



appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether the Judge's adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

### **The Judge's Findings of Fact**

Applicant, who is 43 years old, has worked for Federal contractors since 2010. He has held a security clearance since 2011. He was born in China. His family moved to the United States while he was in his teens. He attended high school and college in the United States. He became a U.S. citizen in 2002.

Applicant's father was a professor who became a U.S. citizen in 2002 and passed away before the hearing. His mother is a permanent resident alien in the United States, but has not applied for U.S. citizenship because of her language proficiency. His brother also has permanent resident alien status, owns a restaurant, is married to a Chinese woman, and has a family.

Applicant first met his wife in China in 2010. In 2012, she came to the United States on a student visa and later completed her PhD. They married in 2013 and have a child. She applied for permanent resident alien status a week before Applicant's security clearance hearing. Her parents, siblings, and relatives are residents and citizens of China. About once a month, she maintains contact with her relatives in China. Applicant claims his last contact with his parents-in-law was in 2014, but earlier had daily contact with them.

In his security clearance application (SCA), Applicant disclosed friends and relatives in China with whom he maintained frequent contact. At the hearing, he claimed he no longer communicates with them. He has no financial or property interests in China. He purchased two homes in the United States that have a total value of about \$850,000, and has bank and retirement accounts containing about \$260,000. His and his wife's annual income is about \$190,000.

China is one of the most aggressive collectors of U.S. economic information. China's intelligence services and private Chinese entities frequently seek to exploit Chinese citizens or persons with family ties to China who have insider access to corporate secrets. China has conducted large-scale cyber espionage against the United States and is using its computer network exploitation capability to support intelligence collection against U.S. Government diplomatic, economic, and defense entities. China is an authoritarian state with a wide variety of human rights violations.

### **The Judge's Analysis**

Applicant's mother, brother, and wife are Chinese citizens residing in the United States. He has in-laws and friends who are citizens and residents of China. He claims that he no longer maintains contact with his extended family or friends in China because he does not want to raise security concerns. His wife maintains monthly contact with her parents and siblings in China. China's history of conducting espionage against the United States places a heavy burden of proof on Applicant, citing ISCR Case No. 12-04780 at 3 (App. Bd. Nov. 13, 2013). Decision at 8.

Applicant failed to fully meet his burden of showing there is little likelihood his family in China could create a risk of foreign exploitation. His and his wife's connections to China are significant and outweigh his connections to the United States. The weight of the evidence supports denial of access to classified information, and the security concerns under Guideline B were not mitigated.

## Discussion

Applicant contends the Government did not prove the allegation in SOR ¶ 1.c that he had close and continuing contacts with foreign nationals who are citizens and residents of China. He claims he admitted to having “contact with individuals ‘only during the holiday’” and has not communicated with any foreign “friends or associates since 2014 and at best communicated with those individuals annually.” Appeal Brief at 6-7. We note, however, that Applicant responded “Yes” to the question in his security clearance application that asked whether he had “close and/or continuing contact with a foreign national **within the last seven (7) years** with whom [he] or [his] spouse . . . are bound by affection, influence, common interest, and/or obligation” and then proceeded to list four individuals with whom he had such a relationship. Government Exhibit 1. After reviewing the record, we conclude that the Judge's material findings are based on substantial evidence, or constitute reasonable characterizations or inferences that could be drawn from the record. *See, e.g.*, ISCR Case No. 12-03420 at 3 (App. Bd. Jul. 25, 2014).

Applicant argues that the Judge improperly focused on his wife's contacts in China rather than his foreign contacts. Specifically he states:

Although, the contact of the [Applicant's] wife with her parents in China is minimally relevant, it is inappropriate and unnatural to attempt to superimpose the actions of his wife onto him in order to find him unsuitable to hold a security clearance, which is exactly what [the Judge] does in his decision.<sup>1</sup>

Applicant's argument is unpersuasive. As a matter of common sense and human experience, there is a rebuttable presumption that an applicant has ties of affection for, or obligation to, the immediate family members of his or her spouse. *See, e.g.*, ISCR Case No. 03-26176 at 5 (App. Bd. Oct. 14, 2005). The Judge's conclusion that Applicant's foreign contacts, including his in-laws in China, raised security concerns under Guideline B is sustainable in light of the record evidence as a whole.

Applicant raises other arguments challenging the Judge's adverse decision. For example, he contends that the Judge did not consider all of the evidence and argues his foreign contacts were so causal or infrequent to not raise security concerns. His arguments, however, are neither enough to rebut the presumption that the Judge considered all of the record evidence nor sufficient to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 15-01717 at 4 (App. Bd. Jul. 3, 2017). We give due consideration to the Hearing Office cases that Applicant has cited, but they are neither binding precedent on the Appeal Board nor sufficient to undermine the Judge's decision. *Id.* Additionally, we find no basis for concluding the Judge erred in his whole-person analysis.

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<sup>1</sup> Appeal Brief at 10.

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. “The general standard is that a clearance may be granted only when ‘clearly consistent with the interests of the national security.’” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). *See also* Directive, Encl. 2, App. A ¶ 2(b): “Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.”

### **Order**

The Decision is **AFFIRMED**.

Signed: Michael Ra’anan  
Michael Ra’anan  
Administrative Judge  
Chairperson, Appeal Board

Signed: James E. Moody  
James E. Moody  
Administrative Judge  
Member, Appeal Board

Signed: James F. Duffy  
James F. Duffy  
Administrative Judge  
Member, Appeal Board