

KEYWORD: Foreign Influence

DIGEST: Applicant is a native of the Republic of China (Taiwan) who became a naturalized United States citizen in December 1999. He shares close bonds with his mother and brother, who are citizens of Taiwan, and reside at the Taiwanese university where his brother is a tenured professor. Applicant co-owns with his brother a rental apartment in Taiwan, and has funds on deposit in a financial institution in Taiwan. The Foreign Influence concerns are not mitigated. Clearance is denied.

CASENO: 06-25743.h1

DATE: 08/16/2007

DATE: August 16, 2007

In re:)	
)	
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SSN: -----)	ISCR Case No. 06-25743
)	
Applicant for Security Clearance)	
)	

**DECISION OF ADMINISTRATIVE JUDGE
ELIZABETH M. MATCHINSKI**

APPEARANCES

FOR GOVERNMENT

Fahryn Hoffman, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is a native of the Republic of China (Taiwan) who became a naturalized United States citizen in December 1999. He shares close bonds with his mother and brother, who are

citizens of Taiwan, and reside at the Taiwanese university where his brother is a tenured professor. Applicant co-owns with his brother a rental apartment in Taiwan, and has funds on deposit in a financial institution in Taiwan. The Foreign Influence concerns are not mitigated. Clearance is denied.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. As required by Department of Defense Directive 5220.6 ¶ E3.1.2 (Jan. 2, 1992), as amended, DOHA issued a Statement of Reasons (SOR) on February 22, 2007, detailing the basis for its decision—security concerns raised under Guideline B (Foreign Influence) of the revised Adjudicative Guidelines (AG) issued on December 29, 2005, and implemented by the Department of Defense effective September 1, 2006. The revised guidelines were provided to Applicant when the SOR was issued. Applicant answered the SOR on March 7, 2007, and elected to have a hearing before an administrative judge.

The case was assigned to me on May 14, 2007, and I convened a hearing on June 19, 2007, to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Two government exhibits (Ex. 1-2) and eight Applicant exhibits (Ex. A-H) were admitted, and testimony was taken from Applicant. A transcript (Tr.) of the hearing was received on June 28, 2007.

RULINGS ON PROCEDURE

On May 4, 2007, the government requested the assigned DOHA administrative judge take administrative notice of several facts concerning Taiwan and the People’s Republic of China (PRC). Applicant filed a response to the government’s request on June 7, 2007, objecting to taking administrative notice of “certain statements characterized as facts,” including that Taiwan “maintains close ties to China,” and to consideration of certain publications he submits are not relevant. Applicant also submitted alternative facts for administrative notice.

Authority to consider the requests is set forth in ¶ E3.1.10 of Department of Defense Directive 5220.6 (*The Administrative Judge may rule on questions of procedure, discovery, and evidence and shall conduct all proceedings in a fair, timely, and orderly manner*). Before the introduction of any evidence at the hearing, I allowed the government, over Applicant’s objection, to amend its request for administrative notice to indicate that Taiwan has “significant economic and financial contacts” with the People’s Republic of China (China) in lieu of Taiwan “retains close ties to China.”

The DOHA Appeal Board has ruled that administrative or official notice in administrative proceedings is broader than judicial notice under the Federal Rules of Evidence. In ISCR Case No. 02-24875 (decided Oct. 12, 2006), the Appeal Board found no error by a DOHA administrative judge who took administrative notice of a U.S. State Department Country Report, as the document

was an official U.S. government report relevant to the issues in the case before him, and it was provided in advance to the applicant who had an opportunity to rebut its contents or to present alternative information for the judge to notice.

Facts are proper for administrative notice when they are easily verifiable by an authorized source and relevant and material to the case before me. For source documentation the government relied on publications of the Department of State;¹ the Congressional Research Service;² the Centre for Counterintelligence and Security Studies;³ the National Counterintelligence Center, now known as the Office of the National Counterintelligence Executive;⁴ and a Select Committee of the United States House of Representatives;⁵ two press releases reportedly from the U.S. Department of Justice;⁶ and records of the U.S. District Court for the Eastern District of Virginia.⁷ Applicant relied on a report of the House Permanent Select Committee on Intelligence (104th Congress), dated June 23, 1997, and an article from U.S. News and World Report, posted on the web January 19, 2003, and in print edition January 27, 2003, to confirm the espionage activities of two U.S. citizens during their U.S. government employments.

After weighing the reliability of the source documentation and assessing the relevancy and materiality of the facts proposed by the parties, I took administrative notice of certain facts as set forth below.⁸

¹See *Background Note: Taiwan*, dated October 2006 (I), *Background Note: China*, dated January 2007 (VIII), *China: Country Reports on Human Rights Practices-2006*, dated March 6, 2007 (IX), and *Consular Information Sheet on China*, dated March 19, 2007 (XII).

²See *Taiwan: Recent Developments and U.S. Policy Choices*, dated October 9, 2006 (II).

³See *Intelligence Threat Handbook*, excerpts, dated June 2004 (III). The document was prepared for the Interagency OPSEC Support Staff by the Center for Counterintelligence and Security Studies, a private contractor.

⁴See *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage, 2000* (VII) and *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage, 2005* (XI).

⁵See *U.S. National Security and Military/Commercial Concerns with the People's Republic of China*, declassified version dated January 3, 1999 (X).

⁶The press releases (IV) and (V) were presented apparently to substantiate that Taiwan actively pursues collection of U.S. economic and propriety information. Neither case involves Applicant personally. The April 18, 2006, press release (IV) concerns the sentencing of a U.S. citizen for conspiring to commit trade secret theft between December 1999 and December 2001 to the benefit of a corporation based in Taiwan. There is no evidence of that Taiwan's government was involved in, or sanctioned the criminal activity. The January 22, 2007 (V) press release concerns the sentencing of a former U.S. State Department official for, in part, making false statements to the government concerning his relationship with a female Taiwanese intelligence officer and by not reporting that he had traveled to Taiwan where he met with the foreign intelligence officer.

⁷See U.S. District Court Eastern District of Virginia, Statement of Facts, dated December 12, 2005 (VI). The court records do not pertain to any criminal charge against Applicant.

⁸The criminal wrongdoing of other U.S. citizens is of questionable relevance to an assessment of Applicant's security suitability. The only matter of arguably some relevance is that involving the U.S. State Department official where a Taiwanese intelligence official was implicated, but there is no indication that Applicant has ever been targeted. Concerning the Taiwanese company's attempt to acquire sensitive commercial information for competitive advantage (IV), there is no indication of any government sponsorship, approval, or involvement. The company is viewed as a

FINDINGS OF FACT

DOHA alleged Foreign Influence concerns because of the Taiwanese residency and citizenship of Applicant's mother (§ 1.a) and brother (§ 1.b), the Taiwanese and U.S. dual citizenship of his sister living in the U.S. (§ 1.c), Applicant's co-ownership with his brother of an apartment valued at about \$250,000 (US) in Taiwan (§ 1.d), and Applicant having savings accounts in two different banks in Taiwan (§§ 1.e and 1.f). In his Answer to the SOR, Applicant admitted the citizenship and residency of his family members as alleged, the co-ownership of the apartment in Taiwan inherited jointly with his brother on their father's death, and that he held a certificate of deposit with the financial institution in § 1.e, to expire in October 2007. He had another certificate of deposit in the other bank until the account was liquidated in June 2006 (§ 1.f). Applicant indicated he was prepared to renounce his interest in the apartment in Taiwan, but assumed it would have no legal effect based on his understanding that it was impossible for a non-citizen of Taiwan to transfer an interest in real property located in Taiwan.

Applicant's admissions are incorporated as findings of fact. After a thorough review of the pleadings, exhibits, and transcript, and having agreed to take administrative notice, I make the following relevant and material additional findings:

Applicant is a 51-year-old principal software engineer. He earned his master of science degree in chemical engineering from a private university in the U.S. in May 1985. He has been working for his present employer, a defense contractor, since March 2005 and seeks a security clearance so that he can work on classified projects.

Applicant's Background and Foreign Ties

Applicant was born in February 1956 in Taiwan. His parents, natives of Taiwan, had two other children, a son born in 1952 and a daughter born in 1949. After earning his bachelor's degree from a university in Taiwan, Applicant completed compulsory military service in Taiwan's Army. Applicant served for two years as a second lieutenant.

In January 1983, Applicant was issued a visa to enter the U.S. by U.S. immigration officials in Hong Kong. Ten days later, he came to the U.S. and began graduate studies in chemical engineering at a private technological university. Applicant's contact with his parents in Taiwan was usually by letter due to the high cost of calling, but he telephoned them on occasion.

On finishing his master's degree, Applicant traveled to Taiwan in mid-May 1985 for his wedding to a Taiwanese native in mid-June. He returned to the U.S. in mid-July 1985. It is not clear whether his spouse accompanied him or entered later. Applicant started doctoral studies in chemical engineering but did not finish the degree. In 1987, he began studies for a master's degree in computer science at the same university. In October 1987, a son was born to Applicant and his spouse.

Following the unexpected death of his father in an accident April 1989, Applicant and his family returned to Taiwan. Applicant began working for a Taiwanese commercial company as a project engineering leader performing off-shore computer programming for a U.S. business. In June 1989, he traveled to the U.S. to see his academic advisor and to ship some household goods to Taiwan. Applicant quit his job in Taiwan in December, and in January 1990, he and his spouse and son returned to the U.S. permanently, as he wanted to finish his master's degree in computer science and enjoyed living in the U.S.

Once back in the U.S., Applicant began working full-time. He held software engineering positions with a succession of employers over the next 13 years. On January 11, 1993, he renewed his Taiwanese passport. Applicant traveled to Taiwan for his father-in-law's funeral in July 1995.

On August 9, 1999, Applicant renewed his Taiwanese passport for another six years in case he needed one. In mid-September 1999, Applicant and his spouse divorced. In December 1999, Applicant took the oath of U.S. naturalization, vowing to renounce all foreign allegiances, to support and defend the U.S. Constitution and its laws, and to bear arms or perform noncombatant service or civilian service on behalf of the U.S. if required. Applicant took no action to formally renounce his Taiwanese citizenship.

On June 29, 2000, Applicant was issued a U.S. passport that is valid to June 28, 2010. Applicant listed his birthplace as Taiwan with the understanding that he would not be able to travel to the PRC on his U.S. passport. Applicant traveled to Europe in 2001 and 2003 on his U.S. passport.

In October 2003, Applicant was laid off from his job as a senior software engineer with a telecommunications company. He was unemployed until March 2005, when he was hired by his present employer. Before he started work, he was asked to complete a security clearance application (SF 86). Applicant disclosed on his March 14, 2005, SF 86 that he and his sister were U.S. residents with dual citizenship (U.S. and Taiwan). He also listed that he had foreign property interests consisting of a rental apartment owned jointly by him and his brother, and savings in two separate bank accounts in Taiwan opened in 1989. Applicant also reported foreign employment for a Taiwanese company from April 1989 to December 1989, and that he held a valid Taiwanese passport scheduled to expire in August 2005 "to visit [his] relatives in Taiwan."

Sometime in summer 2006, Applicant's brother and mother visited him in the U.S. His brother was attending a conference in Canada and took the opportunity to visit Applicant at his home. Applicant's mother came to the U.S. at the same time, accompanied by Applicant's nephew who had been visiting in-laws in Singapore and was en route home to the U.S. Applicant's brother and mother stayed with Applicant during their month-long visit.

Applicant traveled to Taiwan from November 25, 2006 to December 10, 2006, for his mother's 80th birthday party.⁹ Applicant reported this foreign travel to his employer even though he was not required to do so.

⁹See Tr. 89. He also indicated in response to interrogatories that he had traveled to Taiwan in November 2006 for his mother's 80th birthday (see Ex. 2). Yet on the SF 86 (Ex. 1) her birth date is listed as November 1927, so she would not turn 80 until later this year. The relevant fact is that Applicant traveled in celebration of her birthday to Taiwan.

At DOHA's request, Applicant responded to foreign influence interrogatories on January 10, 2007. He responded "No" to whether he had applied for, or received, any educational, medical, unemployment, welfare, pension or retirement, or other financial payments, from a foreign entity since becoming a U.S. citizen. He also denied voting in any foreign election since acquiring U.S. citizenship. Applicant answered "Yes" to current foreign financial interests, and indicated he inherited with his brother an apartment that is rented out, with his share estimated at \$125,000 (US). Concerning how long he expected to hold the foreign property interest, Applicant responded maybe five to ten years. He also related he held a savings account with an estimated \$75,000 (US) on deposit in a bank in Taiwan. The estimated net worth of his U.S. assets is \$641,351.96. Applicant expressed uncertainty as to whether he holds dual citizenship with Taiwan and the U.S.

As of June 2007, Applicant still owned with his brother the apartment in Taiwan that they inherited from their father. It had been the family residence before their father's death. Applicant is prepared to renounce his interest in the apartment but from what he understands, he needs to establish residency/citizenship in Taiwan to obtain the seal necessary to divest himself of the property interest,¹⁰ and he does not possess a valid Taiwanese passport. Applicant has not played an active role in the management of the apartment, and he is unaware of the extent of the rental income, which gets deposited directly into his brother's account in Taiwan. Applicant had certificates of deposit totaling \$75,000 in two financial institutions in Taiwan until June 1, 2006, when his mother closed one of the accounts for him. The funds, which are part of his inheritance, were deposited into his brother's account. Applicant testified he is not certain of the amount of the other CD although he is aware it will mature on October 9, 2007. Applicant is prepared to withdraw the funds prematurely and accept the penalty, but only if asked to do so.

Applicant's mother lives with Applicant's brother, who is a tenured professor of civil engineering at a public university in Taiwan. He earned his doctorate from a private university in the U.S. Applicant's brother supports himself and his mother on his salary, the rental income from the apartment he co-owns with Applicant, and on his savings, including Applicant's liquidated certificate of deposit. Applicant's brother and mother reside in living quarters at the university that are provided by his employer without cost to him. Applicant telephones his mother "very often," sometimes daily, to check on her well-being. He speaks to his brother if his brother happens to answer the telephone. Applicant does not discuss his work specifically with his brother, but his brother is aware of Applicant's employer and that Applicant is applying for a security clearance.

Applicant's sister resides about 20 minutes drive from Applicant. She is married to a dual citizen of the U.S. and Taiwan and she works as a software engineer for a financial services company. Applicant has frequent telephone contact with his sister, sometimes daily, and he sees her every week or two.

¹⁰There is conflicting evidence as to whether Applicant has to establish residency as well as citizenship in Taiwan to divest himself of real estate. In his Answer to the SOR, Applicant stated, "From my understanding of the relevant law of Taiwan, it is virtually impossible for a non-citizen of Taiwan to transfer an interest in real property located in Taiwan." At his hearing, he testified that in order for him to transfer the interest, he has to be a resident of Taiwan. (Tr. 51) While he provided a link to a government website in Taiwan, he indicated the information was in Chinese.

Applicant owns his home in the U.S., which has an estimated value of \$400,000. Applicant owes a mortgage balance of between \$80,000 and \$90,000. Applicant has accounts with three U.S. banks with about \$40,000 in total deposits. He also has an individual retirement account and some stock. He estimates his total net worth in the U.S. at about \$641,000.

Applicant has demonstrated outstanding work habits, personal integrity, and a commitment to his work in his first two years on the job with the defense contractor. The task leader on his project has found him to be a reliable, very professional employee. A personal friend of Applicant's from graduate school described Applicant as reliable and extremely dedicated to his family.

Until 1986, Taiwan's political system was effectively controlled by one party, the Kuomintang. Since ending martial law in 1987, Taiwan has taken dramatic steps to improve respect for human rights and create a democratic political system. The Democratic Progressive Party (DPP) of Taiwan's current president is made up of largely native Taiwanese who support sovereignty for Taiwan. The U.S. has been committed to maintaining cultural, commercial and other nonofficial relations with Taiwan since January 1979, when it formally recognized the government of the People's Republic of China (PRC) as the sole legal government of China. By formal act of Congress (Taiwan Relations Act of 1979), the U.S. is committed to provide Taiwan with arms in support of Taiwan's security and stability in the region. Despite the U.S.' clear and consistent position that Taiwan and the PRC are part of China, U.S. commercial ties have expanded with Taiwan and the U.S. is supportive of Taiwan's membership in international organizations, such as the World Trade Organization and the Asian Development Bank, where independent statehood is not required for membership.¹¹

The PRC has surpassed the U.S. as Taiwan's most important trading partner, but Taiwan maintains a large military establishment whose primary mission is the defense of Taiwan against the PRC, which is seen as the predominant threat and has not renounced the use of force against Taiwan. Taiwan's armed forces are equipped with weapons obtained primarily from the U.S., but Taiwan has stressed military self-reliance in recent years that has resulted in the growth of indigenous military production.¹² The U.S. has sought to balance criticisms of the PRC military buildup opposite Taiwan with periodic warnings to the Taiwan government to avoid provocative actions and cautions that U.S. support for Taiwan is not unconditional.¹³

Taiwan was reported to be an active collector of U.S. economic intelligence as of 2000.¹⁴ In December 2005, a former U.S. State Department official admitted he had concealed from the

¹¹See the U.S. Department of State's *Background Note: Taiwan*, dated October 2006.

¹²See the State Department's *Background Note: Taiwan*.

¹³See the Congressional Research Service Report for Congress, *Taiwan: Recent Developments and U.S. Policy Choices*, updated October 9, 2006.

¹⁴See the National Counterintelligence Center's *Annual Report to Congress on Foreign Economic Collection and Espionage 2000*. In the report's appendix, Taiwan is listed as one of the seven countries who are the most active collectors of targeted information and technology. The distilled opinions expressed in the report, based on a statistically small sample (the views of "nearly a dozen selected Fortune 500 companies") and very dated, were afforded less weight than the more recent assessments of the U.S. State Department.

government that he had a personal relationship with a female Taiwanese intelligence officer from 2002 to 2004 and that he had unauthorized possession of classified U.S. documents at his residence.¹⁵ No evidence has been presented that Taiwan uses coercive measures to gain access to industrial espionage or classified 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 occupy a position . . . that will give that person access to such information.” *Id.* at 527. The President 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). 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).

The revised Adjudicative Guidelines set forth potentially disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. In evaluating the security worthiness of an applicant, the administrative judge must also assess the adjudicative process factors listed in ¶ 6.3 of the Directive. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant. *See* Exec. Or. 10865 § 7. It 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.

CONCLUSIONS

Under Guideline B, 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 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 to 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 ¶ 6). Applicant feels close to his mother and brother in Taiwan, and his contacts with them bear that out. He moved his family back to Taiwan in 1989 on his father’s death to comfort his mother. After he returned with his family to the U.S., the frequency of his telephone contact with his mother increased to about daily. Applicant’s brother and mother visited him in the U.S. as recently as last summer, and Applicant went to Taiwan in November 2006 for his mother’s birthday. Disqualifying condition (DC) ¶ 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*

¹⁵*See* U.S. District Court *Statement of Facts*, dated December 12, 2005.

country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure or coercion), applies.¹⁶

Furthermore, Applicant co-owns an apartment in Taiwan inherited with his brother on their father's death. The apartment had been the family residence while Applicant was growing up but was rented out since Applicant's brother and mother had living quarters at the university as a perk of his brother's academic position. Applicant has not received any of the rental proceeds, allowing his share to be deposited directly into his brother's account for their mother's care. Applicant also has a certificate of deposit in a bank account in Taiwan. When he completed the foreign influence interrogatories, he listed only the savings account in ¶ 1.e and reported a balance of \$75,000. (Ex. 2) However, he testified at his hearing that the \$75,000 was the total balance of the two accounts (¶¶ 1.e and 1.f), including the certificate of deposit that was liquidated in June 2006 (¶ 1.f). Even if his present balance is something less than the full \$75,000, it is a substantial foreign asset. His half-share of the apartment valued at \$125,000 (US), and the portion of the \$75,000 (US) inherited from his father that is still in his name in a Taiwanese bank, raise concerns under ¶ 7(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*).

Although Applicant also has a close relationship with his sister, who lives about 20 minutes drive from him, she enjoys the protections of U.S. citizenship because of her naturalization in July 1998. As a resident of the U.S., she is not within physical reach of Taiwanese authorities, and there is nothing about her duties as a software engineer for a financial services company in the U.S. that presents a heightened risk.

The familial bond with his mother and brother is too strong to satisfy the first prong of mitigating condition ¶ 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 interest of a foreign individual, group, organization, or government and the interests of the U.S.*). While it is not clear what Applicant would do if his relatives were pressured, the risk of him being placed in a position where he would have to choose between them and the U.S. is diminished somewhat by the fact that Taiwan does not have a hostile relationship with the U.S., and is not known to sponsor terrorism. Taiwan has a defense pact with the U.S., and has made considerable progress in achieving democratic elections, civil liberties, and stable, viable governmental institutions. As reported by the U.S. State Department, Taiwan has taken dramatic steps to improve respect for human rights and create a democratic political system since ending martial law in 1987. Almost all restrictions on the press have ended, restrictions on personal freedoms have been relaxed, and the prohibition against organizing new political parties has been lifted. While the U.S. does not support independence for Taiwan and is committed to a one China policy, under the Taiwan Relations Act, signed into law on April 10, 1979, the U.S. is obligated to help Taiwan defend itself, including making available

¹⁶Concerns of a heightened risk of improper influence from the PRC were not alleged in the SOR but argued in the request for administrative notice. There is no evidence Applicant has ever traveled to the PRC, that he has assets in the PRC, or that any relatives are citizens or residents of the PRC. Despite the increasing economic ties between the PRC and Taiwan, the PRC is not likely to be permitted to operate with impunity in Taiwan. Taiwan's own national security remains under constant threat from the PRC.

defensive arms and defensive services to Taiwan. U.S. commercial ties with Taiwan have been maintained and expanded since 1979, and Taiwan is not likely to jeopardize its relationship with the U.S. by overly pressuring its citizens.

However, even nations with a history of friendly relations do not always have the same interests. Taiwan was listed as an active collector of U.S. economic intelligence as of 2000. As recently as 2004, a female Taiwanese intelligence officer cultivated a covert relationship with a U.S. State Department official that bears troubling implications, although no proof of, active collection efforts by or on behalf of the Taiwanese government. As a tenured professor of civil engineering at a preeminent state university in Taiwan, Applicant's brother enjoys free housing for himself and Applicant's mother, who resides with him. He may well receive a pension benefit on his retirement from the university, although there is no evidence confirming such an interest. Applicant testified that his brother has been on the academic staff of the university since he earned his doctorate degree from a prestigious private university in the U.S. in the early 1980s. His academic position raises the risk of undue foreign influence.

Applicant's financial interests in Taiwan represent about a quarter of his net worth. Applicant has not taken an active interest in those assets, allowing his mother to handle his accounts in Taiwan for him and assenting to the apartment's rental fees being deposited directly into his brother's account. Applicant expressed a willingness to divest himself of his interest in the apartment and to even cancel the certificate of deposit prematurely if necessary. He is not likely to serve Taiwan's interests to protect these foreign assets for his own benefit. Yet, I am unable to apply MC ¶ 8(f) (*the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual*) because of the concern he has for the care and well-being of his mother, who is directly benefitting from his foreign assets in Taiwan.

Even strong ties to foreign nationals can be mitigated under MC ¶ 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 person can be expected to resolve any conflict of interest in favor of the U.S. interest*). Six years after he had come to the U.S. for graduate school, Applicant moved his spouse and toddler son to Taiwan. He was not certain at that time whether he planned to stay in Taiwan or return to the U.S. His motivation in returning to the U.S. eight months later was to finish his doctoral studies, but he ended up pursuing a career in the computer industry and more recently, in the defense industry. He became a U.S. citizen in December 1999, and acquired a U.S. passport in June 2000. Applicant owns the home he has lived in since December 1993, and he has other financial assets (401 (k), stock ownership, and \$40,000 in bank deposits) in the U.S.

Under the whole-person evaluation required under the Directive (*The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is eligible for a security clearance* (AG ¶ 2(a)), Applicant's record of dedicated contribution to his defense contractor employer weighs in his favor. Likewise, his candor about the extent of his foreign ties shows that he is an ethical person. He reported his trip to Taiwan in November 2006 to his employer's security department. However, his ties to the U.S., his contributions to his employer, and his candor, are not enough to mitigate the security significant Foreign Influence issues that exist, including some (financial assets) within his control.

FORMAL FINDINGS

The following are my conclusions as to each allegation in the SOR:

Paragraph 1. Guideline B:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	Against Applicant
Subparagraph 1.f:	For Applicant

DECISION

In light of all of the circumstances in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

Elizabeth M. Matchinski
Administrative Judge