Greek citizens, but it confers no privileges other than to identify the holder as a Greek citizen.

I conclude that AG ¶ 10(a)(1) is not raised because Applicant surrendered his Greek passport when he learned that it raised security issues. AG ¶ 10(a)(5) also is not raised, because there is no evidence that Applicant used his Greek citizenship to protect his financial or business interests. Applicant testified that Greek citizenship was not a requirement for owning property or maintaining a Greek bank account, and there is no evidence in the record to the contrary. See ISCR Case No. 03-23806 at 4, 2005 WL 3134149 (App. Bd. Apr. 28, 2005) (holding that there was no basis in the record for concluding that an applicant used his Greek citizenship to protect or maintain his property in Greece).

However, Applicant's possession and use of a Greek identity card is an exercise of foreign citizenship sufficient to raise AG ¶ 10(a), even though it does not fit under any of the enumerated examples and the benefits are nominal. Thus, the burden falls on Applicant to rebut, explain, extenuate, or mitigate the facts.

The relevant mitigating conditions under this guideline are:

AG ¶ 11(a): Dual citizenship is based solely on parents' citizenship or birth in a foreign country.

AG ¶ 11(b): The individual has expressed a willingness to renounce dual citizenship.

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.

AG ¶ 11(e): The passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated.

I conclude that AG ¶ 11(a) is partly established. Applicant was born in Greece and his father was Greek. However, he has exercised his Greek citizenship using a Greek passport and by obtaining a Greek identity card, precluding full application of this mitigating condition.

Applicant receives some credit under AG ¶ 11(b) because he has expressed willingness to surrender his Greek citizenship if he is told that it is inconsistent with his obligations to the United States. However, the contingent nature of his willingness precludes full application of this mitigating condition.

Applicant receives no credit under AG ¶ 11(c). He obtained and used a Greek passport in the 1980s, after he was a U.S. citizen and a mature adult.

Applicant receives credit under AG ¶ 11(d) for surrendering his Greek passport. However, his credit is diminished by his exercise of Greek citizenship to obtain a Greek identity card, even though the identity card does not confer the privileges of a passport.

Notwithstanding the limited application of the enumerated mitigating conditions under this guideline, I conclude that the totality of the evidence, when analyzed under the enumerated disqualifying and mitigating conditions and the whole-person concept, mitigates the security concern based on foreign preference.

Applicant surmised that identifying himself as a dual citizen might put him in a better bargaining position if he illegally overstayed his visa, but he admitted that he had never tried it. He stated that he would surrender his Greek citizenship if he were told that it was inconsistent with his obligations to the United States. However, he has not surrendered his Greek citizenship because he believes that it is useful for his business. He did not elaborate on the basis for his belief. The fact that Applicant's business interests, rather than his political or ideological beliefs, are the reason for his failure to surrender his Greek citizenship, does not diminish the significance of his exercise of Greek citizenship. See ISCR Case No. 98-0477 at 4, 1999WL 1442363 (App. Bd. Dec. 1999). Furthermore, a foreign preference under Guideline C is not limited to a preference for single foreign country over the United States. It can be shown by conduct showing an *ad hoc* situational preference for a foreign country over the United States. See ISCR Case No. 99-0424 at 12, 2001 WL 675725 (App. Bd. Feb. 8, 2001).

On the other hand, several factors militate against a finding of foreign preference in this case. Applicant uses his U.S. passport to travel to and from Greece, he is limited to a 60-day visa like all other foreign travelers, and he uses an international driver's license rather than a Greek license. He testified, without contradiction by any evidence presented by Department Counsel, that Greek citizenship is not required to own property or open a bank account, and that a U.S. passport would suffice for identification on his bank accounts, tax records, utility bills, and property records. His permanent home is in the United States, and most of his assets are in the United States. He served as a United States Coast Guard officer for three years and remained in the Coast Guard Reserve after completing his active duty. For almost 60 of his 66 years of life, he has lived in the United States and exercised the rights and obligations of a U.S. citizen. He travels to Greece primarily on business and occasionally to visit his extended family, but he is a temporary visitor limited by his visa to a 60-day stay. In the context of all the evidence, the nominal benefits granted by a Greek identity card do not demonstrate Applicant's preference for Greece over the United States.

### **Guideline B, Foreign Influence**

The SOR alleges that Applicant holds substantial business, financial and property interests in Greece (¶ 2.a), he has regular and ongoing contact with citizens and residents of Greece related to his business interests (¶ 2.b), he sits on the board of directors of a Liberian shipping company (¶ 2.c), and he has periodic and ongoing

contact with the Greek military attaché and other personnel at the Greek embassy in the United States (¶ 2.d).

The security concern under this guideline is set out in AG ¶ 6:

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.

Three disqualifying conditions under this guideline are relevant:

AG ¶ 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.

AG ¶ 7(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

AG ¶ 7(d): 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 has no contact with Liberia or its government, and he has no financial interest in the Liberian shipping company doing business in Greece. It appears that the shipping company is using Liberia as a flag of convenience for its ships. However, Applicant's contacts with the Greek embassy establish AG ¶ 7(a), because those contacts could be used to influence him by enhancing or diminishing his ability to obtain freight forwarding contracts with the Greek Government. His connections to the Greek directors and owners of his U.S. based company, his connections to the Greece-based company, and his connections to the Liberian company doing business in Greece are sufficient to establish AG ¶ 7(b). His ownership interest in the Greece-based company and his real estate holdings in Greece establish AG ¶ 7(d). His Greek bank account, automobile, leased apartment, and utility accounts are all related to his business interests and have no independent security significance.

Guideline B is not limited to countries hostile to the United States. “The United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States.” ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004).

Furthermore, “even friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security.” ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at \*\*15-16 (App. Bd. Mar. 29, 2002). Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. Nevertheless, the nature of a nation’s government, its relationship with the U.S., and its human rights record are relevant in assessing the likelihood that an applicant’s family members are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, or the country is known to conduct intelligence operations against the U.S. In considering the nature of the government, an administrative judge must also consider any terrorist activity in the country at issue. *See generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006) (reversing decision to grant clearance where administrative judge did not consider terrorist activity in area where family members resided).

Three mitigating conditions under this guideline are relevant:

AG ¶ 8(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.;

AG ¶ 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 U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest; and

AG ¶ 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.

I conclude that AG ¶ 8(a) is not established. The fluid and sometimes volatile nature of the relationships among governments, the unpredictable nature of the global economy, and the international competition to acquire U.S. technology preclude a finding that a potential conflict of interests is unlikely.

I also conclude that AG ¶ 8(f) is not established. Although Applicant is a wealthy man and the majority of his financial interests are in the United States, he still has substantial holdings in Greece. While he might not succumb to attempted influence, manipulation, or pressure, his substantial holdings present a potential conflict of interest that might subject him to pressure to act contrary to U.S. interests.

However, I am satisfied that Applicant would resolve any conflict of interest in favor of U.S. interest. Thus, I conclude that AG ¶ 8(b) is established. His connections to the United States extend back to 1955, when his family left Greece and came to the United States. His commercial connections with Greece did not begin until 1992, after he had practiced law in the United States for 20 years and served as an officer in the U.S. Coast Guard. All his immediate family members are citizens and residents of the United States. He has sentimental attachment to his grandmother's house and the farmland he inherited from his father, but its economic value is a small part of his total wealth. He is a temporary visitor in Greece; his permanent home is in the United States. He uses an international driver's license to drive in Greece, rather than a Greek driver's license. His exposure to the loss of his one-sixth interest in the Greek company is no greater than the risks taken by many other international investors, regardless of nationality. Given the volatility of the global economy, he has equal or greater risk of economic loss from his U.S.-based company.

### **Whole-Person Concept**

Under the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all the relevant circumstances. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress; and
- (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have incorporated my comments under Guidelines B and C in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

Applicant has held a security clearance without incident since December 1994. He and his partner disclosed their interests in the Greek-based company when they

applied for their initial clearance. Since receiving a clearance, their interest in the Greek-based company has been reduced from a one-third interest to a one-sixth interest. Applicant surrendered his Greek passport after holding it since childhood, because he was advised that it raised security concerns. He notified security officials of his intent to obtain a Greek identity card, but received no indications that it would raise security concerns until he received the SOR. His longstanding and deep connections to the United States make it clear that he will resolve any conflict of interest in favor of the United States.

After weighing the disqualifying and mitigating conditions under Guidelines B and C, and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns based on foreign influence and foreign preference. Accordingly, I conclude he has carried his burden of showing that it is clearly consistent with the national interest to continue his eligibility for access to classified information.

### **Formal Findings**

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline C (Foreign Preference):                   FOR APPLICANT

    Subparagraphs 1.a-1.b:   For Applicant

Paragraph 2, Guideline B (Foreign Influence):               FOR APPLICANT

    Subparagraphs 2.a-2.d:                                       For Applicant

### **Conclusion**

I conclude that it is clearly consistent with the national interest to continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

LeRoy F. Foreman  
Administrative Judge