DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 11-13643
	)	
	)	
Applicant for Security Clearance	)	

Appearances

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

03/14/2013

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant is estranged from his family members who are resident citizens of Israel. These foreign ties do not present an unacceptable security risk. While Applicant was seriously behind in his payments on several accounts, all but one of them has been resolved. Clearance granted.

Statement of the Case

On August 22, 2012, the Department of Defense (DoD) issued a Statement of Reasons (SOR) to Applicant detailing the security concerns under Guideline B, Foreign Influence, and Guideline F, Financial Considerations, and explaining why it was unable to grant a security clearance to Applicant. The DoD acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DoD on September 1, 2006.

Applicant responded to the SOR on September 4, 2012, and he requested a hearing. On December 4, 2012, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On January 3, 2013, I scheduled a hearing for January 24, 2013.

At the hearing, four Government exhibits (GEs 1-4) and five Applicant exhibits (AEs A-E) were admitted without objection. Applicant, his immediate supervisor, and his maternal uncle testified, as reflected in a transcript (Tr.) received on January 31, 2013. At the Government's request, I agreed to take administrative notice of several facts pertinent to Israel and its foreign relations, including with the United States.[1]

I held the record open for three weeks after the hearing for Department Counsel and Applicant to submit additional documents, and for Applicant to respond to the Government's request for administrative notice.[2] On February 14, 2013, Applicant timely forwarded seven exhibits (AEs F-L), which were accepted in evidence without objection. He filed no objections to the Government's administrative notice request. Nor did he propose any additional facts for administrative notice. The Government submitted no new exhibits.

Findings of Fact

The SOR alleged under Guideline B, foreign influence, that Applicant's father (SOR 1.a), stepmother (SOR 1.b), half-brother (who is in the Israeli military) and half-sister (SOR 1.d) are resident citizens of Israel; and that Applicant's sister is a dual citizen of the United States and Israel living in Israel (SOR 1.c). Under Guideline F, Applicant was alleged to owe delinquent debt totaling $20,531 to five creditors (SOR 2.a-2.e).

In his Answer, Applicant admitted the Israeli citizenship and residency of his father, stepmother, half-brother, and half-sister, but he was not in regular contact with any of these foreign relatives. While he acknowledged that his sister had dual citizenship with the United States and Israel, Applicant indicated that his sister resides in the United States. He had no regular contact with her in several years, and he denied

[1]The Government's request for administrative notice, dated January 22, 2013, and source documents were not submitted to me before the hearing. Among the source documents were six news releases from the U.S. Department of Commerce's Bureau of Industry and Security reporting on export violations committed by U.S. firms, and in one case, by an Israeli citizen. Presumably, the press releases were presented to substantiate that Israel actively pursues collection of U.S. economic and proprietary information. None of the cases involved Applicant personally or involved espionage through any family relationships. The anecdotal evidence of criminal wrongdoing of other U.S. citizens is of decreased relevance to an assessment of Applicant's security suitability, given there is no evidence that Applicant or any member of his family was involved in any aspect of the cited cases.

[2]Applicant did not receive the Government's request for administrative notice until the day before his hearing. He was given time after the hearing to review the request and submit any objections to specific facts, any proposed revisions, and any new facts for administrative notice. He submitted no objections or additions to the Government's administrative notice documents within the three-week deadline.

any intent of future contact with her. Applicant denied that he had any foreign interests that would cause his loyalty to the United States to be divided. Applicant admitted the debts alleged in the SOR, which he attributed to a lawsuit filed by his sister against him. Since her case against him was settled in 2010, he had resolved several debts. He intended to pay off his existing delinquencies through a loan from his 401(k), which was approved on August 29, 2012.

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

Applicant is a 40-year-old test engineer and lifelong resident citizen of the United States. (GE 1; Tr. 40.) He has worked for his defense contractor employer since late January 2011 and seeks his first DoD security clearance. (GE 1; AE E.) In October 2006, Applicant married a U.S. native citizen, and he and his spouse have a four-year-old son. (GE 1; Tr. 32-34.) They live with her parents, currently rent free, although Applicant and his spouse contribute to the household expenses. (Tr. 32, 45-46.)

Foreign Influence

Applicant's father is a native citizen of Israel. He served in the Israeli Defense Force more than 40 years ago. Applicant's mother was born in the United States. (GE 1; Tr. 33.) In October 1968, while Applicant's parents were living in Israel, they had the first of their three children (sister #1). They had a second daughter (sister #2) in July 1971, after they moved to the United States. Applicant was born in November 1972. (GE 1.)

When Applicant was seven years old, his parents divorced. Applicant's father returned to Israel, where he eventually married an Israeli citizen and had two more children. Applicant's half-brother and half-sister, who are now ages 23 and 29, are resident citizens of Israel. (GEs 1, 4; Tr. 34-37, 40-42.)

Applicant's mother remained in the United States with Applicant and his two sisters, and she later remarried. She and her second husband are now deceased. (GE 1; Tr. 34.) Applicant believes that sister #1, who is naturalized U.S. citizen, may be a dual citizen of Israel and the United States. (GEs 1, 4.) Applicant has been estranged from sister #1 since 2006 or 2007 due to issues surrounding the family home that was deeded to them by their mother. (GE 4; Tr. 31.) Applicant's sister #1 resides in the United States with her husband and children. (Tr. 38.) She is a special education teacher. (GE 4.)

To Applicant's knowledge, sister #1 keeps in close contact with their relatives in Israel. (Tr. 42.) Applicant has also had no contact with sister #2 for some time because of the "fall out" with sister #1 about the family home. Sister #2 is divorced. Applicant does not know her occupation. (Tr. 39-40.) Applicant invited his mother and sisters to his wedding, but they chose not to attend. (Tr. 39-40, 81.)

Applicant has had sporadic contact with his father over the years.[3] (GE 4; Tr. 35-36.) He has not seen his father since 1999, when his father brought his family to the United States for a visit. Applicant has had no contact with his father since 2006, when he informed him of his engagement. Applicant invited his father to his wedding in the United States, but his father did not attend. Applicant's father worked in residential construction in Israel. Applicant is unaware whether his father is still employed. (Tr. 35-36.)

Applicant's stepmother helped Applicant's father in his construction business in Israel. Applicant last saw his stepmother when she came to the United States in 1999. Applicant has no contact with her. He was told by his sister that their father and stepmother divorced several years ago. (GE 4; Tr. 36-37.)

Applicant's half-brother is a resident citizen of Israel, who was serving in the Israeli military as of August 2011. Applicant last spoke to his half-brother five years ago. He has not contacted him since then because his half-brother was sympathetic to Applicant's sister #1 in matters involving the home deeded to her and Applicant. Applicant has not seen his half-brother since 1999. Applicant invited his half-brother to his wedding. He did not attend. (GEs 1, 4; Tr. 39-42.)

Applicant's half-sister is a resident citizen of Israel. She works in a hospital or nursing facility, although Applicant does not know her occupation or duties. Applicant had telephone contact with his half-sister once every two years until 2008. (GEs 1, 4.) Like her brother, Applicant's half-sister knows about Applicant's dispute with sister #1 over the property. Applicant's half-sister was invited to attend Applicant's wedding but did not come. (Tr. 42-43.)

Applicant does not keep in contact with any of his extended family members in Israel, including his grandparents, uncles, aunts, and cousins. He has no real estate interests or bank accounts in Israel. (Tr. 56.)

Applicant has a close relationship with his maternal uncle, who is a U.S. resident citizen. Applicant paid the mortgage on the family home and cared for his mother. Even after Applicant moved out in 2006, he continued to care for the lawn and garden. Applicant's uncle does not think very highly of Applicant's sister #1 ("I would categorize her as the worst person I've ever met in the world."). (Tr. 79-80.) Because of Applicant's sister, Applicant and his uncle had no contact with Applicant's mother for the last few years of her life, until 24 to 36 hours before her death, when she was persuaded to see them, and for the first time, also Applicant's young son. (Tr. 81-82.)

[3] Applicant told an OPM investigator that he had sporadic contact with his father in approximately 1988, 1993, and 2003. (GE 4.) At his hearing, he testified that he traveled to Israel when he was 22 and 23 to his father and family (grandparents, uncles, aunts, cousins), which would have been between 1994 and 1996. (Tr. 56.) He also contacted his father in 2006 to inform him of his engagement. (Tr. 35.)

Financial Considerations

From January 1992 to April 2006, Applicant lived with his mother, stepfather, and sister #2 in a home that had been in his mother's family for some 60 years. (GE 4; Tr. 59-60.) Applicant studied for his associate degree in electronics from January 1996 to May 2000, while working as a test engineer for a safety company. (GE 1.) Applicant paid for his technical school with his employment income. (Tr. 61.) He studied part-time at a state university from January 2001 to June 2006, although he did not earn his bachelor's degree. (GE 1.)

Around March 2001, Applicant's mother deeded by quitclaim the family home to Applicant and sister #1.[4] Applicant testified that he was unaware at the time that his sister had persuaded their mother to give her half-ownership. (GE 4; Tr. 59.)

Applicant began having financial problems around 2005. His mother's health was in decline, and he was paying for some of her medical costs as well as the $1,461 monthly mortgage payment on the home he co-owned with his sister. (GE 4; AE J.) Rental income from a second-floor tenancy was controlled by his sister, who gave him only a portion of the rent proceeds for maintenance on the home. Applicant relied on his personal credit to pay for necessary repairs to the house so that he and his sister could refinance their mortgage. (GE 4.) In May 2005, Applicant took out a personal loan of $5,000 to pay for a new roof. (GEs 3, 4.)

In April 2005, Applicant and sister #1 refinanced the mortgage on the house through a new loan of $141,288, to be repaid at $1,516 monthly. (GEs 2, 3; AE J.) During the refinance process, the mortgage lender apparently had Applicant's sister execute a quitclaim deed that increased Applicant's ownership to 75%. (GE 4.) Around 2006, Applicant's sister hired a lawyer to contest Applicant's ownership share and to seek rent from Applicant since he was living in the property. In turn, Applicant retained legal counsel to recover from his sister some of the maintenance costs on the property. In April 2006, Applicant moved in with his future in-laws. He had a longer commute when he was already struggling to pay his debts. (Tr. 28.) Also, some tenants vacated the home he co-owned with sister #1, and he could no longer rely on their rent to help pay the mortgage or maintenance on the property.[5] (GE 4.)

Applicant and his spouse married in October 2006. He paid for their honeymoon, a trip to the Caribbean, at a cost around $8,000. (Tr. 44.) A $393 medical debt had been placed for collection in May 2006 (SOR 2.b), but Applicant was otherwise paying his obligations on annual income of $52,081. (GE 3; AE C.)

[4]Applicant's maternal uncle described the house as rather large. It had six bedrooms upstairs that his sister (Applicant's mother) rented out for her income. Applicant took care of the mortgage and maintenance on the property. Applicant's uncle gave up his rights to the home to his sister, who wanted to bequeath it to her children. (Tr. 84-85.)

[5]Applicant apparently started receiving the rent from the home's tenants in 2006, but he had only two renters in the house by that time. (Tr. 61.)

Around 2007, Applicant became a defendant in a lawsuit filed by sister #1 against him and the mortgage lender, claiming that she was coerced into executing the quitclaim deed. As his legal bills were mounting, Applicant had his son in August 2008. (GE 1; Tr. 29.) Applicant made late payments on his $5,000 loan for the roof, and after September 2008, he made no payments on the debt. In December 2008, the lender filed for a judgment to recover the $2,443 loan balance. Applicant was ordered to repay the debt at $25 per month. He made no payments because he did not receive any paperwork from the court before February 1, 2010, when he satisfied the judgment in full. (GEs 3, 4; AE J.)

In January 2009, Applicant's son was placed on a special infant formula, which cost Applicant $10 a quart. (Tr. 29.) Then Applicant's employer eliminated overtime. The loss of overtime, combined with a subsequent furlough, reduced Applicant's income from $58,519 to $40,908 in 2009. (GE 4; AE C; Tr. 29.) In March 2009, he stopped making any payments on the mortgage for the property co-owned with sister #1. Foreclosure proceedings were initiated but then dismissed when he and his sister sold the home and paid off the mortgage. (GEs 3, 4.) Applicant received two-thirds of the sales proceeds. After he paid off his attorney fees, which totaled around $30,000, Applicant received about $7,000, which went to pay off some of his spouse's student loan debt. He also covered all outstanding bills on the property, which totaled around $2,000. (Tr. 29-30, 37-38, 55, 88.) Applicant and his sister executed hold harmless agreements when the house sold, and he was dismissed as a defendant. (Tr. 37.)

In 2010, Applicant's income increased only slightly, to $42,698. (AE C.) Applicant was considered an integral part of the test engineer leadership team. (AE D.) While Applicant's mortgage was resolved, other debts went unpaid. In addition to the medical debt in SOR 2.b, a credit card lender placed a $5,915 balance for collection in February 2010 with the assignee in SOR 2.c. In January 2011, Applicant left his employment of almost 15 years for his current job, which reduced his commute and increased his pay. (GE 1; AE C; Tr. 30.) That month, Applicant legally settled a $14,790 credit card debt for less than its full balance (around $7,000). (GEs 1-4.) Yet he stopped making payments on the MasterCard account identified in SOR 2.a. As of July 2011, his account was past due $419 on a $3,087 balance. In April 2011, his cable provider placed a $114 balance for collection (SOR 2.d). As of July 2011, Applicant owed a $9,876 collection balance on another credit card account (SOR 2.e). (GEs 1, 4.)

On July 7, 2011, Applicant completed and certified an Electronic Questionnaire for Investigations Processing (e-QIP) for a security clearance. In response to the financial record inquiries, he listed the $14,790 credit card debt settled for less than the full balance and the $2,443 judgment satisfied in February 2010. He disclosed outstanding past-due debt of $393 for medical emergency services (SOR 2.b) and credit card balances of $3,000 (SOR 2.a), $5,180 (SOR 2.c), and $9,100 (SOR 2.e).[6]

[6] The SOR lists two delinquent credit card accounts with the same lender, xxxx1806009754 and xxxx9250649. On his e-QIP, Applicant listed two accounts with the lender: the account ending in 0649 (SOR 2.e) and a Visa card account ending in 0600 placed with the assignee in SOR 2.c. Applicant's credit report of August 2012 (GE 2.) shows the account in SOR 2.e with a $9,640 balance and the

Applicant attributed his financial losses to the real estate litigation and sale of the property in a poor market, a reduction in his pay and then furlough, and the birth of his son, all occurring between 2005 and 2010. He added that since the end of the litigation and sale of the property, he has been repaying his debts. (GE 1.)

As of July 22, 2011, Applicant's credit record showed a previously undisclosed $114 cable debt in collection (SOR 2.d). The reported balances of the debts on his e-QIP totaled $19,909 (SOR 2.a-c, 2.e). (GE 3.) On August 12, 2011, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). He admitted that he had ignored collection efforts and court proceedings for the debts in SOR 2.c and 2.e. Applicant expressed his intent to borrow funds from his 401(k) to pay negotiated settlement balances, or the full amounts if necessary. He anticipated that he would satisfy the debts within 60 days. He related that he made the monthly minimum payments on the credit card account in SOR 2.a until early 2010. He had not yet responded to a letter from an attorney concerning the debt, but he intended to follow up with the creditor and to satisfy the debt within 60 days. Applicant had been unaware of the $393 medical debt before he obtained his credit record to complete his e-QIP. He believed his medical insurer had paid the debt. He indicated that he would pay the debt within 60 days if responsible to pay it. Concerning the $14,790 credit card debt that was settled for about $7,000 (not in SOR), Applicant indicated that the lender had written off the deficiency balance. Applicant did not recognize the $114 collection debt on his credit record. He denied any contact from the creditor or reported assignee. Cable service at his current residence was in his in-laws' names. He believed he had paid all utility bills in full when he moved from the home he had co-owned with sister #1. (GE 4.)

Applicant's earned wages with his new employer totaled $72,524 in 2011. (AE C.) As of August 16, 2012, Applicant's credit record showed no progress on resolving the delinquent debt balances identified in SOR 2.a ($3,087), 2.c ($7,061), 2.d ($114), and 2.e ($9,640). However, it also showed no new debt. (GE 2.) Applicant helped his spouse pay some of her outstanding debt. His in-laws, who are self-employed, needed financial assistance as well.[7] Around August 2011, Applicant began contributing $700 to $800 a month to the household expenses. Every month, he also pays between $300 to $400 for groceries, $250 for phone service, $100 for insurance, and $100 on his spouse's remaining student loan debt of $8,000. In addition to unspecified gasoline and medical prescription costs, Applicant was paying $30 per office visit for his spouse, who was seeing her physician twice a month during her high-risk pregnancy. He and his spouse had been paying $9,000 a year for the past two years for their son to attend private school, although they enrolled him in public school starting September 2013.

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account in SOR 2.c in collection with the assignee with a $7,061 balance. The account allegedly ending in 9754 is the same account as the VISA account on the e-QIP as 0600.

[7]Applicant's mother-in-law is a realtor and his father-in-law is an ophthalmologist. (Tr. 65.) Applicant did not document his in-laws' financial need. At the same time, Applicant reasonably can be expected to contribute to the household expenses since he is not paying rent.

Applicant's spouse works as a part-time language teacher. Her gross annual income is $10,000 to $12,000. (Tr. 45-50, 55, 62.)

In October 2012, Applicant was approved for a $30,000 loan from his 401(k). He wanted enough to cover his debts and planned to deposit the rest back into his 401(k) to lower his monthly repayment, which is currently $400 a month. (Tr. 51-52.) A year earlier, a financial advisor advised him against borrowing from his 401(k) to address his remaining debts, but Applicant was unable to obtain a personal loan. (Tr. 50-51, 53.) It took some time for Applicant to convince his spouse that he should borrow from his 401(k). On October 31, 2012, Applicant paid around $8,000 to satisfy the judgment for the debt in SOR 2.e. (AEs B, F; Tr. 65.)

On January 9, 2013, Applicant paid $4,650 to settle a $7,000 debt.[8] (AE A.) The following day, he paid $2,242.41 in full settlement of the debt in SOR 2.a. (AEs F, G.) As of January 24, 2013, Applicant expected to have his remaining debt paid off by the end of February 2013. (Tr. 30.) On February 1, 2013, Applicant satisfied the $114.38 debt in SOR 2.d. (AE I.) On February 12, 2013, he paid the $393 medical debt (SOR 2.b). (AEs F, H.)

Applicant does not have any open credit card accounts. He is not behind on his monthly bills. (Tr. 57.) His latest tax refund was for $300 or $400. (Tr. 58.) In April 2012, Applicant received a performance-based raise at work to bring his annual salary to $88,000. (Tr. 58, 75.) His direct supervisor has found him to be a "dedicated and diligent team member and a model employee." Also, Applicant has consistently been honest and straightforward with his supervisor. (AE E; Tr. 68-69, 71.) Applicant has appropriately handled information marked not for foreign dissemination. (Tr. 73.) Applicant willingly works overtime without compensation. (Tr. 71, 76.)

Administrative Notice

After reviewing U.S. government publications concerning Israel and its relations with the United States, I take administrative notice of the following facts:[9]

[8]AE A shows a payment of $4,650 on January 9, 2013, which was submitted as evidence of settlement of a debt. (Tr. 30, 65.) After his hearing, Applicant indicated that the payment was to settle an account with the lender identified in SOR 2.c, but on an account not listed in the SOR. (AE F.) Applicant's credit report of July 2011 (GE 3.) lists three accounts that had been opened with the same credit card lender. In addition to the debts in SOR 2.c and 2.e, which were reportedly in collection, Applicant had opened a credit card account xxxx49221179 in May 2002, which he paid on time and had a zero balance as of November 2004. The assignee for the debt paid in January 2013 lists a routing number similar to (22117xxxx) but not fully matching the account number. The evidence is inconclusive about whether Applicant had a third account with the credit card lender which fell delinquent in recent years or which debt was settled with the $4,650 payment. Applicant presented evidence showing that he was paying on a credit card debt that his spouse had with the lender as of May 2011. (AE K.)

[9]The following official U.S. Government documents were used to provide the factual summary on Israel quoted in this decision: the U.S. Department of State's *Country Specific Information: Israel, the West Bank and Gaza,* August 9, 2012; excerpts from the National Counterintelligence Center's, *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage—2000* and *Annual Report to*

Israel is a parliamentary democracy of about 7.76 million people with a modern economy. Despite the instability and armed conflict that have marked Israel's relations within the region since it came into existence, Israel has developed a diversified, technologically advanced market economy focused on high-technology electronic and biomedical equipment, chemicals, and transport equipment.

Israel occupied the West Bank, Gaza Strip, Golan Heights, and East Jerusalem as a result of the 1967 war. In 1994, the Palestinian Authority was established in the Gaza Strip and West Bank, although the Islamic Resistance Movement (HAMAS), a U.S. designated foreign terrorist organization (FTO), took control of the Gaza Strip in June 2007. U.S. citizens, including tourists, students, residents, and U.S. government personnel, have been injured or killed by terrorists while in Israel, the West Bank, and Gaza. Foreigners have been kidnapped by armed gunmen in Gaza and the West Bank. All persons applying for entry to Israel, the West Bank, or Gaza are subject to security and police record checks by the Israeli government and may be denied entry or exit without explanation. The Israeli government considers U.S. citizens who also hold Israeli citizenship or have a claim to dual nationality to be Israeli citizens for immigration and other legal purposes. U.S. citizen visitors have been subjected to questioning and thorough searches by Israeli authorities on entry or departure. Israeli authorities have denied access to some U.S. citizens to U.S. consular officers, lawyers, and family members during temporary detention.

The United States and Israel have a close friendship based on common democratic values, religious affinities, and security interests. The United States was the first country to officially recognize Israel, only eleven minutes after Israel declared its independence in 1948. In 1985, Israel and the United States concluded a Free Trade Agreement designed to strengthen economic ties by eliminating tariffs. The United States is Israel's largest single trading partner. Other than Afghanistan, Israel is the leading recipient of U.S. foreign aid and is a frequent purchaser of major U.S. weapons systems.

Israel and the United States do not have a mutual defense agreement, although the United States remains committed to Israel's security and well-being, predicated on Israel maintaining a "qualitative military edge" over other countries in its region. The United States is the principal international proponent of the Arab-Israeli peace process, and has been actively involved in negotiating an end to the Israeli-Palestinian conflict. In May 2011, the Obama Administration called for renewed Israeli-Palestinian negotiations focusing on the issues of borders and security parameters. Recent political upheavals and transitions in surrounding Arab countries, such as Egypt and Syria, have recently called into question the land-for-peace formula that has guided the efforts to resolve the Israeli-Palestinian conflict. Israel perceives threats from Iran and Iranian-sponsored

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Congress on Foreign Economic Collection and Industrial Espionage—2005; the Interagency OPSEC Support Staff's *Intelligence Threat Handbook*, June 2004; the Congressional Research Service's *Israel: Background and U.S. Relations*, February 29, 2012; and several press releases from the U.S. Department of Commerce's Bureau of Industry and Security.

non-state actors, such as the Lebanese Shiite group Hezbollah, as well as Hamas and other Sunni Islamist Palestinian militants in Gaza. Israeli concerns about a nuclear-weapons-capable Iran led to increased calls for international action against Iran's nuclear program in 2011. Demographic trends in Israel have led to the emergence of nationalistic and conservative elements, more hawkish on foreign policy and security.

Strong U.S. congressional support for Israel has resulted in the country receiving preferential treatment in bidding for U.S. defense contracts and access to expanded weapons systems at lower prices. In 1988, Israel was designated a "major non-NATO ally." U.S. bilateral aid to Israel is in the form of foreign military financing (FMF). Under a 10-year bilateral memorandum of understanding, the United States is committed to $3.1 billion in FMF annually to Israel from fiscal years 2013 to 2018, subject to continuing congressional appropriations. Israel and the United States are partners in the "Star Wars" missile defense project, and have concluded numerous treaties and agreements aimed at strengthening military ties, including agreements on mutual defense assistance, procurement, and security of information. Israel and the United States have established joint groups to further military cooperation. The two countries participate in joint military exercises and collaborate on military research and weapons development.

The transfer by sale of U.S. defense articles or services to Israel and all other foreign countries is subject to the Arms Export Control Act and implementing regulations as well as the 1952 Mutual Defense Assistance Agreement between the United States and Israel. The United States has acted to restrict aid and/or rebuked Israel in the past for possible improper use of U.S.-supplied military equipment. The United States is concerned about Israeli settlements; Israel's sales of sensitive security equipment and technology, especially to China; Israel's inadequate protection of U.S. intellectual property; Israel's suspected use of U.S.-made cluster bombs against civilian populated areas in Lebanon; and espionage-related cases implicating Israeli officials. Israeli military officials have been implicated in economic espionage activity in the United States. U.S. government employees and U.S. government contractors have been implicated in providing classified and sensitive information to Israel. Israel was listed as one of the nations that aggressively targeted U.S. economic intelligence as recently as 2000. Israel was not named specifically in the National Counterintelligence Executive's *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage—2005,* although it was noted that, as in years past, entities from a small number of countries accounted for the foreign targeting of U.S. technologies in fiscal year 2005. In March 2005, a U.S. company pleaded guilty to exporting digital oscilloscopes to Israel without a license. The items were reportedly capable of being utilized in the development of weapons of mass destruction and in missile delivery fields. In 2009, a U.S. government employee pleaded guilty to one count of conspiracy to act as an unregistered agent of Israel. He was indicted on suspicion of giving Israel classified documents concerning nuclear weapons, F-15 fighter jets, and the Patriot air-missile defense system to Israel between 1979 and 1985. In March 2011, a U.S. company agreed to pay a civil penalty to settle allegations that it violated Export Administration Regulations related to the export of titanium alloy and aluminum bar to China between

April 2004 and August 2007, and to Israel in July 2007, without the required export licenses.

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, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overall 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 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 safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information. Section 7 of Executive Order 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." *See also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline B—Foreign Influence

The security concern relating to the guideline for foreign influence 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.

Applicant's father, stepmother, half-brother, and half-sister are resident citizens of Israel. Applicant's sister #1 is a dual citizen of the United States, where she lives with her spouse and children, and of Israel, where she was born. AG ¶ 7(a) is implicated if contacts create a heightened risk of foreign influence:

> (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.

The "heightened risk" denotes a risk greater than the normal risk inherent in having a family member living under a foreign government. The nature and strength of the family ties or other foreign interests and the country involved (*i.e.*, the nature of its government, its relationship with the United States, and its human rights record) are relevant in assessing whether there is a likelihood of vulnerability to government coercion. Even friendly nations may have interests that are not completely aligned with the United States. As noted by the DOHA Appeal Board, "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). 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 on, the foreign government; or the country is known to conduct intelligence operations against the United States. In considering the nature of the foreign government, the administrative judge must take into account any terrorist activity in the country at issue. *See generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006).

Despite good relations between the two countries and the U.S.' commitment to Israel's continued existence as a nation and its security, Israel has been implicated in espionage against the United States in the past. Israel has been targeted by terrorists for much of its existence. After his parents' divorce, Applicant had some contact, albeit not on a regular basis, with his father and father's family in Israel. Applicant traveled to Israel when he was ages 22 and 23 to see these relatives. He also had in-person contact when they came to the United States for a visit in 1999. However, Applicant has had no contact with his father or half-brother since 2006, when he called his father to inform him of his engagement. He invited his father and half-brother to attend his wedding in the United States, although he cannot confirm whether the invitations were received. (Tr. 35.) Applicant has not seen his stepmother since 1999, and he maintained no contact with her. During his August 2011 interview, Applicant told the OPM investigator that he was in contact with his half-sister in Israel once every two years by telephone until about 2008. However, he denied any ongoing contact with her as well, as she too became sympathetic to sister #1 in her litigation against him. Issues over the home that Applicant and sister #1 co-owned in the United States also led to the termination of any contact with sister #2 in the United States. He has no present contacts that raise a heightened risk under AG ¶ 7(a).

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," focuses on the relationships that might pose a heightened risk. Applicant invited his father and half-siblings to his wedding in 2006, even as his relations with these Israeli family members were deteriorating because of the real estate dispute with sister #1 in the United States. He gave them an opportunity to prove that they still wanted to be part of his life, and they made it clear to him that they did not by not coming to the wedding. Applicant wants nothing to do with sister #1, who filed the lawsuit against him. With his mother now deceased, and even sister #2 no longer in his life, Applicant does not have connections, either direct or through other family members, to Israel that could conflict with his obligation to protect sensitive information.

To the extent that Applicant's past contacts and bonds of affection or obligation with Israeli citizens raise some security concern under AG ¶ 7(a) or AG ¶ 7(b), two mitigating conditions apply under 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.; and
>
> (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.

With the exception of his maternal uncle, Applicant has been estranged from his family since 2006, if not before then, when he was forced to move out of the home that he had shared with his mother since 1991 and co-owned with sister #1 since March 2001. According to Applicant's uncle, Applicant's mother refused to see Applicant or his new son in the last few years of her life. Only on her deathbed did she relent.

In contrast to the strained relations with his paternal relatives and his siblings, Applicant has close bonds to his spouse, son, and his spouse's parents, as well as to his maternal uncle, who are U.S. resident citizens. In return for living rent-free in his parents-in-law's home, Applicant gives them between $700 and $800 a month for household expenses. Applicant has no personal ties of citizenship or loyalty to Israel. He has worked as a test engineer only in the United States, and his income is solely from U.S. sources. He has no financial assets or business interests in Israel. Not only are his loyalties to Israeli citizens minimal, but his relationships in the United States are sufficiently deep and longstanding to where Applicant can be expected to resolve any conflict of interest in favor of the United States.

Guideline F—Financial Considerations

The security concerns relating to the guideline for financial considerations are set out in AG ¶ 18:

> Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

Applicant satisfied a delinquent court judgment of $2,443 in February 2010 and settled a $14,790 credit card debt for less than its full balance in January 2011. As of July 2011, Applicant still owed past-due debt totaling $20,023. He was unaware only of the $393 medical debt and the $114 cable debt before he applied for his security clearance. Potentially disqualifying conditions AG ¶ 19(a), "inability or unwillingness to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations," are established.

Except for the $393 medical debt, which was placed for collection in 2006, the debts became past due in 2008 or later. It is difficult to apply mitigating condition AG ¶ 20(a), "the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's

current reliability, trustworthiness, or good judgment," to such recent collection balances.

AG ¶ 20(b), "the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances," is implicated because his finances were negatively impacted by circumstances outside of his control. Applicant's sister #1 retained tenant income that he needed to cover maintenance on the home they co-owned, so he had to rely on personal credit to pay for its upkeep. He also covered some healthcare costs for his mother, although he did not provide the details about those expenses. In 2007, Applicant's sister filed a lawsuit against him, which led to him incurring some $30,000 in unbudgeted legal fees. In the fall of 2008, Applicant's infant son was placed on a special formula that cost Applicant $10 a quart. Then, in 2009 his salary declined by 30% ($58,519 to $40,908) because of a loss of overtime and a furlough. His salary increased only slightly, to $42,698, in 2010. However, AG ¶ 20(b) does not mitigate the delay in addressing his debts. In late January 2011, he began working for his current employer at a significantly higher salary. Despite annual wages totaling $72,524, he made no payments on the debts in the SOR. Instead, he paid $9,000 for private schooling for his young son in 2011 and 2012. While it is understandable that Applicant and his spouse want the best for their son, the expenditure is difficult to justify when creditors were not being paid.

AG ¶ 20(d), "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts," has some applicability. In February 2010, Applicant satisfied a $2,448 judgment against him, and in January 2011, he settled a large credit card debt. While neither of these delinquent accounts were alleged in the SOR, they are relevant in that they indicate some effort on his part to pay his debts before the SOR was issued. Applicant's case for mitigation under AG ¶ 20(b) is undermined somewhat by his lack of urgency in addressing the debts in the SOR. He told an OPM investigator in August 2011 that he intended to withdraw funds from his retirement fund to pay the past-due credit card accounts identified in SOR 2.a, 2.c, and 2.e. He expressed his intent to settle the debts within the next 60 days. He made no payments on the debts over the next year. On October 31, 2012, he paid the judgment debt to satisfy SOR 2.e. On January 10, 2013, he settled the debt in SOR 2.a. He did not pay the $393 medical debt (SOR 2.b) or the $114 cable debt (SOR 2.d) until February 2013. Instead, Applicant focused on paying some of his spouse's debts, such as the credit card debt documented in AE K. On January 9, 2013, he settled another debt that was apparently not listed in the SOR. (AE A.)

Available credit information does not show that the debt in SOR 2.c has been satisfied. Applicant's February 2013 credit report shows the debt was charged off by the credit lender in February 2010 and sold. The assignee was reporting a past-due balance of $7,257 as of January 2013. AG ¶ 20(c), "the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control," does not require that all debts be paid. However,

there must be clear indications that the financial problems are not likely to persist. Of the $30,000 borrowed from his 401(k) to satisfy his debts, Applicant has about half of the funds left to pay off his remaining delinquency. His documented satisfaction of the other accounts leaves me to believe that the debt in SOR 2.c will soon be resolved, if it has not already been paid. His present salary is sufficient to cover the $400 monthly payments on the loan from his 401(k), and he has incurred no new delinquent debts. AG ¶ 20(c) applies.

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).[10]

Applicant's financial problems were confined to the 2007 to 2010 time frame when he was dealing with several stressful family circumstances (sister #1's lawsuit and estrangement of family members, sale of the family home to avert foreclosure, birth of his son who had special needs, and loss of 30% of his income). These situations have been resolved through legal means, and with his present income, he has stabilized his finances. Applicant and his spouse have enrolled their son in a public school for the next school year in an effort to improve their financial situation. Even if Applicant should reestablish cordial relations with his foreign relatives, he can be counted on to act consistent with U.S. interests. He has demonstrated reliability and trustworthiness in his employment with the defense contractor. Overall, the record evidence leaves me with no questions or doubts about Applicant's eligibility for a security clearance.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline B:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant

[10]The factors under AG ¶ 2(a) are as follows:

(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.

Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Paragraph 2, Guideline F:	FOR APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraph 2.b:	For Applicant
Subparagraph 2.c:	For Applicant
Subparagraph 2.d:	For Applicant
Subparagraph 2.e:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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Elizabeth M. Matchinski
Administrative Judge