



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



In the matter of: )  
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----- ) ISCR Case No. 18-01024  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Tara Karoain, Esq., Department Counsel  
For Applicant: Ryan C. Nerney, Esq.

09/20/2019

**Decision**

LEONARD, Michael H., Administrative Judge:

Applicant contests the Defense Department’s intent to deny his eligibility for access to classified information. Applicant has family ties to and a financial interest in China due to his marriage to a native of China who is now a U.S. citizen. He provided sufficient evidence to explain and mitigate the foreign influence security concern stemming from those ties. Accordingly, this case is decided for Applicant.

**Statement of the Case**

Applicant completed and submitted a Standard Form (SF) 86, Questionnaire for National Security Positions, the official form used for personnel security investigations, on June 9, 2016. (Exhibit 1) This document is commonly known as a security clearance application. Thereafter, on October 5, 2018, after reviewing the application and the information gathered during a background investigation, the Department of Defense Consolidated Adjudications Facility, Fort Meade, Maryland, sent Applicant a statement of reasons (SOR), explaining it was unable to find that it was clearly consistent with the national interest to grant him eligibility for access to classified information. The SOR is similar to a complaint. It detailed the factual reasons for the action under the security

guideline known as Guideline B for foreign influence due to Applicant's connections to China.

With assistance of counsel, Applicant answered the SOR on November 13, 2018. His responses to the SOR were mixed, with admissions and denials, with explanations. His answer consisted of a ten-page memorandum along with proposed Exhibits A-V. He requested a hearing before an administrative judge.

The case was assigned to me on April 16, 2019. The hearing took place on June 11, 2019. Applicant appeared with counsel. Department Counsel offered documentary exhibits, which were admitted as Exhibits 1-4. Applicant offered documentary exhibits, which were admitted as Exhibits A-W. I took administrative or official notice, which is similar to judicial notice, of certain facts concerning the country of China per Department Counsel's written request. (Exhibit 4) The essential facts about China are discussed below. Applicant called one character witness and relied on his own testimony. The hearing transcript (Tr.) was received on June 20, 2019.

### **Findings of Fact<sup>1</sup>**

Applicant is 52, married, and has two minor children. He is seeking to retain a security clearance, at the secret level, which was previously granted to him. (Tr. 5-6) His current security clearance application, submitted in June 2016, is a periodic reinvestigation. He works as a senior engineer for a large company in the defense industry. He has been so employed since 2005. (Exhibit D) He has a good employment record, as shown by highly favorable letters of recommendation and written performance evaluations. (Exhibits A, F, and H) His formal education includes a Ph.D. in aerospace engineering. (Exhibit E) His academic and work experience includes refereed journal publications, conference presentations, conference papers, and industry talks. (Exhibit D)

Applicant was born in Italy, and he lived there with his parents as a child. Both parents obtained employment in India in 1980, and Applicant and his brother went with them. He attended high school in India at an international school providing an American education. After completing high school in 1984, he applied for admission to colleges in the United States. He arrived in the United States in 1984 on a student visa, and he earned both his bachelor's and master's degrees in aerospace engineering in 1988 and 1989, respectively. He then took a year off to travel to India where he divided his time between his family, former high school friends, and travel in India.

Applicant returned to the United States in early 1991 to attend a Ph.D. program in aerospace engineering. He spent the next nine years working on his doctorate, which was awarded in December 2000. This included working as a graduate research

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<sup>1</sup> For ease of understanding the facts of this case, Applicant prepared a summary of key points and a timeline, including an extended family tree for his Chinese relatives. (Exhibit W at 1-3) He also submitted a biography and a resume, both of which are helpful in understanding his background and experience. (Exhibits C and D)

assistant and as a teaching assistant during 1993-2000. In about 1999 or so, he won a spot in the U.S. State Department's diversity visa program, which allowed him to apply for and obtain status as a U.S. permanent resident. He described it as "an extremely lucky, life-changing moment." (Exhibit C at 2)

Applicant's first engineering job was with a technology company for about two years during 2000-2002. It was during this time that he met his spouse. She was working for the same company, was then 32, and had recently completed a Ph.D. in electrical engineering from a top-notch public research university. She was then a Chinese citizen, but had been lawfully living in the United States since 1995. (Tr. 33-34) After dating for about a year, they married in late 2002. (Exhibit U) They also relocated to the state where they currently live so she could accept a job with a state university, where she has been employed as a professor since 2003.

Applicant was unemployed upon their relocation until about May 2003, when he began work as a research engineer for a small company. The job required that he undergo an investigation for a public trust position, which was completed in 2003. (Exhibit 1 at 38-39). During this period of employment he obtained U.S. citizenship in May 2004, and obtained a U.S. passport shortly thereafter. (Exhibit P) He had that job until December 2005, when he began his current job in the defense industry. He went through the required background investigation and was granted a security clearance for his employment. He expressed a good understanding of the responsibilities and obligations that come with being granted access to classified information. (Tr. 66-67)

In 2005, Applicant's spouse was still a Chinese citizen as well as a U.S. permanent resident, and his mother-in-law and father-in-law were citizens of and residents in China. Subsequently, his spouse obtained U.S. citizenship in 2008, and obtained a U.S. passport shortly thereafter. (Exhibit Q) Upon becoming a U.S. citizen, she swore an oath of allegiance to the United States, thereby renouncing all allegiance and fidelity to China and any other foreign country. Unlike the United States, China does not recognize dual nationality, and therefore she automatically lost, under Chinese law, Chinese citizenship when she acquired U.S. citizenship. *E.g.* ISCR Case No. 18-02960 (May 13, 2019) at 3 n. 3.

After the birth of their second child, Applicant and his spouse decided they needed help managing two jobs and two small children. His spouse completed the necessary paperwork to sponsor her parents to immigrate to the United States, which they did in 2010. They have been U.S. permanent residents since April 2010. (Exhibits R and S) They initially lived in Applicant's household for a couple of years until Applicant and his wife purchased a home for them. Applicant and his wife jointly own the home, they make the monthly payments on the mortgage loan, and they pay the regular living expenses incurred by her parents. (Tr. 72-73)

Applicant's spouse has progressed through the rank of assistant professor, associate professor, and is now a full professor. She is an accomplished and well-regarded academic, as shown by the highly favorable letters of recommendation submitted by a fellow professor in the same department as well as the professor who

serves as the department head. (Exhibit B) The department head has not observed any activities that might indicate that she has preference for China over the United States, and believes that she and Applicant have established a completely normal and productive life. (Exhibit B at 2-3) Applicant's spouse has more than 200 journal and conference publications, and she has been recognized for numerous professional achievements. For example, she received the Presidential Early Career Award for Scientists and Engineers, which was presented at The White House. (Exhibit I)

Applicant's spouse completed work on two occasions in 2014 and 2016 on behalf of a research organization in Hong Kong. The work was considered part of her duties to increase the international visibility of her department and the university. (Exhibit B at 2-3) The work was on an *ad hoc* basis, and she was never a permanent member or employee of the organization. On both occasions, she evaluated research funding proposals submitted to the organization; her work was performed within the United States without having to travel to foreign locations; and the work was completed through written/electronic communication. (Exhibit B at 2-3) Applicant explained the proposals involved open literature material that can be found in trade journals, similar to proposals submitted to the National Science Foundation or the National Institute for Health here in the United States. (Tr. 38) She received an honorarium on each occasion from the organization for her work. Applicant described the payments as minimal, guessing \$500 to \$800. (Tr. 37-38) Applicant searched for and submitted the e-mails related to the two proposals, and they appear to be normal academic research matters. (Exhibit V) The e-mails indicate the work for the 2014 proposal resulted in an honorarium of \$146. (Exhibit V at 4) Applicant also stated that she has routinely reviewed such proposals for organizations in the United States. (Tr. 39-40)

Applicant's mother-in-law and father-in-law were lifelong residents of China until they immigrated to the United States in 2010. Both are retired university professors. His father-in-law is 80 years old, and his mother-in-law is 76 years old. Applicant has weekly to monthly contact with his parents-in-law; the contact was more frequent when childcare was involved. (Tr. 42) He indicated that, because he does not speak Mandarin and they do not speak English well, conversations with his in-laws are limited to the usual pleasantries, as their primary focus is on their daughter and their two grandchildren. (Tr. 42-43) His spouse has more frequent contact with her parents, as she takes them shopping, to medical appointments, and to other appointments due to their advanced age and limited English-language skills.

Before their careers as university professors, Applicant's mother-in-law and father-in-law experienced difficulties under the Chinese government. His father-in-law was required to join the Communist Party and serve in the military as a means to safeguard his family from starvation during the Great Chinese Famine of 1958-1961. His mother-in-law spent about eight years (1967-1975) in a labor or re-education camp for anti-communist activities. Applicant's spouse was conceived during a conjugal visit, and her mother was temporarily paroled or released from the labor camp to give birth in 1969. After the mother's return to the labor camp, the maternal grandmother was the primary caregiver to Applicant's spouse. As a result, Applicant's spouse had a close relationship to her maternal grandmother.

The maternal grandmother and grandfather were successful business people in China and managed to accumulate financial assets. (Tr. 69-70) The maternal grandfather passed away many years ago. Applicant described the maternal grandmother as “a smart lady” who was able to rebuild the family’s wealth once the Chinese government introduced their form of market capitalism. The maternal grandmother passed away in 2012 leaving her estate to her three surviving children, one of whom is Applicant’s mother-in-law. The surviving children have apparently decided to pass that wealth directly to their children, one of whom is Applicant’s spouse. (Tr. 74-75) Applicant explained that his in-laws decided to gift their share of the inheritance to Applicant and his spouse with the understanding they would take care of their in-laws’ needs in the United States. (Exhibit 2 at 29)

Although the term “inheritance” is used throughout this decision to describe the money received by Applicant and his spouse, and the term was used in the same manner during the hearing, the actual heir to the inheritance is the mother-in-law, not Applicant’s spouse. The money gifted to Applicant and his spouse is a form of an early inheritance.

Disbursement of the inheritance began in August 2013, the first tranche consisting of a cash transfer from a Chinese bank in the amount of about \$60,000, or \$30,000 per person between Applicant and his spouse. (Exhibit W at 8; Exhibit 2 at 34-42) In 2014, a total of \$139,970 in three deposits was transferred (\$69,985 per person); in 2015, a total of \$179,940 in four deposits (\$89,970 per person); in 2016, a total of \$179,940 (\$89,970 per person); and in 2017, a total of \$49,970 in two deposits of which \$9,985 was a gift from a family member unrelated to the inheritance (\$24,985 per person). The cash transfers were made by Applicant’s mother-in-law’s sister and brother as well as other family members. Applicant believes an additional \$700,000 remains in China as well as two residential properties, which have been difficult to sell. (Exhibit W at 1; Tr. 58-59) The financial assets are essentially controlled by his mother-in-law’s sister and brother in China. The cash transfers are at their discretion as to when the funds are released and in what amounts.

As a matter of general U.S. tax law, a cash inheritance from an individual’s estate is not subject to federal income tax. The same is true for a gift of cash. Applicant understands that U.S. tax law allows for non-taxable gifts from a nonresident alien person or a foreign estate up to an amount of U.S. \$100,000 per person per year to U.S. permanent residents and citizens. (Exhibit 2 at 33; Exhibit W at 5) If the amount is \$100,000 or less, there is no reporting requirement to the IRS, but receipt of more than \$100,000 requires the filing of IRS Form 3520, annual return to report transactions with foreign trusts and receipt of certain foreign gifts. (Exhibit W at 5) Accordingly, the only guidance Applicant and his spouse have provided is that the cash transfers should be less than \$100,000 per person annually in order to avoid the IRS reporting requirement.

Applicant reported the inheritance to his employer’s facility security officer (FSO) in June 2014 after receiving the first tranche of the inheritance in August 2013. (Exhibit 2 at 32-33) At the time, the intention was for the money to be given directly to Applicant’s two children through a U.S. trust for their future use, but they subsequently

learned that a minor cannot control a trust. Instead, the money is held in a family trust established by Applicant and his spouse in 2008. (Exhibit O) The trust is a revocable living trust and their two children are the beneficiaries. In addition to self-reporting the inheritance to the FSO, Applicant disclosed the subject in his June 2016 security clearance application. (Exhibit 1) He further disclosed the sponsorship of his parents-in-law to immigrate to the United States, and he disclosed his spouse's work for the research organization in Hong Kong. He provided additional information and financial documents about the inheritance and the cash transfers in response to written interrogatories. (Exhibit 2)

Applicant and his spouse consider the inheritance to be a windfall. (Tr. 61, 65, 67). Their annual household income of about \$240,000 is more than sufficient to meet their financial needs and cover the living expenses for his mother-in-law and father-in-law. (Tr. 64) Although they do not need the additional money the inheritance provides, Applicant and his spouse decided to accept it so the money is here rather than in China. Given the history of mistreatment of his mother-in-law and father-in-law, Applicant understands they are motivated to remove as many financial assets from China as possible. (Exhibit 2 at 29) He realized it might raise an issue with his security clearance, but he also realized the inheritance is a sizeable amount of money that most people would not turn away. (Tr. 61) Nevertheless, Applicant was unequivocal in stating that he and his spouse are prepared to forgo the additional assets in China if required by the circumstances. (Tr. 81-82)

The inheritance money is held in the family trust's accounts with a bank and a credit union. (Exhibit K) As of August 31, 2018, the savings and checking accounts with the bank had a total balance of about \$368,184. And as of August 30, 2018, the savings and checking account with the credit union had a total balance of about \$212,347. Applicant estimated their net worth at about \$1 million to \$1.5 million. (Tr. 63-64, 85; Exhibit W at 4) Their personal residence, which they bought in 2003, was paid off in November 2015. (Exhibit M) They have three joint investment accounts, a 401(k) account with Applicant's employer, and a health savings account for a total amount of about \$192,327 as of September 30, 2018. (Exhibit L) They also own two parcels of land in their state of residence. (Exhibit M and W) Applicant and his spouse use the inheritance money to make the monthly mortgage loan payments for the house in which his in-laws live and to pay for their recurring living expenses. (Tr. 73-74)

Concerning the country of China, Department Counsel's request for administrative notice contains an extensive discussion of the security concerns associated with China. The most pertinent of those facts are the following: (1) China is an authoritarian state in which the Chinese Communist Party is the paramount authority; (2) China (along with Russia) is the most aggressive collector of intelligence (both industrial and military) related to U.S. information and technology; and (3) China has a poor record of human rights regarding respect for the integrity of the person, respect for civil liberties, respect for political rights, corruption and lack of transparency in government, worker rights, as well as discrimination, societal abuses, and human trafficking. The maltreatment and oppression of the people in Tibet is but one example of China's poor human-rights record.

## Law and Policies

This case is adjudicated under Executive Order (E.O.) 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 *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), effective June 8, 2017.

It is well-established law that no one has a right to a security clearance.<sup>2</sup> As noted by the Supreme Court in *Department of the Navy v. Egan*, “the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials.”<sup>3</sup> Under *Egan*, Executive Order 10865, and the Directive, any doubt about whether an applicant should be allowed access to classified information will be resolved in favor of protecting national security. In *Egan*, the Supreme Court stated that the burden of proof is less than a preponderance of evidence.<sup>4</sup> The DOHA Appeal Board has followed the Court’s reasoning, and a judge’s findings of fact are reviewed under the substantial-evidence standard.<sup>5</sup>

There is no presumption in favor of granting, renewing, or continuing eligibility for access to classified information.<sup>6</sup> Under the Directive, the parties have the following burdens: (1) Department Counsel has the burden of presenting evidence to establish facts alleged in the SOR that have been controverted; (2) an applicant is responsible for presenting evidence to refute, explain, extenuate, or mitigate facts that have been admitted or proven; and (3) an applicant has the ultimate burden of persuasion to obtain a favorable clearance decision.<sup>7</sup>

## Discussion

The gravamen of the SOR under Guideline B for foreign influence is whether Applicant’s connections to China should disqualify him from access to classified information. Under Guideline B for foreign influence, the suitability of an applicant may be questioned or put into doubt due to foreign contacts and interests. The overall concern under the guideline is set forth in AG ¶ 6 as follows:

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<sup>2</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988) (“it should be obvious that no one has a ‘right’ to a security clearance”); *Duane v. Department of Defense*, 275 F.3d 988, 994 (10<sup>th</sup> Cir. 2002) (no right to a security clearance).

<sup>3</sup> 484 U.S. at 531.

<sup>4</sup> 484 U.S. at 531.

<sup>5</sup> ISCR Case No. 01-20700 (App. Bd. Dec. 19, 2002) (citations omitted).

<sup>6</sup> ISCR Case No. 02-18663 (App. Bd. Mar. 23, 2004).

<sup>7</sup> Directive, Enclosure 3, ¶¶ E3.1.14 and E3.1.15.

Foreign contacts and interests, including but not limited to business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

The guideline notes several conditions that could raise a security concern under AG ¶ 7. The following are potentially applicable in this case:

AG ¶ 7(a) contact, regardless of method, 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;

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 classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information or technology; and

AG ¶ 7(f) substantial business, financial, or property interests in a foreign country, or in any foreign-owned or foreign-operated business that could subject the individual to a heightened risk of foreign influence or personal conflict of interest.

The starting point for the analysis is the country of China. Suffice it to say, the U.S. Government views the behavior of the Chinese government as presenting a serious national security concern. That is sufficient to meet the heightened-risk standard.

Concerning Applicant's connections to China, the SOR alleges he has family ties to China based on his spouse's dual citizenship with the United States and China as well as the Chinese citizenship of his mother-in-law and father-in-law. In addition, the SOR alleges his spouse's connections to China via her work for the research organization in Hong Kong. First, Applicant's spouse is no longer a citizen of China because China does not recognize dual nationality, and her citizenship is exclusively with the United States. His spouse's citizenship status does not present any concern. Second, the Chinese citizenship of his mother-in-law and father-in-law and his spouse's work on two proposals in 2014 and 2016 for the research organization in Hong Kong are sufficient to raise the disqualifying conditions in AG ¶ 7(a) and AG ¶ 7(b).



The SOR also alleges in two separate allegations the receipt of funds from the inheritance based in China. The two allegations were treated as one during the hearing because it is the same matter based on the same facts and circumstances. The receipt of the funds from the inheritance (about \$600,000 during 2013-2017 with the potential for another \$700,000 or so) from China, a country that raises a heightened risk for foreign influence, is sufficient to raise the disqualifying condition in AG ¶ 7(f).

The guideline provides that certain facts and circumstances may mitigate foreign influence concerns. Given the evidence here, I considered the following mitigating conditions:

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 United States;

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

AG ¶ 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.

China's relationship with the United States and the heightened risk it presents place a heavy burden on Applicant to mitigate the security concern. With that said, Applicant has multiple indicators of a mature, stable, responsible, and trustworthy person. He was serious, candid, and credible at the hearing. He has cooperated fully and provided truthful information throughout the security clearance process. He made a good impression upon me during the hearing. I have considered the totality of Applicant's connections to China via his marriage to a native of China. Overall, he provided sufficient evidence to explain and mitigate the foreign influence security concern stemming from those connections. The rationale is set forth below.

To begin, Applicant came to the United States about 35 years ago as a college student. He is now wholly invested in the United States, as established by his record of formal education and his work history in the United States. In addition, he met and married his spouse in the United States, and they have two native-born U.S. citizen children. Before 2013 when the receipt of the Chinese inheritance began, he and his spouse's financial interests were exclusively in the United States. The inheritance is not a minor matter. It is a substantial amount of money. More to the point, Applicant and his

spouse consider the inheritance to be a windfall. As such, they are willing to forgo the receipt of any additional funds without an adverse impact on their overall financial situation.

Applicant has also been transparent and forthcoming about the inheritance. He initially reported the subject to his company's FSO in June 2014, which was within months of receipt of the first tranche of funds in August 2013. And he provided additional information during the security clearance process. By self-reporting the inheritance, Applicant did exactly what is expected of a person who is currently eligible for access to classified information. See Directive, Enclosure 2, ¶ 2(f). His self-reporting put the Government on notice and allowed the Government to put the matter under scrutiny. His willingness to self-report the inheritance strongly suggests he would be willingly to report any potential security infraction or violation or other matters that may be contrary to his self-interest.

The cash transfers occur through banking channels. The money is deposited in the family trust's accounts held by U.S. financial institutions. Applicant has been careful to ensure compliance with any reporting requirements mandated by the IRS. The cash transfers will end when the mother-in-law's share of the inheritance has been fully disbursed. There is no evidence that the cash transfers are contrary to U.S. law, and Department Counsel made no such argument. Overall, the cash transfers appear to be a normal way for an inheritance located in a foreign country, in this case China, to be disbursed to an heir in the United States. Given the circumstances, the mitigating condition at AG ¶ 8(f) applies because the financial interest at issue here, an inheritance, despite its substantial size, is of a routine nature that is unlikely to pose a conflict, and it is unlikely to be used to influence, manipulate, or pressure Applicant.

Concerning family ties to China, there have been changes since Applicant was favorably adjudicated for a security clearance more than a decade ago. First, Applicant and his spouse have had more time to develop their ties and connections to the United States. Their ties and connections are deep, including their respective careers as engineers, in which they are both accomplished and successful, and their two native-born U.S. citizen children. He has also successfully held a security clearance and adhered to security rules and requirements for his employment with a defense contractor. Second, his spouse, a full professor at a state university, is now a U.S. citizen and no longer a citizen of China. Third, his parents-in-law, while still Chinese citizens, are now living in the United States as lawful permanent residents. Their presence here adds an additional degree of separation from the potential for undue influence exerted by the Chinese government.

In addition, Applicant's spouse's work in reviewing funding proposals on two occasions for the research organization in Hong Kong is not unusual or troubling. Nor is the work part of an ongoing employment relationship or contractual arrangement. The work was done on an *ad hoc* basis. It is the type of work that is common and expected of a university professor in an engineering department. The work was not financially lucrative, she was paid an honorarium. And the work was done here in the United States, with no travel to Hong Kong or in-person interaction with Chinese officials.

Given the totality of facts and circumstances, I conclude that it is unlikely Applicant will be placed in a position of having to choose between the interests of the United States and the interests of the Chinese government or family members who have Chinese citizenship or residence. I further conclude there is no conflict of interest, because Applicant has developed such deep and long-standing relationships and loyalties in the United States that he can be expected to resolve any potential conflict of interest in the favor of the United States. Overall, I am persuaded that Applicant and his spouse are good people who are doing good things that benefit the United States, and their interests are aligned with the interests of the United States. AG ¶ 8(a) is partially applicable. AG ¶ 8(b) is applicable.

Following *Egan* and the clearly consistent standard, I have no doubts or concerns about Applicant's reliability, trustworthiness, good judgment, and ability to protect classified or sensitive information. In reaching this conclusion, I weighted the evidence as a whole and considered if the favorable evidence outweighed the unfavorable evidence or *vice versa*. I also considered the whole-person concept. Accordingly, I conclude that he met his ultimate burden of persuasion to show that it is clearly consistent with the national interest to grant his eligibility for access to classified information.

### **Formal Findings**

The formal findings on the SOR allegations are:

Paragraph 1, Guideline B:	For Applicant
Subparagraphs 1.a – 1.f:	For Applicant

### **Conclusion**

It is clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility granted.

Michael H. Leonard  
Administrative Judge