

DATE: October 29, 2007

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In re:	)	
	)	
-----	)	ISCR Case No. 06-26251
SSN: -----	)	
	)	
Applicant for Security Clearance	)	
_____	)	

**DECISION OF ADMINISTRATIVE JUDGE  
ROBERT J. TUIDER**

**APPEARANCES**

**FOR GOVERNMENT**

Francisco Mendez, Esq., Department Counsel

**FOR APPLICANT**

Yelena Teterina, Personal Representative

**SYNOPSIS**

Applicant is a 58-year-old married man who with his wife and three children left Russia for a better life in the U.S. in 1997. He and his entire family became U.S. citizens. Applicant was not subject to foreign influence or preference, notwithstanding his ties to Russia through two of his wife's relatives and a childhood friend living there. Applicant's commitment and ties to the U.S. are so substantial that he can be expected to resist and report any potential foreign influence or preference concerns. Clearance is granted.

**STATEMENT OF THE CASE**

On September 14, 2005, Applicant applied for a security clearance and submitted a Security Clearance Application (SF 86).<sup>1</sup> On March 16, 2007, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to him, pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified. On May 1, 2007, Department Counsel filed a Motion to Amend the Statement of Reasons adding additional allegations under Guideline B, Paragraph 2.

The SOR alleges security concerns under Guideline C (Foreign Preference), and Guideline B (Foreign Influence). The SOR detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for him, and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

In an answer notarized on April 6, 2007, Applicant responded to the SOR allegations, and asked for a hearing.<sup>2</sup> Applicant responded to the Motion to Amend the Statement of Reasons on June 11, 2007. The case was assigned to me on May 9, 2007. On May 21, 2007, DOHA issued a notice of hearing, scheduling the hearing on June 26, 2007. The hearing was conducted as scheduled. The government submitted three documentary exhibits that were admitted as Government Exhibits (GE) 1 through 3 without objection. I took administrative notice of nine additional documents offered by the government as discussed, *infra*. The Applicant testified and submitted four documents that were admitted as Applicant Exhibits (AE) A through D without objection. Applicant submitted additional documents post-hearing that were collectively marked as AE E and admitted without objection. DOHA received the transcript on July 6, 2007.

### **PROCEDURAL RULINGS**

Department Counsel moved to amend the Statement of Reasons and noted Applicant had already answered his Motion to Amend the Statement of Reasons. Without objection, I granted the motion. Tr. 10-12.

#### **Administrative Notice**

Department Counsel requested administrative notice of the facts in Exhibit (Exs.) I through IX. Without objection, I took administrative notice of the Exs. I through IX. Tr. 17-19.

Administrative or official notice is the appropriate type of notice used for administrative proceedings. *See* ISCR Case No. 05-11292 at 4 n.1 (App. Bd. Apr. 12, 2007); ISCR Case No. 02-24875 at 2 (App. Bd. Oct. 12, 2006) (citing ISCR Case No. 02-18668 at 3 (App. Bd. Feb. 10, 2004)); *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n.4 (3d Cir. 1986). The most

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<sup>1</sup>GE 1 (Electronic Standard Form (SF) 86, Security Clearance Application is dated September 14, 2005, on the first page, and subsequent signature release page).

<sup>2</sup>Applicant's response to SOR was received at DOHA on April 9, 2007.

common basis for administrative notice at ISCR proceedings, is to notice facts that are either well known or from government reports. See Stein, ADMINISTRATIVE LAW, Section 25.01 (Bender & Co. 2006) (listing fifteen types of facts for administrative notice). I took administrative notice of various facts derived from Exs. I through IX and discussed *infra*.

### FINDINGS OF FACT

Applicant admitted with explanation the allegations contained in the original SOR ¶¶ 1.a. through 1.d. and 2.a. and 2.b. As to the amended SOR, Applicant admitted with explanation the allegations contained in SOR ¶¶ 2.c. through 2.f. except for SOR ¶ 2.e. As to ¶ 2.e., he noted that the person alleged as his cousin is not his cousin, but rather his wife's cousin. His admissions are incorporated herein as findings of fact, and his clarifying remarks about security concerns will be discussed in further detail, *infra*.

I took into account Applicant's native language is Russian. Applicant's Personal Representative also served as a translator when it was helpful or necessary.

Applicant is a 58-year-old senior database/applications development specialist employed by a defense contractor since March 2004. He has not previously held a clearance. He testified during the hearing, and I found his testimony to be credible.

Applicant was born in 1948 in Moscow, Russia, then part of the United Soviet Socialist Republics (USSR). He grew up in Russia and completed his education there, served two years of compulsory military service in the USSR Army from 1971 to 1973 and later obtained a master's degree in physics from a prestigious Russian university in June 1976. After college, he worked as an engineer. He is eligible to receive a pension of approximately \$100 a month from the Russian government in approximately a year and a half. However, because of the small amount of money involved and the bureaucracy involved in collecting such a pension, he does not intend to apply for it. Tr. 33.

Applicant's wife, like him, was born, raised and educated in Russia. They married in Moscow in October 1981 and have three children, a 25-year-old daughter, and two twin sons, who are 23 years old. Applicant's three children were all born in Russia. Fulfilling a life-long dream, Applicant and his family immigrated to the U.S. in February 1997. GE 1, Tr. 40. Applicant became a naturalized U.S. citizen in June 2003, and received his U.S. passport in June 2004. Applicant's wife and three children are all naturalized U.S. citizens. GE 1, Tr. 46. At the time Applicant and his family moved to the U.S., his daughter was 14 years old and his twin sons were 13 years old. His children are all university graduates and are gainfully employed in promising careers. One of his sons is employed by a government contractor as a programmer and is currently undergoing a background investigation for a security clearance.

Among the concerns alleged in the SOR were that Applicant and his wife exercised dual citizenship with Russia and the U.S., that one of his children is a citizen of Russia and resides with him in the U.S., that he held a Russian passport with an expiration date of December 14, 2006, that he used his Russian passport in lieu of his U.S. passport in July 2004 and April 2006, and that he intended to renew his Russian passport. (SOR ¶¶ 1.a. through 1.d., 2.a. and 2.c.) None of

Applicant's immediate family members residing in the U.S. to include his wife and three children have valid Russian passports. Tr. 40.

In addition to expressing a willingness to renounce his Russian citizenship, Applicant has undertaken the formal process to renounce his Russian citizenship. This is a lengthy process which includes submission of numerous documents and a \$400.00 processing fee. Tr. 50-51, AE E. Applicant also submitted excerpts from the Russian Embassy website that stated he was required to have a valid Russian passport in order to renounce his Russian citizenship and that as a dual citizen, he was required to use his Russian passport to travel to and from Russia. AE E. It was this guidance that prompted him to use his Russian passport in July 2004 and April 2006 after receiving his U.S. passport, and previously state that he intended to renew his Russian passport.

His Russian passport expired on December 14, 2006. He submitted a copy of his expired Russian passport with his application to renounce his Russian citizenship, and at present does not intend or desire to renew his Russian passport. Tr. 36-37, AE E. Until he began the process of applying for a security clearance, he was unaware of the prohibition against holding a U.S. passport and a foreign passport. Being aware of the requirements, he has no desire to renew or hold a Russian passport, and desires to comply with DoD security clearance guidelines. Tr. 43-44.

Applicant traveled to Russia in 1999, 2000, 2004, and 2006, and as previously noted used his Russian passport during the later two visits. (SOR ¶¶ 1.d., and 2.b.) In 1999, he traveled to Russia to see his mother after she experienced two strokes that left her paralyzed. In 2000, he traveled to Russia to attend his mother's funeral. In 2004, he traveled to Russia to attend his father's funeral. In 2006, he traveled to Russia to make arrangements to sell his late father's apartment. Following the death of his father, he has no immediate relatives in Russia.

Applicant adamantly stated he has no intention of ever returning to Russia stating, "I live[d] for 25 years to leave Russia. For what I will come back (sic)?" Tr. 40, 57. Applicant's wife is employed by a U.S. government agency and "passed a thorough background investigation as part of her employment requirement. As part of her job duties, she regularly deals with Sensitive but Unclassified (SBU) . . . data." AE E. She first worked for this U.S. government agency as a subcontractor in November 2002 until she was hired on as a full-time employee in October 2005. AE E.

Additional concerns raised under Guideline B were Applicant's wife is a dual citizen of the U.S. and Russia, his brother-in-law is a resident citizen of Russia, his cousin is a resident citizen of Russia, and his best friend is a resident citizen of Russia. (SOR ¶¶ 2.c. though 2.f.) As previously noted, Applicant's wife is a naturalized U.S. citizen and works for a government agency that conducted a background investigation on her that resulted in her being granted access to sensitive information. Her Russian citizenship is based on her birth in Russia. Applicant's brother-in-law is a 51-year-old bank programmer. Contrary what was alleged, he does not have a resident citizen cousin in Russia. Rather the person identified in the SOR is his wife's 70-year-old cousin. His wife's cousin is a widow and works as an assembly line worker in an optical factory that makes cameras. His "best friend" is a childhood friend who is 59 years old and works in a library doing maintenance work such as minor plumbing, electrical and furniture repairs. Applicant telephones his friend "about one time a month." Tr. 39.

Applicant has no financial or other interests in Russia, no connection to the Russian government, no contacts with Russian citizens other than limited contact with his wife's brother and cousin, and monthly contact with his childhood friend. His financial interests, his personal interests, and his emotional commitments are all in the U.S. Applicant knows to report to proper authority any efforts to coerce classified information from him. All of his real and personal property is in the U.S., which includes a home and automobiles. Applicant conducts all his banking in the U.S. He exercises his right to vote in the U.S. and enjoys all other privileges of being a U.S. citizen.

Applicant provided one work-related reference letter from his company vice president, who described Applicant's performance in a very positive light. In particular, he stated Applicant is "open and honest in his dealings with individuals, his co-workers and the company." He further opined Applicant could make a greater contribution if given a security clearance and did not question Applicant's dedication to the U.S., "and his desire to fulfill the American dream, exercise the freedoms and liberties we enjoy, and contribute to the well being of our nation." AE A.

Russia has an active, recent, and ongoing collecting program targeting the U.S. and has been the target of terrorist activity in recent years. Russia imposes rigid visa requirements on foreign travelers entering, and traveling within their country. Russia is a nominal democracy with a mixed human rights record. However, the U.S. and Russia cooperate over a broad spectrum of foreign policy issues, particularly counter-terrorism efforts. Exs. I through IX.

## **POLICIES**

In an evaluation of an applicant's security suitability, an administrative judge must consider Enclosure 2 of the Directive, which sets forth adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines are divided into disqualifying conditions (DC) and mitigating conditions (MC), which are used to determine an applicant's eligibility for access to classified information.

These adjudicative guidelines are not inflexible ironclad rules of law. Instead, recognizing the complexities of human behavior, an administrative judge should apply these guidelines in conjunction with the factors listed in the adjudicative process provision in Section E2.2, Enclosure 2, of the Directive. An administrative judge's overarching adjudicative goal is a fair, impartial and common sense decision. Because the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept," an administrative judge should consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a meaningful decision.

Specifically, an administrative judge should consider the nine adjudicative process factors listed at Directive ¶ E2.2.1: (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 voluntariness of participation; (6) the presence or absence of rehabilitation and other pertinent 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.

Conditions that could raise a security concern and may be disqualifying, as well as those which could mitigate security concerns pertaining to the relevant adjudicative guidelines are set forth and discussed in the Conclusions section below. Since the protection of the national security is the paramount consideration, the final decision in each case is arrived at by applying the standard that the issuance of the clearance is “clearly consistent with the interests of national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

In the decision-making process, facts must be established by “substantial evidence.”<sup>3</sup> The government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive. Once the government has produced substantial evidence of a disqualifying condition, the burden shifts to the applicant to produce evidence and prove a mitigating condition. Directive ¶ E3.1.15 provides, “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, and [applicant] has the ultimate burden of persuasion as to obtaining a favorable clearance decision.” The burden of disproving a mitigating condition never shifts to the government. *See* ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).<sup>4</sup>

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. It is a relationship that transcends normal duty hours and endures throughout off-duty hours as well. It is because of this special relationship the government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. Decisions under this Directive include, by necessity, consideration of the possible risk an applicant may deliberately or inadvertently fail to protect or 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.

The scope of an administrative judge’s decision is limited. Applicant’s allegiance, loyalty, and patriotism are not at issue in these proceedings. Section 7 of Executive Order 10865 specifically provides industrial security clearance 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.” Security clearance decisions cover many characteristics of an applicant other than allegiance, loyalty, and patriotism. Nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant’s allegiance, loyalty, or patriotism.

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<sup>3</sup>“Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the record.” ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). “This is something less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge’s] finding from being supported by substantial evidence.” *Consolo v. Federal Maritime Comm’n*, 383 U.S. 607, 620 (1966). “Substantial evidence” is “more than a scintilla but less than a preponderance.” *See v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4<sup>th</sup> Cir. 1994).

<sup>4</sup>“The Administrative Judge [considers] the record evidence as a whole, both favorable and unfavorable, [evaluates] Applicant’s past and current circumstances in light of pertinent provisions of the Directive, and [decides] whether Applicant [has] met his burden of persuasion under Directive ¶ E3.1.15.” ISCR Case No. 04-10340 at 2 (App. Bd. July 6, 2006).

## CONCLUSIONS

Upon consideration of all the facts in evidence, and after application of all appropriate legal precepts, factors, and conditions, including those described briefly above, I conclude the following with respect to the allegations set forth in the SOR:

### **Guideline C - Foreign Preference**

Under Guideline C, a security concern may exist when an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States. Directive ¶ 9.

Applicable is Foreign Preference Disqualifying Condition (FP DC) 10(a) *exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen . . . .* Applicant's Russian passport expired in December 2006. He used his Russian passport after obtaining his U.S. passport in 2003 and 2004 when he traveled to Russia to attend his father's funeral and sell his father's apartment. Per information submitted by Applicant and not challenged by Department Counsel, Applicant was required under Russian law to use his Russian passport to enter Russia because he held dual citizenship.

Under Russian law, Applicant's Russian citizenship did not expire when he became a U.S. citizen. Rather, Applicant must undergo a lengthy and costly process to renounce his Russian citizenship. Applicant's use of his Russian passport occurred before he applied for a security clearance and before he became aware of DoD restrictions on the use of foreign passports. Inasmuch as Applicant has no immediate family in Russia and no property or other interests in Russia and whose life is fully vested in the U.S., he has no intent to ever return to Russia. As noted, Applicant has taken the additional step of formally renouncing his Russian citizenship.

In light of the above, Applicant is able to invoke Foreign Preference Mitigating Condition (FP MC) 11(a) *dual citizenship is based solely on parents' citizenship or birth in a foreign country;* MC 11(b) *the individual has expressed a willingness to renounce dual citizenship;* and MC 11(e) *the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated.* As noted by Department Counsel in his closing argument, ". . . it appears that . . . for Guideline C, there's an argument to be made that Applicant has mitigated the prima facie concerns of the government." Tr. 59.

### **Guideline B - Foreign Influence**

Under Guideline B, 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. Directive ¶ 6.

Contacts with citizens of other countries, or financial interests in other countries, are also relevant if they make an individual potentially vulnerable to coercion, exploitation, or pressure. Common sense suggests that the stronger the ties of affection or obligation, the more vulnerable a

person is to being manipulated if the relative is brought under control or used as a hostage by a foreign intelligence or security service.

The government established a potential case under this Guideline by demonstrating that Applicant's two sons are citizens of Russia and reside with him, that his wife is a dual citizen of Russia and the U.S., that his brother-in-law is a resident citizen of Russia, and his childhood friend is a resident citizen of Russia. It was also established that Applicant traveled to Russia in 1999, 2000, 2004, and 2006. The SOR alleged Applicant had a cousin, who was a resident citizen of Russia, but this allegation was determined to be incorrect as the cousin referred to was his wife's cousin rather than his cousin.

These facts trigger application of Foreign Influence Disqualifying Conditions (FI 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 country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion; FI DC 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; and FI DC 7(d) sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion.*

Applicant, his wife and three children immigrated to the U.S. in February 1997 where they have remained for the last ten years. At the time Applicant moved here, his children were teenagers. All three children have since completed their education to include graduating from university and are all embarked on successful careers. All four family members are naturalized U.S. citizens. With the passing of his father in 2004, Applicant has no living immediate family members remaining in Russia. Applicant's previous travel to Russia was prompted by the illness or deaths of his parents, and need to sell his father's apartment after he died. Hence there is no longer a requirement for Applicant to travel to Russia.

The closest connection Applicant has with a Russian resident citizen is his childhood friend. He does maintain limited contact with two Russian resident citizen relatives who are relatives of his wife. The Russian passports of Applicant, his wife and three children have expired and are no longer valid. Applicant is a highly respected employee, who is making a significant contribution to his company. Applicant's wife has undergone a background investigation in conjunction with her employment at a U.S. government agency and has been granted access to sensitive information. In short, Applicant's life is fully vested in the U.S.

The facts presented in this case warrant application of Foreign Influence Mitigating Conditions (FI MC): 8(a): *the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S.; and FI 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 individual can be expected to resolve any conflict of interest in favor of the U.S. interest.*

## “Whole Person” Analysis

In addition to the enumerated disqualifying and mitigating conditions as discussed previously, I have considered the general adjudicative guidelines related to the whole person concept under Directive ¶ E2.2.1. The Appeal Board has repeatedly held that a Judge may find in favor of an applicant where no specific mitigating conditions apply.<sup>5</sup> Moreover, “[u]nder the whole person concept, the administrative judge must not consider and weigh incidents in an applicant’s life separately, in a piecemeal manner. Rather, the Judge must evaluate an applicant’s security eligibility by considering the totality of an applicant’s conduct and circumstances.”<sup>6</sup> The directive lists nine adjudicative process factors (APF) which are used for “whole person” analysis. Because foreign influence does not involve misconduct, voluntariness of participation, rehabilitation and behavior changes, etc., the eighth APF, “the potential for pressure, coercion, exploitation, or duress,” Directive ¶ E2.2.1.8, is the most relevant of the nine APFs to this adjudication.<sup>7</sup> In addition to the eighth APF, other “[a]vailable, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.” Directive ¶ E2.2.1. Ultimately, the clearance decision is “an overall common sense determination.” Directive ¶ E2.2.3.

The Appeal Board requires the whole person analysis address “evidence of an applicant’s personal loyalties; the nature and extent of an applicant’s family’s ties to the U.S. relative to his [or her] ties to a foreign country; his or her social ties within the U.S.; and many others raised by the facts of a given case.” ISCR Case No. 04-00540 at 7 (App. Bd. Jan. 5, 2007). In that same decision, the Appeal Board commended the whole person analysis in ISCR Case No. 03-02878 at 3 (App. Bd. June 7, 2006), which provides:

Applicant has been in the U.S for twenty years and a naturalized citizen for seven. Her husband is also a naturalized citizen, and her children are U.S. citizens by birth. Her ties to these family members are stronger than her ties to family members in Taiwan. She has significant financial interests in the U.S. , and none in Taiwan. She testified credibly that she takes her loyalty to the U.S. very seriously and would defend the interests of the U.S. Her supervisors and co-worker assess her as very loyal and trustworthy.

Several circumstances weigh against Applicant in the whole person analysis. First and more importantly, Russia has an active, recent, and ongoing collection program targeting the U.S. Second, Applicant has connections to Russia through his wife’s relatives and his childhood friend. Third,

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<sup>5</sup> ISCR Case No. 02-30864 at 4 (App. Bd. Oct. 26, 2005); ISCR Case No. 03-11448 at 3-4 (App. Bd. Aug. 10, 2004); ISCR Case No. 02-09389 at 4 (App. Bd. Dec. 29, 2004); ISCR Case No. 02-32006 at 5 (App. Bd. Oct. 28, 2004).

<sup>6</sup>ISCR Case No. 03-04147 at 3 (App. Bd. Nov. 4, 2005) (quoting ISCR Case No. 02-01093 at 4 (App. Bd. Dec. 11, 2003)).

<sup>7</sup>See ISCR Case No. 02-24566 at 3 (App. Bd. July 17, 2006) (stating that an analysis under the eighth APF apparently without discussion of the other APFs was sustainable); ISCR Case No. 03-10954 at 5 (App. Bd. Mar. 8, 2006) (sole APF mentioned is eighth APF); ISCR Case No. 03-17620 at 4 (App. Bd. Apr. 17, 2006) (remanding grant of clearance because Judge did not assess “the realistic potential for exploitation”), *but see* ISCR Case No. 04-00540 at 6 (App. Bd. Jan. 5, 2007) (rejecting contention that eighth APF is exclusive circumstance in whole person analysis in foreign influence cases).

Applicant is eligible for a nominal pension from the Russian government. There is no evidence in the record to suggest Applicant or his wife provide any support to anyone in Russia.

There are many other countervailing, positive attributes to Applicant's life as a U.S. citizen that weigh towards granting his clearance. His Russian passport is expired. He has strong links or connections to the United States: (1) Applicant, his wife, and three children are all naturalized U.S. citizens and reside in the U.S., (2) Applicant's three children immigrated to the U.S. when they were teenagers and spent their formative years in the U.S., were educated in the U.S. to include completing university degrees. Each child resides in the U.S., is hard working, productive, successful, and making positive contributions to society; (3) Applicant and his family have resided in the U.S. for ten years, (4) Applicant's wife works for a U.S. government agency where she holds a responsible position and has successfully gone through a background investigation, (5) Applicant holds a responsible position working for a defense contractor and is highly regarded by his employer, (6) all of Applicant's real and personal property are in the U.S. to include owning a home. All his financial connections are in the United States, (7) he exercises all rights of U.S. citizenship including the right to vote, and (8) he credibly stated that she would never do anything to harm the U.S.

There is no reason to believe that he would take any action which could cause potential harm to his U.S. family or to this country. He is patriotic, loves the United States, and would not permit Russia to exploit him. He has close ties to the United States. His closest family members are his wife and three children. They are U.S. citizens and live with him or near him. Because his wife and children live in the United States, they are not vulnerable to coercion or exploitation by a foreign power. The realistic possibility of pressure, coercion, exploitation or duress is low. I base this conclusion on his credible and sincere testimony, and I do not believe he would compromise national security, or otherwise comply with any Russian threats or coercion. Applicant has not been to Russia since 2006 and that was to settle his late father's affairs, and is unlikely to return to Russia. His company official describe him as very honest, loyal, and trustworthy.

After weighing the disqualifying and mitigating conditions, all the facts and circumstances, in the context of the whole person, I conclude Applicant has mitigated or overcome the security concerns pertaining to foreign influence and foreign preference. I have no doubts concerning Applicant's security eligibility and suitability. I take this position based on the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), my "careful consideration of the whole person factors"<sup>8</sup> and supporting evidence, my application of the pertinent factors under the Adjudicative Process, and my interpretation of my responsibilities under Enclosure 2 of the Directive. I conclude Applicant is eligible for access to classified information.

#### **FORMAL FINDINGS**

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

Paragraph 1, Guideline C:	FOR APPLICANT
Subparagraph 1.a - 1.d.:	For Applicant
Paragraph 2, Guideline B:	FOR APPLICANT

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<sup>8</sup>See ISCR Case No. 04-06242 at 2 (App. Bd. June 28, 2006).

Subparagraph 2.a. - 2.f.: For Applicant

**DECISION**

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is granted.

Robert J. Tuidor  
Administrative Judge