



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



In the matter of:	)	
	)	
	)	ISCR Case No. 12-03692
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Robert Kilmartin, Esq., Department Counsel  
For Applicant: Brendan Lill, Esq.

02/05/2014

---

**Decision**

---

RICCIARDELLO, Carol G., Administrative Judge:

Applicant mitigated the Government's security concerns under Guideline B, foreign influence, and Guideline C, foreign preference. Applicant's eligibility for a security clearance is granted.

**Statement of the Case**

On August 7, 2013, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guidelines B and C. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DOD on September 1, 2006.

Applicant answered the SOR on August 26, 2013, and requested a hearing before an administrative judge. The case was assigned to me December 6, 2013. The

Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on January 6, 2014. Applicant waived his right to have 15 days from the date of the notice to the hearing. I convened the hearing as scheduled on January 15, 2013. The Government offered Exhibits (GE) 1 through 4, which were admitted into the record without objection. The Government requested administrative notice be taken of Hearing Exhibit (HE) I. There was no objection, and I granted the request. Applicant requested administrative notice be taken of HE II. There was no objection, and I granted the request. Applicant testified on his own behalf. He offered Exhibits (AE) A through J, which were admitted into the record without objection. The record was held open until January 29, 2014, to allow Applicant to submit additional documents. He timely submitted AE K though AE O, which were admitted into the record without objection.<sup>1</sup>

### **Findings of Fact**

In his answer to the SOR, Applicant admitted the allegations in SOR ¶¶ 1.a, 1.c, 1.d, 2.a, 2.b, 2.c, 2.d, and 2.f and denied the allegations in ¶¶ 1.b and 2.e. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is 68 years old. He was born in an Eastern European country and immigrated to Israel when he was five years old. He was an Israeli citizen and resident from 1950 to 1976. He completed two years of compulsory military service from 1964 to 1966. He completed his undergraduate degree in 1971. He married in 1974 and completed his master's degree in 1975. In 1976, he and his wife immigrated to the United States so he could pursue a doctorate degree. The United States offered the best programs in his area of expertise. He completed his doctorate in 1979 and pursued a career in academia. Applicant has three grown children who were all born and live in the United States. He became a naturalized citizen of the United States in 1987 and his wife in 1991. Applicant has held a security clearance for approximately 22 years.

Applicant has spent approximately 32 years of his career in academia and worked in government defense-sponsored programs at universities. He worked for a consulting firm for a few years in the early 1980s before returning to a university post. He estimated that from 2003 to 2013 he has traveled outside of the United States 47 times.

Applicant held an Israeli passport prior to 2001. By Israeli law, Israeli citizens are required to use valid Israeli passports when entering or exiting Israel. Following a security clearance investigation in 2001, Applicant agreed to have his Israeli passport shredded, per guidance he received from the Defense Security Service (DSS). His security clearance was renewed in 2002. Applicant provided confirmation from the university's security officer regarding the shredding of his passport.<sup>2</sup>

---

<sup>1</sup> Department Counsel's memorandum is HE III.

<sup>2</sup> Answer to SOR; AE G.

In 2004, Applicant, his wife and children decided to travel to Israel to visit his then 97-year-old mother. Before leaving the United States, Applicant was briefed by the security staff at the university where he was working about traveling to Israel. The entire family traveled on their U.S. passports. The children, who were born in the U.S., never had Israeli passports. Applicant's wife's Israeli passport had expired in 2001 and was not renewed. When Applicant and his family arrived in Israel they were told they would not be permitted to leave without valid Israeli passports. They were directed by the Israeli passport control person to settle the issue of the Israeli passports with the regional office of the Ministry of the Interior (MOI).

When they visited the regional office of the MOI, Applicant advised them that they did not have Israeli passports with them. He felt it was unwise to tell them that he had his shredded and his wife did not apply to renew hers and it had expired in 2001. By Israeli law, children of Israeli citizens are automatically considered Israeli citizens, even if they do not reside in Israel and have never visited Israel. They were told the children had to obtain Israeli passports in order to be permitted to leave Israel. Two of his children were over the age of 18 and were not permitted to leave Israel until they received authorization from the recruiting office granting them permission because neither had performed the compulsory military service. The office manager of the MOI agreed to provide Applicant and his wife a one-time permit to exit Israel without Israeli passports, with the warning that they would be required to have such passports for future visits. Upon returning to the United States, Applicant was debriefed by the university security staff about his trip, and he informed them about the passport incident.<sup>3</sup>

In 2005, Applicant's mother passed away in Israel and he traveled to Israel to attend her funeral. Applicant arrived at the Tel Aviv airport with his U.S. passport, and he was permitted to enter Israel. He was again told he would not be permitted to exit without a valid Israeli passport and to settle the issue with the regional MOI. A few days after the funeral, he went to the regional office of the MOI and their computer records showed Applicant had entered Israel the previous year without an Israeli passport, and he was told that they would not issue another exit permit. Applicant had to obtain a new passport to be allowed to leave the country and pay a fine for not taking care of his missing Israeli passport.<sup>4</sup>

When Applicant returned to the United States, he reported what had happened to the university security office. The security staff contacted DSS for guidance on how to handle the matter. DSS determined that Applicant should surrender his Israeli passport to the university security officer and it would be stored in their safe. It was clear to everyone concerned that it would not be possible for Applicant to travel to Israel again without an Israeli passport, and that it was not a good idea to shred the Israeli passport, which could create another problem if there was future travel to Israel, since Applicant

---

<sup>3</sup> Answer to SOR; GE 2.

<sup>4</sup> Answer to SOR.

would have to explain why he no longer held the passport. Applicant retained his security clearance throughout this whole time and a new investigation was not initiated.<sup>5</sup>

In July 2006, Applicant took a new job at another university. He followed the guidance from the first university and transferred his passport to the new university's security office. A new security clearance review was initiated, and Applicant retained his security clearance. The new university maintained control of Applicant's Israeli passport.<sup>6</sup>

During an interview with a government investigator on August 18, 2011, Applicant stated that in 2006, he had addressed his concerns with an agent from the Naval Criminal Investigative Service (NCIS). He also had discussions about the ramifications of renouncing his Israeli citizenship with an agent from another government agency. After his discussions, he was advised it was better if he retained the passport. He told the government investigator that he would relinquish his Israeli passport and renounce his Israeli citizenship, but there were concerns because this is not a common occurrence and could be considered suspicious. It was mutually agreed upon with the agent of the government agency that renouncing his Israeli citizenship could result in unforeseen consequences. Applicant testified that he also had discussions with DSS personnel. The concerns were that the renunciation would "raise flags" to the Israeli government and might require him to explain why he was renouncing, thereby highlighting that he held a U.S. security clearance. There could also be various international organizations that target Israel that could become aware of his renunciation and might create an impression with Israeli security forces that he is somehow against Israeli policy. DSS conferred and deliberated with other government agencies and provided the solution to Applicant's "catch-22," that the university security office would maintain control over the passport.<sup>7</sup>

While at the new university, Applicant checked out the Israeli passport twice. He provided documents and log entries confirming his requests and retrieval of the passport.<sup>8</sup> He retrieved it once in July 2007, when he visited Israeli to attend an academic promotion meeting at an Israeli university, and the second time was in October 2010 to attend a symposium. In both cases, he retrieved his Israeli passport, and he redeposited it with the security office as soon as he returned from these trips. He reported these trips on his foreign travel report as part of the Electronic Questionnaires for Investigations Processing (e-QIP). After his July 2007 trip, Applicant underwent a security clearance review and he continued to hold his security clearance. After the

---

<sup>5</sup> Answer to SOR.

<sup>6</sup> AE A, F; Answer to SOR.

<sup>7</sup> GE 2.

<sup>8</sup> AE A.

2010 trip, a new investigation was initiated, and Applicant provided the same information for the investigation as he did in 2001, 2006, 2007 and 2010.<sup>9</sup>

Applicant's Israeli passport has always been in the possession of the university's security office, except when he traveled to Israel. Applicant has used his U.S. passport for all other travel. His use of the Israeli passport was only to satisfy Israeli travel requirements. He retained the Israeli passport and did not destroy it at the direction and guidance of DSS. Applicant credibly testified that his loyalty and allegiance is to the United States. He specifically noted that he has made contributions to the United States' national security since 1980, seven years before he became a naturalized U.S. citizen.<sup>10</sup>

Applicant testified at his hearing that he was willing to renounce his Israeli citizenship. To further mitigate any potential security concerns, after the conclusion of the hearing and while the record was open, Applicant took additional steps to renounce his Israeli citizenship. He directed his security officer to surrender his Israeli passport to the Israeli consulate for destruction. On January 27, 2014, the security officer complied with Applicant's request. Included in the letter to the consulate is a "Declaration of Waiver of Israeli Citizenship" that was completed and signed by Applicant on January 23, 2014.<sup>11</sup>

Applicant's wife's Israeli passport expired in 2001. She used it twice in 1998 to visit her sick mother and then to attend her funeral. When she and Applicant visited Israel in 2004, she received an exit waiver from the Israeli MOI. She has not renewed her Israeli passport.

Applicant's three children were required to obtain Israeli passports when they exited Israel in 2004. They have not used the passport since then. His youngest son's passport expired in 2009. It has not been renewed. The older children's passports expire in 2014. Applicant does not believe his children have plans to travel to Israel and have only used their U.S. passports when traveling outside the United States. None of his children actively applied to be dual citizens of Israel. None intend to reside in Israel. None speak Hebrew.<sup>12</sup>

Applicant's brother is an Israeli citizen and resident. He retired from the Israeli Defense Force. He retired more than 30 years ago. After retirement he sold insurance. He retired from this job about five years ago. Applicant and his brother correspond about once or twice a month through Skype. His brother visited him about 15 years ago.

---

<sup>9</sup> Answer to SOR.

<sup>10</sup> Answer to SOR.

<sup>11</sup> AE K, L, M, N, O.

<sup>12</sup> Answer to SOR.

Applicant rarely talks with his brother's wife. She retired from the insurance business about ten years ago.<sup>13</sup>

Applicant's wife's sister and her husband are citizens and residents of Israel. His brother-in-law is the chief executive officer of a private company. Applicant may talk to him once a year. His sister-in-law is a nurse. She works at a hospital a couple of nights a week. Applicant's wife talks to her sister about once a month. Applicant may acknowledge greetings with her if the opportunity presents itself.<sup>14</sup>

Applicant and his wife had a bank account in Israel before they immigrated to the United States in 1976. Due to Israeli laws, they were not permitted to take money out of Israel until about the mid-1990s. Their parents passed away at different times and parts of their estates were transferred to their bank account. The account has been declared annually with Applicant's tax returns and disclosed during all of his security reviews. Once the estate issues of their parents were settled, Applicant and his wife could address closing the account, which they did in 2010. The account was closed in 2011, and the funds were transferred to their account in the United States. It was a complicated and expensive process. Applicant no longer has any foreign bank accounts.

Applicant co-owns a small house with his brother that they inherited when their mother passed away. They share an equal interest in the property. Although Applicant estimated the value of the house to be about \$100,000, he had no specific data to support the estimate. Neither he nor his brother knows the real value of the house. It was built by his parents. The house was not well maintained and is in an undesirable part of a city. Applicant indicated that he was not in a position to handle any issues related to the house and in 2011, he signed a power of attorney for his brother to handle the matter. His brother has attempted to sell the property, but it is difficult. It is currently rented for a modest amount so it will not deteriorate further. His brother lives about 80 miles from the house and it is a burden to maintain. He hopes to sell it as soon as possible. Applicant estimated that even if the house was sold, his portion of the proceeds after expenses would be a small part of his net worth.

All of Applicant's and his wife's assets, except his portion of the house noted above, are located in the United States. Applicant's and his wife's joint assets total approximately \$7.5 million and he earns a substantial annual salary.<sup>15</sup>

Applicant provided letters from two colleagues who have known him personally for 5 years and through his work for 25 years. He is described as a well-respected national and international expert and has made significant contributions to the U.S. Government and the Department of Defense. He is considered professional and

---

<sup>13</sup> Answer to SOR.

<sup>14</sup> Answer to SOR.

<sup>15</sup> Answer to SOR; AE E.

commands the respects of his peers. He is described as being straightforward, trustworthy, honest, reputable, and ethical. Along with his commitment to the U.S. Government and Department of Defense, he is fully committed to training the next generation of engineers.<sup>16</sup>

## **Israel<sup>17</sup>**

Israel is a parliamentary democracy whose prime minister heads the government and exercises executive power. The United States and Israel have close bilateral ties based on shared democratic values and security interests. They have participated in security dialogues, joint military planning and have collaborated on military research and weapons development. Israel has a diversified technologically advanced economy with a strong high-tech sector. In recent years, the United States has provided Israel with \$3.1 billion in security assistance annually. The United States is Israel's largest trading partner.

The government of Israel considers U.S. citizens who also hold Israeli citizenship or who have a claim of dual nationality to be Israeli citizens for immigration and other legal purposes.

Israel is one of the top collectors of industrial information from the United States. It has been repeatedly identified as targeting multiple U.S. Government organizations since at least 1997.

The threat of terrorist attacks in Israel is an ongoing concern. Terrorist organizations have launched rockets and mortars from the Gaza Strip. The U.S. Government has previously issued warnings that American interests could be the focus of such terrorist attacks. U.S. citizens, including tourists, students, residents, and U.S. mission personnel, have been injured or killed by terrorists while in Israel, the West Bank and Gaza. As a result, American citizens have been urged to exercise a high degree of caution when visiting places associated with U.S. interests or located near U.S. official buildings.

The United States and Israel have developed a close friendship based on common democratic values, religious affinities, and security interests. There are some issues in U.S.–Israeli relations. The United States is concerned with Israeli military sales to China; inadequate Israeli protection of U.S. intellectual property; restricted, dual use technology has been illegally exported to Israel; and there have been a number of espionage-related cases involving Israeli citizens.

---

<sup>16</sup> AE I and J.

<sup>17</sup> HE I and II.

## Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of 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 C, Foreign Preference

The security concern for foreign preference 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 10. Two are potentially applicable in this case:

(a) exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen or through the foreign citizenship of a family member. This includes but is not limited to:

(1) possession of a current foreign passport;

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

Applicant possessed an Israeli passport after becoming a U.S. citizen. AG ¶ 10(a) applied at one point. The acquiring of his Israeli passport while a U.S. citizen could raise concerns under AG ¶ 10(b), as an action to obtain recognition of his citizenship of that country. The above disqualifying conditions apply.

AG ¶ 11 provides conditions that could mitigate security concerns. The following are potentially applicable:

(b) the individual has expressed a willingness to renounce dual citizenship;

(d) use of a foreign passport is approved by the cognizant security authority; and

(e) the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated.

In 2001, Applicant had an Israeli passport after becoming a U.S. citizen. That passport was destroyed at the recommendation of DSS officials. Applicant traveled on his U.S. passport to Israel in 2004 and the MOI required him to obtain an exit permit. In 2005, when he returned to Israel on his U.S. passport for his mother's funeral, he was not permitted to leave the country without obtaining an Israeli passport. He did and reported it immediately to his security office upon his return. After much deliberation

with various government agencies, DSS determined the best way to handle Applicant's dilemma was to have the university's security office maintain the passport. Applicant would only check it out if he traveled to Israel. There is substantial evidence to show Applicant followed all of the procedures and guidance given to him by DSS. Applicant indicated his willingness to renounce his Israeli citizenship but because of the potential "red flags" it would raise, DSS preferred the solution they offered. After his hearing, Applicant submitted documentation that he has formally applied to renounce his Israeli citizenship and surrendered his Israeli passport. All of the above mitigating conditions apply.

## **Guideline B, Foreign Influence**

AG ¶ 6 expresses the security concern regarding foreign influence:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.

AG ¶ 7 describes conditions that could raise a security concern and may be disqualifying. I have considered all of them and the following are potentially applicable:

- (a) contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion;
- (b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information;
- (d) sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure or coercion; and
- (e) a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign-operated business, which could subject the individual to heightened risk of foreign influence or exploitation.

Applicant has significant financial interests in the United States. In 2010, he divested himself of a bank account he had in Israel. He inherited a part interest with his brother in a small house his mother left them. Applicant and his brother would like to sell the property, but have been unsuccessful. Applicant's financial interests in Israel are minimal compared to his total net worth. AG ¶ 2(e) does not apply.

AG ¶¶ 7(a) and (d) require substantial evidence of a "heightened risk." The "heightened risk" required to raise one of these disqualifying conditions is a relatively low standard. "Heightened risk" denotes a risk greater than the normal risk inherent in having a family member living under a foreign government or owning property in a foreign country. The totality of Applicant's family ties to a foreign country as well as each individual family tie must be considered.

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."<sup>18</sup>

Applicant's wife is a dual citizen of Israel and the United States because she was a citizen of Israel before she immigrated. His wife has not had a valid Israeli passport since it expired in 2001. She did not apply to have it renewed. In 2004, she was provided with an exit waiver when she returned from a trip with her family to Israel. She has not applied for an Israeli passport since her return. Applicant's children were born in the United States. They were forced to obtain an Israeli passport to leave Israel in 2004. They complied. They have not returned to Israel. They all reside in the United States. One child's passport has expired, and the other two will expire this year. They have not used these passports since obtaining them. They all travel on their U.S. passports. There is insufficient evidence that Applicant's contact with his wife and children creates a heightened risk of foreign inducement, manipulation, pressure, or coercion. There is no evidence that any of Applicant's immediate family members have any significant connection to Israel or to a foreign person. In the event, there was a connection, there is overwhelming evidence of Applicant's deep commitment and longstanding relationships and loyalty to the United States that he can be expected to resolve any conflict of interest in favor of the U.S. interests. AG ¶¶ 7(a), 7(b) and 7(c) do not apply to Applicant's immediate family members.

Applicant's brother, two sisters-in-law and brother-in-law are citizens and residents of Israel. His brother is a retired military officer. Applicant maintains contact with his brother. He has minimal contact with his brother's wife. Applicant's wife maintains contact with her sister and brother-in-law. Applicant has minimal contact with them except through his wife. Israel is a democracy and a close ally. However, it also has been victimized by terrorism; restricted, dual use technology has been illegally exported to Israel; and there have been a number of espionage-related cases involving

---

<sup>18</sup> ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004).

Israeli citizens. This creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion. It also creates a potential conflict of interest. AG ¶¶ 7(a), 7(b), and 7(d) have been raised by the evidence.

I have also analyzed all of the facts and considered all of the mitigating conditions for this security concern under AG ¶ 8 and conclude the following are potentially applicable:

(a) the nature of the relationship 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 and interests of the U.S.;

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interests in favor of the U.S. interests; and

(c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.

The nature of a nation's government, its relationship with the United States, 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 foreign government or the country is known to conduct intelligence operations against the United States.

Applicant and his wife have lived in the United States since 1979. They have been naturalized U.S. citizens since 1987. Their three children were born in the United States. Applicant has worked with the U.S. Government for more than 32 years and held a security clearance for 22 years. He has significant assets in the United States.

Applicant maintains a relationship with his brother, who retired from the military and retired from his insurance job in 2009. His brother's wife also retired from the insurance profession about ten years ago. His brother's military affiliation was more than 30 years ago and it is unlikely to create a risk of foreign exploitation. Applicant's wife maintains a relationship with her sister and brother-in-law. Applicant has minimal contact with them. Their positions as the chief executive officer of a private company and a nurse do not raise any unusual security concerns or place them in heightened risk scenarios. Neither work in high-profile jobs that might be targeted. However, due to the nature of Israel's history of industrial espionage, I cannot find it is unlikely Applicant might be placed in a position of having to choose between the interests of his brother,

sisters-in-law and brother-in-law and the interests of the United States. I find AG ¶ 8(a) does not apply. Applicant has a long history of dedicated work in support of the U.S. Government, even before he became a U.S. citizen. His sense of loyalty to the United States is deep, and he can be expected to resolve any conflicts in favor of U.S. interests. I find AG ¶ 8(b) applies. AG ¶ 8(c) does not apply because Applicant's relationship with his brother and his wife's relationship with her sister and brother-in-law are more than casual. Applicant's relationship with his brother's wife is casual and AG ¶ 8(c) applies to her.

### **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 the applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

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

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines C and B in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under these guidelines, but some warrant additional comment.

Applicant has provided his expertise to the U.S. Government for more than 32 years. He has an impressive record. He complied with the guidance and direction provided to him by DSS on how to handle his Israeli passport. He has officially renounced his Israeli citizenship and surrendered his Israeli passport. He and his wife have made a life for themselves in the United States. His three children were born and raised in the United States. Applicant and his wife still have some family in Israel, but their contact is unlikely to raise any security concerns. Applicant has part-ownership in a house in Israel and when able, intends to sell it. He has substantial assets in the United States. He has held a security clearance for more than 22 years and has always been diligent in notifying proper authorities when he changed jobs, or transferred control of his Israeli passport. He has proved he has deep and longstanding relationships and loyalties in the United States. I have considered his demeanor and candor during his

hearing. I believe in the unlikely event there is a conflict of interest that Applicant would resolve it in favor of the United States.

Overall, the record evidence leaves me with no questions or doubts about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising under the guidelines for foreign preference and foreign influence.

### **Formal Findings**

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

Paragraph 1, Guideline C:	FOR APPLICANT
Subparagraphs 1.a-1.d:	For Applicant
Paragraph 2, Guideline B:	FOR APPLICANT
Subparagraphs 2.a-2.f:	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 a security clearance. Eligibility for access to classified information is granted.

---

Carol G. Ricciardello  
Administrative Judge