DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 14-03136
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Robert J. Kilmartin, Esq., Department Counsel
For Applicant: Rosario Mario F. Rizzo, Esq.

11/18/2016

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Decision

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MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant's brother-in-law held prominent positions in a foreign transitional government in 2011. He currently heads a commission of significant importance to the democratization and stabilization of the country. Applicant has had no contact with this brother-in-law since September 2010, and he has longstanding ties to the United States. Clearance is granted.

Statement of the Case

On April 19, 2015, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant detailing a security concern under Guideline B, Foreign Influence, and explaining why it was unable to grant or continue a security clearance to Applicant. The DOD CAF 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 filed a *pro se* response to the SOR on June 4, 2015, and he requested a hearing before an administrative judge from the Defense Office of Hearings and

Appeals (DOHA). On February 26, 2016, 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 February 29, 2016, I scheduled a hearing for March 22, 2016.

At the hearing, counsel for Applicant entered his appearance. Six Government exhibits (GEs 1-6) and two Applicant exhibits (AEs A-B) were admitted without objection. Applicant testified, as reflected in a transcript (Tr.) received on March 31, 2016. Additionally, the Government requested that I take administrative notice of several facts pertinent to Libya.

Administrative Notice

At the hearing, the Government requested administrative notice of several facts pertinent to Libya, as set forth in an Administrative Notice request dated January 27, 2016. The Government's request was based on several U.S. government publications referenced in the document.[1] Applicant was provided the Internet addresses where he could access the publications. Counsel for Applicant verified that he accessed the documents from the Internet before the hearing.

Pursuant to my obligation to take administrative notice of the most current political conditions in evaluating Guideline B concerns (*see* ISCR Case No. 05-11292 (App. Bd. Apr. 12, 2007)), I informed the parties of my intent to take administrative notice, subject to the reliability of the source documentation and the relevance and materiality of the facts proposed. Applicant filed no objections to the facts set forth in the Government's Administrative Notice request and did not submit a request to administratively notice other facts.

Some of the reports relied on by the Government were updated after Applicant's hearing.[2] With that caveat, the facts administratively noticed are set forth below.

Findings of Fact

The SOR alleges that Applicant's brother-in-law heads a commission in Libya after having held high-ranking positions for its transitional governing authority (SOR ¶ 1.a). In a detailed response, Applicant admitted that the information alleged was "generally" true, but he also indicated that he does not have a close relationship with his

[1] The Government's request for administrative notice was based on four publications from the U.S. State Department: a Travel Warning dated September 16, 2015; a country information report about Libya dated July 20, 2015; a press statement of December 17, 2015; and a human rights report for 2014 concerning Libya. Source information for the Administrative Notice request also came from a November 21, 2014 investigative report of the U.S. House of Representatives and on a threat assessment of the U.S. Intelligence Committee dated February 26, 2015.

[2] For example, the State Department Travel Warning that was in effect as of Applicant's hearing was recently replaced by a travel warning issued on June 9, 2016. The State Department issued its human rights reports for 2015, including Libya, on April 13, 2016.

brother-in-law, who has been married to his sister for over 35 years. After considering the pleadings, exhibits, and transcript, I make the following findings of fact.

Applicant is a 57-year-old college graduate, who has been employed by a federally-funded research and development center since January 2013. (GEs 1, 3; AE B; Tr. 23.) Applicant was initially granted a DOD secret security clearance in approximately September 1996 for his duties with another defense contractor. His clearance was upgraded to top secret around August 2001. Due to a lack of work, his services were contracted out to another company in the defense industry in November 2004. In May 2005, he became a direct hire of that company, and his clearance was transferred. His clearance was administratively downgraded to the secret level before November 2012, when he was laid off during a reduction in force. (GEs 1, 3; Tr. 25-27, 29, 51.) Applicant had some temporary work in contract administration for another company before starting his present employment. (Tr. 28-30.) He currently holds a secret clearance for classified technical presentations, but he does not access classified information on a daily basis. (Tr. 24-25.)

Applicant is the second oldest of nine children born in the United States to a U.S. native-born mother and U.S. naturalized father. Applicant and his spouse have owned their residences in the United States since April 1996. They married in June 2004 and bought their current home around November 2006. They have a 19-year-old son. (GEs 1, 3.) As of May 2009, they owned a wine and spirit store, which they sold in October 2013. (GEs 1, 3; Tr. 50.) Applicant has no foreign assets or property interests. (GE 1.)

Applicant has two brothers and five sisters. A brother died before Applicant applied to update his security clearance eligibility. (GE 1.) His elder sister (sister #1) is an attorney, who lives in the United States. (AE A; Tr. 33.) Sister #1's spouse (SOR ¶ 1.a) was born in Libya and studied at a university there before fleeing the country in 1973. He was stripped of his citizenship and sentenced to death in absentia. After immigrating to the United States, he earned his master's degree in 1978, married Applicant's sister #1 in 1980, earned his doctorate degree in 1983, and became a naturalized U.S. citizen. From 1985 until March 2011, Applicant's brother-in-law was a senior lecturer at a public university in the United States. (GEs 3, 4; Tr. 42-43.)

In March 2011, Applicant's brother-in-law returned to Libya at the request of its transitional government. (Tr. 42.) He served in a couple of high-ranking positions in its government in 2011 and founded a political party in 2012, despite pressures from extremists opposed to their agenda. In 2014, he was elected to his current position of some prominence in Libya.[3] (GEs 3-6; Tr. 46-48.) Applicant's sister #1 remained in the United States with their four children. (AE A; Tr. 36, 43.) Applicant spoke to his then security officer in 2011 about his brother-in-law's move to Libya because he thought it

[3] According to a May 2015 news article (GE 5), Applicant's brother-in-law serves on one of the only institutions with bipartisan support. Applicant testified that he read an article in February 2016 about a court decision in Libya indicating that it may be illegal for Applicant's brother-in-law to hold his position because he has "a dual citizenship," like so many expatriates in power now, who established citizenship in another country and have since returned to Libya. (Tr. 47.)

could be an issue. Applicant does not believe that his former employer filed a report with the DOD about his brother-in-law. (Tr. 30.)

In March 2013, Applicant informed his current employer about his brother-in-law's residency in Libya, his past high-ranking position in Libya for a month in 2011, and his brother-in-law's then current position as chairman of a political party in Libya. (GE 2; Tr. 30.) On April 25, 2013, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). Applicant reported that he had contact only twice with his brother-in-law in the last seven years, both times in person. Applicant saw his brother-in-law at a funeral for Applicant's nephew in August 2010 and at a milestone birthday party for Applicant's father in September 2010. (Tr. 50.) Applicant denied any other contact, including by email or telephone with his brother-in-law in the last seven years. Applicant could not recall when his brother-in-law became a naturalized U.S. citizen. He explained that his brother-in-law had been recruited in March 2011 by the then governing authority in Libya to assist in forming democratic institutions in the country. Applicant advised that his brother-in-law was still in Libya but that his sister #1 still lives in the United States. Applicant stated that he has not discussed work or government issues with his brother-in-law. (GE 3.)

Applicant had a "pretty close" relationship to sister #1 in high school and while she was in college. Applicant visited sister #1 and her husband in late 1982 or early 1983 and then in 1983 or 1984. During Applicant's first visit in 1982 or 1983, his brother-in-law shared his political views with him. Applicant was led to understand from his mother that his brother-in-law was involved with an expatriate organization with the aim of overthrowing the dictatorship in power in Libya. Applicant began distancing himself from his family, including sister #1, around 1984 or 1985. Even so, he visited his sibling and her family again in April 2002. (Tr. 33-34, 42.)

Most of Applicant's contact with his sister #1 in the last ten years has been through social media. (Tr. 35.) Applicant is closest to his youngest sister, and he communicates with his other siblings, including sister #1, usually through his youngest sister. (Tr. 36, 57.) Applicant's youngest sister is "pretty close" to their sister #1. (Tr. 61.) However, Applicant and sister #1 have had email contact to share information about the health and care of their parents over the years. (AE A.) Applicant and sister #1 were last together in September 2015, when their father turned 95, and in January 2016, when their mother died. (Tr. 36, 44-45.) Sister #1's husband did not attend the funeral, although he telephoned Applicant's father to extend his condolences. (Tr. 44.) Applicant follows sister #1's daughter and daughter's husband on Instagram. This niece and her spouse stayed with Applicant for a week in late September 2010. (AE A; Tr. 37, 46, 60.)

Neither Applicant nor his sister #1 has traveled to Libya. (Tr. 49.) He does not intend, and to his knowledge his sister also does not intend, any travel to that country. (Tr. 66.) His sister #1's sons went to Libya to see their father in 2011. Sister #1's elder son has seen his father in Europe as well. Applicant had in-person contact with this nephew at his father's birthday party in September 2015 and at his mother's funeral in

January 2016, but he does not have contact with this nephew on a regular basis. (Tr. 65.)

Applicant has had no contact with sister #1's husband since September 2010. (Tr. 49.) Applicant obtains information about his brother-in-law indirectly from sister #1 through his youngest sister; from the Internet by Rich Site Summary (RSS) feed set up for his brother-in-law's name; or through a Twitter search. Applicant explained his rationale as follows:

> I also have it set up in Twitter as a search, just because I wait to see, should something ever happen to him. I want to know about it. And when I say something happen to him, one, it's either he becomes a government official, and you know, that obviously affects me. But also should something negative happen to him, kidnapping or death. And its's always a concern in our family, but we don't dwell on it. It's sort of a fact of life for him, and it's just our security risk. But some of that has also been, you know, Googling and finding out he's met with U.S. officials, so . . . (Tr. 57.)

Applicant also testified that he might inquire of his youngest sister about the truth of Internet information about their brother-in-law. He rarely asks about their brother-in-law's location or activities. (Tr. 61.)

Applicant denies that he could be unduly influenced or coerced to take action against the United States because of his relationships to his brother-in-law or sister #1 or their children. (Tr. 40-41.) When asked how he would react if sister #1 was to become a hostage, Applicant responded that he did not anticipate that situation occurring; that his sister understands the risk; and that he takes his security clearance and the safety of the United States very seriously. (Tr. 53.) If approached for classified information, he would report the contact to security personnel at work. (Tr. 54.) As for any concern about the recent increase in terrorism in Libya, Applicant responded:

> It's — it's a concern in the sense that something could happen to him, and that would affect my sister and her children. You know, I mean they love him. Most of us do not love him. He's done things that most of us don't particularly like. (Tr. 63.)

Applicant denied it would affect his work were his brother-in-law to be taken hostage, although he acknowledged that it would "certainly add some drama in the family." (Tr. 66.)

Work References

Applicant's manager between December 1999 and May 2005 found Applicant to be an excellent worker and trustworthy in carrying out his duties in program finance. After Applicant left the company, they stayed in contact through their association with

the local chapter of a national contract management organization. Applicant's former manager considers Applicant to be of good character. (AE B.)

Applicant did an exceptional job for his next employer as well. A program manager familiar with Applicant's work for several years between May 2005 and November 2012 described Applicant as reliable and a strong team member. He knew of no security deficiencies in relation to Applicant. Likewise, Applicant's direct manager for over five years during that time would not hesitate in recommending Applicant. Applicant performed his duties in a timely and professional manner, giving his then supervisor no reason to question his dedication or trustworthiness. (AE B.)

Co-workers in Applicant's present employment have described him as conscientious and professional. Applicant manages consultant-type agreements that involve personally identifiable information requiring protection in accord with company procedures. Applicant is well versed in security-related procedures, and he executes his responsibilities appropriately on a daily basis. His current co-workers indicate that they know of no security infractions or violations involving Applicant. (AE B.)

I take administrative notice that Libya is a parliamentary democracy with a temporary constitutional declaration allowing for the exercise of political, civil, and judicial rights. An outbreak of major political violence in 2014 led to the loss of central government control over much of the country's territory and the emergence of rival administrations. Military forces and militias affiliated with both the internationally-recognized government and its opponents committed numerous serious human rights abuses. Militias affiliated with both sides in the conflict operated without restraint or accountability. They regularly killed civilians; targeted, kidnapped, or killed political figures, journalists, and activists and their families; and damaged national infrastructure and diplomatic facilities. Impunity was a severe and pervasive problem in that the government failed to take steps to investigate, prosecute, and punish officials who committed abuses and violations, whether in the security forces or elsewhere in the government. As a consequence of the government's failure to maintain the rule of law, terrorist and extralegal armed groups operated in a security vacuum.

U.S. Embassy operations were suspended in Libya in July 2014 because of the ongoing violence. In September 2015, the Department of State warned U.S. citizens against all travel to the country and recommended the immediate departure of U.S. citizens in Libya because of the unpredictable and unstable security situation. Many military-grade weapons were in the hands of private individuals, U.S. and United Nations (UN)-designated terrorists, and other armed groups. Crime levels, including of kidnapping, remained high in many parts of the country. Violent extremist groups made several specific threats against U.S. government officials, U.S. citizens, and U.S. interests. Hotels frequented by Westerners had been caught in the crossfire between armed groups. Most international airports were closed with flights in and out of Libya cancelled without warning. In December 2015, after a year of UN-brokered dialogue, the country's political leaders agreed to form a unified government. In June 2016, the U.S. State Department renewed its warning against all travel by U.S. citizens to Libya

because of ongoing security instability and threats against U.S. interests by extremist terrorist groups, such as the Islamic State of Iraq and the Levant (ISIL, aka ISIS).

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 articulated 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.

The husband of Applicant's elder sister moved to Libya at the request of its transitional government in March 2011. He held two high-ranking positions for its governing authority in 2011 and founded a political party in 2012. In 2014, he was elected to a prominent position on a nonpartisan committee that has a very important task in the democratization and political stabilization of the country. 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. 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).

As reported by the U.S. State Department, there is a heightened risk of terrorism in Libya. Libya has a poor human rights record and government authorities lack control over much of the country. The State Department warns U.S. citizens against traveling to Libya because of the violent extremist activity in Libya, including by groups such as ISIL

that expressly target U.S. citizens and U.S. interests. Moreover, Applicant's brother-in-law's high profile in Libya significantly heightens the risk. Although it has been several years since he held a high-ranking position for the Libyan government, he continues to exert some influence through his position on a nonpartisan commission of significant importance to Libya's stability as a parliamentary democracy.

Yet, there is nothing about Applicant's contacts with his brother-in-law that would implicate AG ¶ 7(a). Applicant has had limited contact with his brother-in-law over the years. He last saw his brother-in-law in September 2010. There has been no contact between them since his brother-in-law's 2011 move to Libya. Applicant persuasively testified that he does not have a close personal relationship with his brother-in-law. Applicant testified that his brother-in-law has done some things that he and other family members dislike, although he did not elaborate in that regard.

The risk of undue foreign influence cannot be adequately assessed without consideration of Applicant's ties to his brother-in-law through his sister #1, however. Even though Applicant usually obtains information about his brother-in-law from his youngest sister, the Internet, or social media, he described his relationship with sister #1 as "pretty close." He saw sister #1 at a niece's funeral in August 2010, at celebrations for their father's 90th and 95th birthdays in September 2010 and September 2015, and at their mother's funeral in January 2016. They have had some contact by email over the years. Applicant's sister #1 presumably has a positive relationship with her spouse, despite their physical separation since March 2011. While sister #1 has never traveled to Libya, two of her children went to Libya to see their father. There exists a potential vulnerability of undue foreign influence indirectly through his sister #1's spousal relationship. Both AG ¶ 7(a) and AG ¶ 7(b) apply. AG ¶ 7(b) provides:

> (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.

Given the high-profile positions that Applicant's brother-in-law has held in Libya since 2011 and the Libyan government's ineffective control over extremist terrorist groups, AG ¶ 8(a) cannot reasonably apply in mitigation. AG ¶ 8(a) provides:

> (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.

Applicant's personal contacts with his brother-in-law have been so limited over the years to be reasonably characterized as infrequent. However, it is difficult to fully mitigate the security concerns under AG ¶ 8(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," because of the family ties. Contacts are not casual when they are between family members and occur at such important family events as milestone birthdays and funerals.

Applicant has no allegiance or sense of loyalty to Libya. A lifelong U.S. native citizen, he has no obligation to Libya or financial asset in Libya that could present a conflict of interest. Yet, Applicant admitted to setting up an RSS feed and Twitter search for his brother-in-law by name because he wants to know should something happen to his brother-in-law because it would affect sister #1 and her children. Applicant's sense of loyalty or obligation to his sister #1 and her family is not sufficiently minimal to satisfy the first prong of AG ¶ 8(b), which provides:

> (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.

The DOHA Appeal Board has long acknowledged that "people may act in unpredictable ways when faced with choices that could be important to a loved-one, such as a family member." *See* ISCR Case No. 08-10025 (App. Bd. Nov. 3, 2009.) There is little likelihood that his sister would directly be threatened as long as she remains in the United States. There is no evidence that she plans to travel to Libya to see her husband. The salient issue in this case is what Applicant would do if placed in the untenable position of having to choose between his family and his security responsibilities should his brother-in-law become a target of pressure, coercion, or physical harm. Applicant denies that he could be coerced to act contrary to U.S. interests, and he presented persuasive evidence of longstanding ties to the United States that under AG ¶ 8(b) minimize the security risk. Applicant, his spouse, and their 19-year-old son are U.S. resident citizens. Applicant has no foreign financial assets, while he has owned homes in the United States since 1996. He has worked in the U.S. defense industry for over 20 years with a security clearance and has no record of any security infractions or violations. He disclosed his brother-in-law's foreign government involvement to security personnel. Applicant understands that the risk of undue foreign influence cannot completely be discounted because of his sister #1's husband.

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).[4] Furthermore, in weighing these whole-person factors in a foreign influence case, the Appeal Board has held that:

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

> (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding

> Evidence of good character and personal integrity is relevant and material under the whole person concept. However, a finding that an applicant possesses good character and integrity does not preclude the government from considering whether the applicant's facts and circumstances still pose a security risk. Stated otherwise, the government need not prove that an applicant is a bad person before it can deny or revoke access to classified information. Even good people can pose a security risk because of facts and circumstances not under their control. *See* ISCR Case No. 01-26893 (App. Bd. Oct. 16, 2002).

Applicant had no say in his brother-in-law's decision to move to Libya to assist in the establishment of democratic institutions. What he can control is his response to the security risk that his sister #1 and her spouse have accepted and extended to family members. When asked what he would do if placed in the untenable position of having to choose between the health and safety of sister #1 and his security obligations, Applicant indicated that he would notify security personnel at work. The Government need not wait to see what Applicant would do in that regard before concluding that an unacceptable security risk exists. However, Applicant has shown that he can be counted on to fulfill his security responsibilities. He has an unblemished record of compliance with security regulations. His unrebutted testimony is that he notified his former employer in 2011 when his brother-in-law moved to Libya. He self-reported to his current employer in March 2013 that his brother-in-law lives in Libya, held a high-ranking governmental position in Libya in 2011, and was currently chairman of a political party in Libya. Past and present co-workers have no concerns about Applicant's trustworthiness or reliability in handling classified or sensitive information. After considering all the facts and circumstances, I find it is clearly consistent with the national interest to continue Applicant's security clearance eligibility.

Formal Findings

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

Paragraph 1, Guideline B: FOR APPLICANT

Subparagraph 1.a: For Applicant

> 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.

Conclusion

In light of all of the circumstances presented by the record in this case, 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.

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Elizabeth M. Matchinski
Administrative Judge