



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



In the matter of: )  
 )  
 [Redacted] ) ISCR Case No. 11-05839  
 )  
 Applicant for Security Clearance )

**Appearances**

For Government: Alison O’Connell, Esq., Department Counsel  
For Applicant: Eric A. Eisen, Esq.

04/20/2012

**Decision**

FOREMAN, LeRoy F., Administrative Judge:

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

**Statement of the Case**

Applicant submitted a security clearance application on July 28, 2010. On December 2, 2011, the Defense Office of Hearings and Appeals (DOHA) notified her that it was unable to find that it was clearly consistent with the national interest to grant her access to classified information, and it recommended that her case be submitted to an administrative judge for a determination whether to deny her application for a clearance. DOHA set forth the basis for its action in a Statement of Reasons (SOR), citing security concerns under Guideline B. DOHA acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the Department of Defense on September 1, 2006.

Applicant received the SOR on December 13, 2011; answered it on December 30, 2011; and requested a hearing before an administrative judge. DOHA received the request on January 3, 2012. Department Counsel was ready to proceed on January 24, 2012, and the case was assigned to me on February 21, 2012. DOHA issued a notice of hearing on March 5, 2012, scheduling it for March 27, 2012. I convened the hearing as scheduled. Government Exhibits (GX) 1 and 2 were admitted in evidence without objection. Applicant testified and submitted Applicant's Exhibits (AX) A through G, which were admitted without objection. DOHA received the transcript (Tr.) on April 4, 2012.

### **Administrative Notice**

Applicant's Counsel requested that I take administrative notice of relevant facts about Brazil as set out in AX A. I took administrative notice as requested, with no objection by Department Counsel. The facts administratively noticed are set out below in my findings of fact.

### **Findings of Fact**

In her answer to the SOR, Applicant admitted all the allegations in the SOR. Her admissions in her answer and at the hearing are incorporated in my findings of fact.

Applicant is a 48-year-old Latin American culture and language analyst employed by a defense contractor. She has worked for her current employer since June 2009. She has never held a security clearance.

Applicant was born in Brazil. She first came to the United States with her family in 1976, when her father, an infantry captain, came to the United States for a year of training with U.S. Army infantry officers. She completed the sixth grade in a U.S. grade school. She was unable to speak English when she arrived but became fluent during her year in school. Applicant's father became very interested in U.S. history. Applicant and her family traveled extensively while in the United States and became familiar with many historic sites. It was the Bicentennial Year and they learned a great deal about the quest of the United States for independence.

After they returned to Brazil, Applicant's father decided that his family should study English. Applicant, her mother, and her sister took English classes six hours a week after school for six years. At age 18, Applicant obtained a job as an English-speaking correspondent for a Brazilian radio station. (Tr. 26-29.) She graduated from college in Brazil in May 1990 with a bachelor's degree in international relations.

Applicant returned to the United States with her family in October 1990, when her father was assigned as the Brazilian Liaison Officer for a U.S. military command. Her father served as a liaison officer for about two years and was awarded a U.S. military decoration upon completion of his assignment. (GX 2 at 13-15, 22.)

In January 1991, Applicant enrolled in a master's degree program at a U.S. university near her father's duty station. She obtained a master's degree in international relations in May 1993, and then worked in international marketing for about nine years. She started as a sales assistant and worked her way up to being the international sales manager for a commercial seafood company. (Tr. 35-39.)

In May 1992, Applicant married a fellow student, a U.S. citizen, while completing her requirements for a master's degree. She and her new husband remained in the United States when her father returned to Brazil. They have two children, ages 14 and 9, who are native-born U.S. citizens. Their children are also registered as Brazilian citizens since they were born before Applicant renounced her Brazilian citizenship.

Applicant became a U.S. citizen in May 1997. She renounced her Brazilian citizenship in September 2006, to avoid raising any issues about her husband's eligibility for a high-level security clearance. (Tr. 107.). She testified that her father was very happy when she decided to stay in the United States and when she became a citizen. She testified that he understood and accepted her decision to renounce her Brazilian citizenship because of his affection for the United States. (Tr. 33.)

After Applicant's first child was born in 1998, she started looking for a nanny so that she could return to work. Applicant's mother learned from friends associated with the U.S. Embassy in Brazil that the wife of a U.S. Navy pilot, who lived near Applicant, provided day care in her home. Applicant contacted the woman, arranged for day care, and they became life-long friends.

Applicant began searching for a temporary substitute nanny in 2000, when her primary nanny became fully occupied with taking care of an ailing parent. She interviewed a young Brazilian woman who claimed to be in the United States on a student visa. Applicant examined her visa and passport and determined that her visa was a counterfeit. She confronted the young woman and persuaded her to return to Brazil to avoid being deported. She questioned the young woman about the source of her counterfeit visa and provided the identity of the counterfeiter to the proper authorities. Applicant testified that she acted as she did regarding the counterfeit visa because her father taught her the importance of integrity and following the law. (Tr. 70-76.)

Applicant's parents, sister, and several cousins, aunts, and uncles are citizens and residents of Brazil. Her father served for 44 years in the Brazilian Army. He was an infantry officer, not involved in military intelligence. After serving in several senior positions in the Brazilian Army, he retired in 2000. After retirement, he served with the Brazilian Government as a policy-maker and administrator for international anti-drug operations for about 10 years. (GX 2 at 23.) He is now fully retired from government service. He spends his time managing five rental apartments that he acquired while he worked for the Brazilian Government as a civilian. (Tr. 70, 90-93.)

A retired U.S. ambassador, who had frequent contact with Applicant's father on both a personal and professional level, described Applicant's father as "a man of the highest integrity and decency and a friend of the United States." He stated, "Because of [Applicant's father's] strong sense of duty, pride in his family, and personal integrity, I simply could not conceive that he would wish or encourage his daughter to do anything that would cause her integrity or her life choices of country, family, and future to be tarnished." (AX B.)

Applicant's mother worked as a jewelry designer and a kindergarten teacher. She is now fully retired. (Tr. 103.) Applicant's sister is unmarried, has no children, lives with her parents, and works at home as a translator for a U.S. company in Brazil. (Tr. 38-39, 104.)

Applicant's grandfather, now deceased, was a high-ranking Brazilian military officer. He was an admirer of the U.S. military education system, and was highly respected in Brazil as a scholar and educator. (Tr. 94-96.)

Applicant traveled to Brazil in late 2001 with her daughter, so that she could introduce her daughter to her grandparents, who were unable to travel. (Tr. 41-42.) They returned from Brazil on September 9, 2011. When terrorists attacked the Twin Towers in New York City two days later, Applicant was stunned. She testified:

It was a very traumatic experience for me. I felt completely vulnerable. I thought, up to that point, I was in the most safe place in the world, in the U.S. and when that happened, I felt, I was completely vulnerable because I [had just traveled] on an airplane. I could feel the tragedy that happened to those people. And something panicked inside me. And I decided I have to do whatever it takes in the world to protect my child. And this country. And I have very specific skills that I can do to help.

And that was when I said, "I'm not going to sell shrimp anymore. I'm not going to make money. I want to use my unique skills [in] international relations [and] my four languages that I read and write and translate to serve this country. I want to protect this country because it's my country. And it's the country [where] my children will be born." And I said, "I don't know what I'm going to be doing. But I will apply anywhere I can use these skills."

(Tr. 43-44.)

A few days later, she applied for a job with the U.S. Government. In November 2011, she received a letter advising her that she met the hiring criteria for a current vacancy and informing her of the necessary steps to complete her application. (AX G at 6.) After she received this response, she realized that she could not accept the offer. The government job would require her to move to a new location, and it offered significantly lower pay. Her husband was in school, in the middle of a doctoral program,

and she was the sole support of her family. She decided that she would resume her search for a government position after her husband graduated. She testified,

I thought, as soon as he graduates, as soon as he found a way, I want to go back to this. This is where my duty lies. This is what I want to do with my life. I don't want to make money. I don't want to make commissions. I'm done with that. I want ---this war is permanent. It's real. And this is my future. And my daughter's future. And that's where I want to put all my life and energy.

(Tr. 45-46.)

Applicant's second child was born in March 2003. She decided to resign from her job as an international sales manager and stay home with her children, in part because her second child had health problems. (Tr. 46-47.) After about six months, she was offered a part-time job as a translator and cultural advisor for a movie company specializing in documentary movies. She worked at home and was able to care for her children. (Tr. 47-48.) Her part-time employment ended when the movie company lost the contract to produce a documentary series. (GX 1 at 24.)

Most of Applicant's friends were either military or worked for the military. After the movie translation job ended, a friend who was a language teacher for the U.S. Navy invited her to teach a class. Three days later, her friend resigned and Applicant was hired to replace her. Applicant worked as an instructor in French, Spanish, and Portuguese from April 2005 to September 2007. (Tr. 50-51; GX 1 at 19.) She has continued to work as a language and cultural instructor for various defense contractors until the present.

Initially, Applicant's students were primarily from the Navy. In 2009, after several U.S. Marines attended her courses and course managers from the Marine Corps visited her classes, she was recruited to move from her home of 18 years to a new location near a Marine base. Her husband was offered a job at the same Marine base.

Applicant has traveled to Brazil to visit her family three times since 2002. She traveled to Brazil in 2002 for her sister's wedding. She traveled to Brazil in 2006 so that her younger daughter could meet Applicant's grandmother, and in 2011 for her grandmother's funeral. (Tr. 79-80.)

Applicant grew up with several cousins who are still citizens and residents of Brazil, but she has no current relationships with any of them. (Tr. 77-78.) Although she has several aunts and uncles in Brazil, she maintains contact with only one aunt who is a university professor in Brazil and who visits her in the United States about once every two years. (Tr. 78-79.)

Applicant's father has come to the United States to visit her every year for the past 20 years. He has always stayed for one month, the entire length of his vacation.

(Tr. 42.) Applicant's children are his only grandchildren. (Tr. 66.) Until Applicant moved to another location to accept her current position, the "family dream" was for her parents to move to the United States and live near Applicant and her family. Those plans were put "on hold" when Applicant moved to her current location. (Tr. 67-68.)

While Applicant's father was serving as a liaison officer, Applicant attended social events with her father, and she continued to receive invitations to these events after her father returned to Brazil. She met a Brazilian Navy liaison officer at one of these events. In 2007, looking for opportunities to immerse her U.S. military students in a foreign cultural experience, she discovered that the former Brazilian Navy liaison officer was the captain of a Brazilian tall ship visiting the United States. She arranged a three-hour visit to the Brazilian ship and its sailors for her students. After this visit to the ship, she organized a Brazilian dinner at her home and invited the Brazilian ship captain to speak to her students. Thereafter Applicant and her husband became friends with the Brazilian Navy officer and his wife. Applicant and her husband continued to socialize with the Brazilian officer and his family until they returned to Brazil in January 2008. After the Brazilian officer returned to Brazil, Applicant had virtually no contact with him, except for an annual Christmas card. Applicant last saw the Brazilian officer at her grandmother's funeral in 2011, where she talked with him for about 20 minutes. (Tr. 60-62; GX 2 at 8, 25.)

While teaching as an adjunct professor of Portuguese at the university where she received her master's degree, Applicant met a U.S. businessman who had been appointed as an Honorary Consul of Brazil, apparently because of his extensive commercial contacts with Brazil. The Honorary Consul is a U.S. citizen and resident operating an international shipping business in the United States. In May 2009, the Honorary Consul hosted a luncheon for the visiting Consul General of Brazil, and he invited Applicant to attend the luncheon. Applicant believes she was invited because the Honorary Consul does not speak Portuguese and needed a translator. She attended the luncheon, at which other Brazilian diplomats and several business, local government, and community leaders were present. (GX 2 at 25-26; AX F at 1-2.)

In June 2009, Applicant was invited to a reception at the official residence of the Consul General of Brazil (AX F at 3.). The government manager of her contract, a Marine Corps officer, encouraged her to attend. She informed her facility security officer (FSO), who advised her to be cautious about answering questions and to refer any questions that seemed out of the ordinary to the Marine Corps officer. Applicant was delayed in traffic and arrived late, about an hour before the reception ended. (GX 2 at 8-9, 26; Tr. 884-89.) After the event, Applicant debriefed her FSO and informed him that nothing unusual had occurred. (AX F at 5.)

One of Applicant's long-time friends, who met her when her father was assigned to the United States as a liaison officer, submitted a statement in which she declared: "I trust [Applicant's] family completely, with every important thing: my life and that of my children, and with the security of my nation." (AX C at 1.) She describes Applicant as follows:

[Applicant] is an incomparable asset to our nation, skilled in math, logic, culture and norms, and capable of working in highly sensitive, classified areas with complete confidentiality, and with the strictest adherence to all security related policies. She grew up knowing the importance of security and she wants security for her husband and two young daughters, and for the generations of Americans to come.

Another long-time friend for more than 13 years considers Applicant a person of high morals and a strong sense of personal responsibility, who is “passionate about her career and tenacious in completing anything she puts her mind to.” She stated, “The longer I know [Applicant] the more I admire her.” (AX C at 4.)

Applicant’s father-in-law, a retired U.S. Navy captain, describes her as “a great American because of her strong sense of self-sacrifice and belief in American ideals.” He stated that Applicant “truly enjoys her work because she feels like she is using her language talents to support the defense of her adopted country.” (AX C at 2.) Her sister-in-law describes her as highly intelligent, caring, and dedicated. (AX C at 3.)

Applicant enjoys an outstanding reputation among the program managers and supervisors with whom she has worked. They uniformly describe her as intensely loyal, talented, dedicated, selfless, and committed to doing what is right. (AX E.) She has received numerous commendations for her outstanding performance. (AX D.) The director of the Marine Corps cultural and language training program, for whom Applicant works, submitted a letter that included the following comments:

I have had the opportunity to personally observe [Applicant] on a daily basis for almost 3 years, at both work and in social settings, and can state with the utmost confidence that she consistently exhibits every requisite quality desired of our most trusted citizens, and confidently rank her “head and shoulders’ above her contemporaries. Her intense loyalty and overall commitment to this organization and the defense of our Nation’s values are unsurpassed, and seldom have I witnessed such honesty and integrity in another individual. Furthermore, I have had the opportunity to meet and interact with [Applicant’s] family on a number of occasions, to include her father and mother, and was exceptional[ly] impressed with their pro-US stance regardless of the issue, and forthright drive and desire to further those views with any given audience. I have found [Applicant], and her entire family, to be of the highest character with an uncompromising moral compass, and they can be trusted to act in good faith regardless of the personal consequences. [Applicant’s] most enduring quality is her willingness to put service in front of self without hesitation, and her unwavering, steadfast commitment to doing what is right.

(AX E at 2.)

I have taken administrative notice of the following facts about Brazil.<sup>1</sup> It was a constitutional republic from 1889 to 1930, when a military coup replaced the elected government. It began its return to democratic government in 1982 and completed its transition in 1989. Brazil encourages foreign investment, and the United States is traditionally its top foreign investor. It is a regional leader in science and technology and a global leader in biofuels, agricultural research, deep-sea oil production, and remote sensing. U.S. Government, private sector, and academic researchers have extensive ties with Brazilian counterparts. It is a member of the Organization of American States, and a party to the Rio Treaty. It is a charter member of the United Nations and has regularly contributed troops to peace-keeping missions. The United States and Brazil have traditionally enjoyed friendly, active relations encompassing a broad political and economic agenda. Since reciprocal visits by President George W. Bush in March 2007 and President Obama in March 2011, bilateral engagement on a broad range of areas has intensified. There is no evidence that Brazil abuses its citizens to gather intelligence, and no evidence that Brazil targets the United States for military, economic, or technological information.

### **Policies**

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

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

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the

---

<sup>1</sup> Notwithstanding the guidance in AG ¶ 6 that “[a]djudication under this Guideline can and should consider the identity of the foreign country . . . ,” Department Counsel declined to request administrative notice of the relevant adjudicative facts about Brazil, stating that the Government’s concerns were solely based on the conflict of interest raised by Applicant’s familial relationships and not the heightened risk posed by the nature of country involved. (Tr. 18.) Accordingly, my administrative notice was based solely on Applicant’s request and the materials provided in AX A.



possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

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

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 92-1106 at 3, 1993 WL 545051 at \*3 (App. Bd. Oct. 7, 1993).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## **Analysis**

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

The SOR alleges that Applicant’s parents, sister, and several cousins, aunts, and uncles are citizens and residents of Brazil; and that she traveled to Brazil at least three times since 2002 to visit her family in Brazil (SOR ¶¶ 1.a, 1.b, 1.d, 1.e, 1.f, and 1.h). It also alleges that Applicant’s father is a retired high-ranking Brazilian Army officer and that, after his retirement, he served in a senior civilian position in the Brazilian Government (SOR ¶¶ 1.b and 1.c). It further alleges that Applicant has friends affiliated with the Brazilian armed forces (SOR ¶ 1.h). Finally, it alleges that Applicant has been invited to and attended events hosted by the Consul General of Brazil in 2009 and 2010 (SOR ¶ 1.i.).

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

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.

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

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

The fact that Applicant has several cousins who are citizens and residents of Brazil is alleged in both SOR ¶¶ 1.e and 1.f. When the same conduct is alleged twice in the SOR under the same guideline, one of the duplicative allegations should be resolved in Applicant’s favor. *See* ISCR Case No. 03-04704 (App. Bd. Sep. 21, 2005) at 3 (same debt alleged twice). For this reason, I have resolved SOR ¶ 1.e in Applicant’s favor.

The evidence shows that Applicant’s travel to Brazil after she became a U.S. citizen was solely for the purpose of visiting her family. As such, her foreign travel has no independent security significance. For this reason, I have resolved SOR ¶ 1.h,

alleging her foreign travel, in her favor. See ISCR Case No. 02-26978 (App. Bd. Sep 21, 2005).

Two disqualifying conditions under this guideline are relevant to Applicant's family ties to Brazil (SOR ¶¶ 1.a-1.d and 1.f<sup>2</sup>), friendship with persons affiliated with the Brazilian armed forces (SOR ¶ 1.g), and contacts with the Consul General of Brazil (SOR ¶ 1.i):

AG ¶ 7(a): contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion; and

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.

AG ¶ 7(a) requires 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. The adjudicative guidelines do not require the Government to prove affirmatively that a country specifically targets U.S. citizens in order to raise Guideline B security concerns. ISCR Case No. 08-09211 (App. Bd. Jan. 21, 2010). The totality of an applicant's family ties to a foreign country as well as each individual family tie must be considered. ISCR Case No. 01-22693 at 7 (App. Bd. Sep. 22, 2003).

Applicant has long since severed her relationship with the Brazilian Government. Her father is fully retired, and there is no evidence that he has maintained his governmental connections. Her mother is fully retired and has never been connected to the Brazilian Government, except by virtue of her marriage. Applicant's Brazilian Navy friend has retired, there is no evidence of his continuing connection to the Brazilian Government, and her contact with him has waned to casual and infrequent contact. Applicant has no connections with her extended family, except for occasional contact with one aunt who is a university professor. Her contacts with the Consul General of Brazil were arranged by U.S. citizens, her attendance at consular events was as a translator, she reported them as required, and they ended in 2010. There is no evidence that there are insurgents or terrorists in Brazil who target Brazilian family members of U.S. citizens. Nevertheless, the prominence of Applicant's family and her previous social relationship with a Brazilian Navy officer make her exposure to the possibility of attempted exploitation or pressure greater than the normal risk inherent in having family members or friends in a foreign country. After considering that the quantum of evidence

---

<sup>2</sup> SOR ¶¶ 1.e and 1.h were resolved for Applicant on other grounds.

required to find a “heightened risk” is low, and mindful of my obligation to resolve close questions in favor of national security, I conclude that AG ¶ 7(a) is established.

AG ¶ 7(b) requires substantial evidence of a potential conflict of interest. Although Department Counsel argued that Applicant’s family ties, standing alone, raised a potential conflict of interest, she did not articulate any specific basis for a conflict of interest. Applicant’s father was an infantry officer, not an intelligence officer, scientist, or a politician. He is no longer in a policy-making or administrative role in the international anti-drug operations. There is no evidence suggesting that Brazil targets the United States for industrial, economic, or military intelligence, and no evidence that Brazil would threaten his military retired pay or his real estate holdings as a way of obtaining sensitive information. Nevertheless, the level of interaction between Brazil and the United States and the prominent roles played by both countries in international affairs raise the possibility that the two countries will have disagreements about issues such as economic policies, foreign relations, deployment of military forces, or immigration and travel between the two countries, which could adversely affect her Brazilian family members’ economic well-being and quality of life. Accordingly, I conclude that AG ¶ 7(b) is established.

Three mitigating conditions under this guideline are relevant:

AG ¶ 8(a): the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S.;

AG ¶ 8(b): there is no conflict of interest, either because the individual’s sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest; and

AG ¶ 8(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.

Regarding AG ¶ 8(a), the evidence shows that Applicant has close ties with her parents. However, her parents are both retired and not involved with the Brazilian Government. Furthermore, the Brazilian Government does not have a record of abusing or exploiting its citizens as an espionage tool. Nevertheless, it is possible that the United States could adopt policies that would adversely affect the Brazilian economy and the real estate holdings of Applicant’s father, political policies adverse to Brazilian interests, or travel and immigration policies that would interfere with the ability of Applicant and

her Brazilian family members to visit each other. Thus, I conclude that AG ¶ 8(a) is not established.

Regarding AG ¶ 8(b), Applicant has deep and longstanding relationships and loyalties in the United States. She has lived in the United States for 22 years. She has been married to a U.S. citizen for almost 20 years. Her children are U.S. citizens. Virtually all her friends are U.S. citizens with connections to the U.S. military. She renounced her Brazilian citizenship to facilitate her husband's application for a high-level security clearance. She left a high-paying job in the private sector to support U.S. military forces. She has a reputation for high integrity and strict adherence to the law. When she was invited to a social event at the Brazilian Consulate, she requested permission to attend and debriefed her FSO as required. I am satisfied that Applicant will resolve any conflict of interest in favor of the United States. Accordingly, I conclude that AG ¶ 8(b) is established.

Regarding AG ¶ 8(c), Applicant has no contact with her cousins, aunts, and uncles in Brazil, except for one aunt who visits her at two-year intervals. I conclude that AG ¶ 8(c) is established for Applicant's cousins, aunts, and uncles in Brazil. It is also established for the Brazilian Navy officer and his family, because their previous social relationship waned after 2008 to the point where it is now limited to an annual Christmas card.

### **Whole-Person Concept**

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

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

I have incorporated my comments under Guideline B in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

Applicant was candid, sincere, and credible. Her body language, tone of voice, and facial expressions when she testified about her reaction to terrorist attacks on September 11, 2001, reflected the intensity of her attachment to the United States. She comes from a distinguished military family with a strong affinity for the United States, and she has embraced her father's insistence on integrity, dedication to duty, and adherence to the law. She has adopted the United States as her home and devoted herself to supporting the U.S. armed forces.

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

### **Formal Findings**

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

Paragraph 1, Guideline B (Foreign Influence):                   FOR APPLICANT

Subparagraphs 1.a-1.i:   For Applicant

### **Conclusion**

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

LeRoy F. Foreman  
Administrative Judge