



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



In the matter of:)
)
 ---) ISCR Case No. 19-01133
)
 Applicant for Security Clearance)

Appearances

For Government: Moira Modzelewski, Esquire, Department Counsel
For Applicant: *Pro se*

11/22/2019

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant mitigated the security concerns regarding foreign influence. Eligibility for a security clearance is granted.

Statement of the Case

On July 14, 2017, Applicant applied for a security clearance and submitted a Questionnaire for National Security Positions (SF 86). On April 16, 2019, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to him, under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and Directive 4 of the Security Executive Agent (SEAD 4), *National Security Adjudicative Guidelines* (AG) (December 10, 2016), for all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position, effective June 8, 2017.

The SOR alleged security concerns under Guideline B (Foreign Influence), and detailed reasons why the DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The SOR recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

In a sworn statement dated May 15, 2019, Applicant responded to the SOR, and he elected to have his case decided on the written record in lieu of a hearing. A complete copy of the Government's file of relevant material (FORM) was mailed to Applicant by the Defense Office of Hearings and Appeals (DOHA) on July 29, 2019, and he was afforded an opportunity after receipt of the FORM to file objections and submit material in refutation, extenuation, or mitigation. In addition to the FORM, Applicant was furnished a copy of the Directive as well as the Adjudicative Guidelines applicable to his case. Applicant received the FORM on August 12, 2019. His response was due on September 11, 2019. Applicant did not submit any response to the FORM. The case was assigned to me on October 16, 2019.

Rulings on Procedure

Department Counsel requested that I take administrative notice of certain enumerated facts pertaining to the People's Republic of China (PRC) appearing in 18 U.S. Government publications which were identified, but only fragments of extracts of those publications were attached to the request. Additionally, Department Counsel requested that I take administrative notice of certain enumerated facts pertaining to the Republic of China (Taiwan) appearing in eight U.S. Government publications which were identified, but only fragments of extracts of those publications were attached to the request. Facts are proper for administrative notice when they are easily verifiable by an authorized source and relevant and material to the case.

Administrative or official notice is the appropriate type of notice used for administrative proceedings. See *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n.4 (3d Cir. 1986); 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)). The most 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). Requests for administrative notice may utilize authoritative information or sources from the internet. See, e.g. *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006) (citing internet sources for numerous documents). In this instance, although Department Counsel has selected only certain pages of facts appearing in the identified publications, I have not limited myself to only those facts, but have considered the publications in their entirety.

The seven press releases from the U.S. Department of Justice were presented apparently to substantiate that PRC and Taiwan actively pursue collection of U.S. economic and propriety information, and, therefore, Applicant's relationships with his

various family members in Taiwan raises suspicion of him. The cases cited do not involve Applicant personally, nor do they involve espionage through any familial relationship. The anecdotal evidence of criminal wrongdoing of other U.S. citizens or foreign nationals is of decreased relevance to an assessment of Applicant's security suitability, especially where there is no evidence that Applicant, or any member of his family, was ever involved in any aspect of the cited cases or ever targeted by any PRC or Taiwanese intelligence officials. Furthermore, the press releases are little more than a self-congratulatory public relations products issued by a public relations office, with the collateral effect of deterring other criminals contemplating possible attacks on our national security.

After weighing the reliability of the source documentation and assessing the relevancy and materiality of the facts proposed by the Government, pursuant to Rule 201, *Federal Rules of Evidence*, I take administrative notice of certain facts, as set forth below under the PRC and Taiwan subsections. However, while I do not reject the facts set forth in the press releases, the inference that somehow Applicant and/or his family participated in criminal activity was not alleged or argued and is specifically rejected.

Findings of Fact

In his Answer to the SOR, Applicant admitted, with one brief comment, all of the factual allegations pertaining to foreign influence (SOR ¶¶ 1.a. through 1.c.). Applicant's admissions and brief comment are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following additional findings of fact:

Background

Applicant is a native-born U.S. citizen whose parents returned with him to Taiwan when he was an infant. He returned to the United States sometime between 2003 and 2005. He is a 34-year-old employee of a defense contractor. He has been serving as a senior electrical engineer with his current employer since June 2017. He was a systems engineer with another defense contractor from July 2011 until December 2015. He received a bachelor's degree in 2011, and a master's degree in 2017, both from a respected U.S. university. He has never served with the U.S. military or any other military. He has never held a security clearance. He has never been married, and he has no children. (Item 3, at 5, 13-17; Item 4, at 3-4)

Foreign Influence

To protect his privacy, general source information pertaining to Applicant and his family members discussed below can be found in the following exhibits: Item 3 (SF 86); and Item 4 (Enhanced Subject Interview).

As noted above, Applicant is a native-born U.S. citizen. At the age of 18, because he was born in the United States to a citizen of Taiwan, he made the choice to renounce his Taiwanese citizenship and he declared himself a U.S. citizen. (Item 3, at 5-7; Item 4, at 3) Applicant's parents divorced in approximately 2002, with his mother obtaining

custody of him. His mother, in her 60s, is a native-born citizen of Taiwan, residing in Taiwan. Until she retired between July 2017 and April 2019, she was an employee in an unspecified position of a local private technical college in Taiwan. She never had any affiliation with either the Taiwanese or PRC governments, military, security, defense industry, foreign movement, or intelligence services. In July 2017, Applicant reported monthly telephone or e-mail contact with his mother. (Item 3, at 23-25; Item 2, at 1)

Applicant's father, also in his 60s, is a native-born citizen of Taiwan, residing in Taiwan. Because his relationship with his father is more distant, Applicant does not know the identity of his father's employer, and he has no knowledge of any affiliation with either the Taiwanese or PRC governments, military, security, defense industry, foreign movement, or intelligence services. In July 2017, Applicant reported annual contact with his father. (Item 3, at 24-26)

Applicant's sister, in her 20s, is a native-born citizen of Taiwan, with a legal residence in Taiwan, but currently residing in the United States where she is attending the same university from which Applicant graduated. She never had any affiliation with either the Taiwanese or PRC governments, military, security, defense industry, foreign movement, or intelligence services. In July 2017, Applicant reported weekly contacts with his sister. (Item 3, at 26-27; Item 4, at 6-7)

Applicant previously received an inheritance, through his parents, from his grandparents in Taiwan that he used to finance his education in the United States. (Item 4, at 6) He has no foreign assets or foreign financial interests controlled by him or on his behalf. (Item 3, at 66)

Taiwan

In 1949, a large number of Chinese refugees fled from the civil war in mainland China and immigrated to the off-shore Island of Formosa, now known as Taiwan. The Communists in mainland China, under the leadership of Mao Tse-tung, established the PRC, and Chiang Kai-shek, the leader of the Kuomintang on mainland China, established a provisional government and capital in Taipei, Taiwan. The PRC refuses to recognize Taiwan's independence, and insists that there is only "one China." After recognizing Taiwan for nearly 30 years, on January 1, 1979, under the 1979 U.S. – PRC Joint Communiqué, the United States formally switched its position and recognized the government of the PRC as the sole legitimate government of China. Although the United States does not support independence for Taiwan and, under the Taiwan Relations Act (TRA), signed into law on April 10, 1979, it is committed to a "one-China policy," the U.S. commitment to assist Taiwan in maintaining its defensive capability is enshrined in the TRA. Furthermore, because the United States and Taiwan enjoy a robust unofficial relationship, the United States has been also been committed to maintaining cultural, commercial and other nonofficial relations with Taiwan, and continues to provide arms in support of Taiwan's security and region stability. The American Institute in Taiwan (AIT) is responsible for implementing U.S. policy toward Taiwan. In this regard, the United States insists on the peaceful resolution of cross-Strait differences, opposes unilateral

changes to the *status quo* by either side, and encourages both sides to continue their constructive dialogue on the basis of dignity and respect.

Taiwan is a multi-party democracy with a strong economy, with significant economic contacts with both the PRC and the United States. In fact, the PRC is Taiwan's largest trading partner, export market, and source of imports. The United States stands in second place. Taiwan's own national security remains under constant threat from the PRC since the PRC has not renounced the use of force against Taiwan, and this has led to Taiwan's large military establishment. Taiwan's armed forces are equipped with weapons obtained primarily from the United States, but Taiwan has stressed military self-reliance in recent years which has resulted in the growth of indigenous military production.

Following the election of Taiwan President Tsai Ing-wen of the Democratic Progressive Party (DPP) in 2016, the PRC dramatically increased its coercion efforts against Taiwan. The major reason for those increased coercive efforts was the DPP's unwillingness to explicitly endorse the exact verbiage of the "one China" formulation while maintaining the *status quo*. In retaliation, the PRC has taken significant steps to disrupt the cross-Strait diplomatic truce; suspend or cancel official and semi-official communication and meetings; isolate and undermine the Taiwanese President; destabilize the Taiwan society itself through "United Front Work"; interfere in relationships between Taiwan and other nations; interfere in Taiwan's efforts to participate in international activities; pressure U.S. and foreign companies doing business in Taiwan; and spreading disinformation through social media and other online tools.

Taiwan is believed to be an active collector of U.S. economic intelligence and proprietary information. There is no evidence that Taiwan uses coercive measures to gain access to such information. While there have been a number of incidents involving individuals, companies, and Taiwanese intelligence officers improperly acquiring U.S. economic intelligence and proprietary information, there is no direct or indirect connection to, or involvement with, Applicant or his family members.

PRC

The PRC is an international bully without regard for democracy or civil rights. It has an authoritarian Communist government, with powerful military forces, including strategic nuclear weapons and missiles. It is geographically vast and has a population of over a billion people. It has significant resources and an economy that in recent years has expanded substantially. In the PRC, reported human rights problems include suppression of political dissent, arbitrary arrest and detention, forced confessions, disappearance, torture and mistreatment of prisoners, and "arbitrary or unlawful deprivation of life." The PRC also monitors telephone conversations, facsimile transmissions, e-mail, text messaging, and internet communications, and sometimes nonconsensual monitoring with listening devices and surreptitious searching of hotel guestrooms.

The PRC has been characterized as "the most aggressive country conducting espionage against the United States, focusing on obtaining U.S. information and

technologies beneficial to the [PRC's] military modernization and economic development." Those activities include economic espionage, theft of trade secrets, export control violations, and technology transfer. It actively collects military, economic and proprietary, industrial information about the United States of the following types, including: information and communications technology; military technologies, particularly marine systems and aerospace and aeronautics; civilian and dual-use technologies, especially clean technologies, advanced materials and manufacturing techniques, healthcare, pharmaceuticals, and related technologies, and agricultural technology; and business information, especially energy and other natural resources and macroeconomic information. Americans of Chinese ancestry are considered prime intelligence targets by the PRC. "The crux of the [PRC] approach is not to try to exploit a perceived vulnerability but to appeal to an individual's desire to help [the PRC] out in some way . . . ethnic targeting to arouse feelings of obligation is the single most distinctive feature of [the PRC's] intelligence operations." The PRC's pursuit of intellectual property, sensitive research and development plans, and U.S. Person data, remains a significant threat to the U.S. government and private sector. U.S. Immigration and Customs Enforcement officials have characterized PRC's espionage and industrial theft activities as the leading threat to the security of U.S. technology.

While there have been a number of criminal incidents involving individuals, companies, and PRC's intelligence officers improperly acquiring U.S. economic intelligence and proprietary information, there is no direct or indirect connection to, or involvement with, Applicant or his family.

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." (*Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988)) As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information. The President has authorized the Secretary of Defense or his designee to grant an applicant eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." (Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.)

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the guidelines in SEAD 4. In addition to brief introductory explanations for each guideline, the guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant's eligibility for access to classified information.

An administrative judge need not view the guidelines as inflexible, ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense

decision. The entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a meaningful decision.

In the decision-making process, facts must be established by “substantial evidence.” “Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record.” (ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1)) “Substantial evidence” is “more than a scintilla but less than a preponderance.” (See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994))

The Government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive, and has the burden of establishing controverted facts alleged in the SOR. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the applicant has the burden of persuasion to present evidence in refutation, explanation, extenuation or mitigation, sufficient to overcome the doubts raised by the Government’s case. 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))

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours as well. It is because of this special relationship that 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 include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to 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. Furthermore, “security clearance determinations should err, if they must, on the side of denials.” (*Egan*, 484 U.S. at 531)

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

Analysis

Guideline B, Foreign Influence

The security concern relating to the guideline for Foreign Influence is set out in AG ¶ 6.

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 a condition that could raise security concerns under 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.

Applicant's parents are citizen-residents of Taiwan. His sister is a citizen and legal resident of Taiwan, but an actual resident of the United States where she is studying for advanced degrees at the same university from which Applicant graduated. Applicant knows for a fact that his mother and sister never had any affiliation with either the Taiwanese or PRC governments, military, security, defense industry, foreign movement, or intelligence services. Because of his parents' divorce, and the fact that his mother received custody of him in 2002, Applicant does not know the identity of his father's employer, and he has no knowledge of any affiliation with either the Taiwanese or PRC governments, military, security, defense industry, foreign movement, or intelligence services.

When foreign family ties are involved, the totality of an applicant's family ties to a foreign country as well as each individual family member must be analyzed. (ISCR Case No. 01-22693 at 7 (App. Bd. Sep. 22, 2003)) If only one relative lives in a foreign country, and an applicant has contacts with that relative, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information. (See ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 at 12 (App. Bd. Feb. 8, 2001))

The mere possession of close family ties with a person in a foreign country is not, as a matter of law, disqualifying under Guideline B. Moreover, Guideline B is not limited to countries hostile to the United States. (ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004) (“The United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States.”). Furthermore, “even friendly countries can have profound disagreements with the United States over matters they view as important to their vital interests or national security.” (ISCR Case No. 00-00317 at 6 (App. Bd. Mar. 29, 2002))

Friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. Nevertheless, the nature of a nation’s government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an applicant’s family members are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, or the country is known to conduct intelligence operations against the United States. It is reasonable to presume that a contentious relationship, or the absence of a democratic government, is not determinative, but it may make it more likely that a foreign government would attempt to exploit a U.S. citizen through relatives or associates in that foreign country. In considering the nature of the government, an administrative judge must also consider any terrorist activity in the country at issue. (See ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006))

In this instance, as noted above, there is substantial evidence to reflect that the PRC aggressively engages in economic espionage or military intelligence activity directed toward the United States, and that it sponsors acts of attempted destabilization or actual terrorism toward Taiwan. The activities of PRC authorities are sufficient to establish a potential “heightened risk” – a risk that is greater than the normal risk inherent in having a family member living under a foreign government. AG ¶ 7(a) has been established as it pertains to Applicant’s parents, but not to Applicant’s sister.

The guideline also includes examples of conditions that could mitigate security concerns arising from foreign influence under 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; and

(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.

AG ¶¶ 8(a) and 8(b) apply. In reaching this conclusion, I have considered the totality of Applicant's ties to Taiwan, as well as his family members still residing there. As noted above, the United States and Taiwan have a lengthy history of friendly relations, making it less likely that the Taiwanese government would attempt coercive means to obtain sensitive information. However, it does not eliminate the possibility that a foreign power would employ some non-coercive measures in an attempt to exploit his relatives. While Applicant has two parents still actually residing in Taiwan, there may be speculation as to "some risk," but that speculation, in the abstract, does not, without substantially more, establish evidence of a "heightened risk" of foreign exploitation, inducement, manipulation, pressure, or coercion, especially generated by the PRC.

The Government has submitted facts to reflect that the PRC and Taiwan engage in economic espionage and/or military intelligence activity directed toward the United States. In addition, that the PRC is attempting to undermine the Taiwanese President and destabilize the Taiwan society itself through "United Front Work" through sympathizers operating within the borders of Taiwan that might heighten the risk for Applicant's parents residing in Taiwan, as well as his sister if she returns to Taiwan. In such a situation, Taiwan and all its citizens become potential victims of PRC "terrorism," as much as the residents of Hong Kong; the Uyghur Muslims of the Xinjiang region; and the people of Tibet have become the victims of PRC's activities. The PRC destabilization effort is not unlike the situations created by other international entities in other countries that have seen acts of attempted destabilization or actual terrorism – France, United Kingdom, Germany, and Belgium – and yet, the "heightened risk" in those countries is considered reduced. In fact, just as U.S. law enforcement and the DOD strive to protect U.S. citizens from cyber-terrorists interfering in our national elections or physical terrorists, involving incidents such as those in Fort Hood, Texas; San Bernardino, California; New York City, New York; and Dallas, Texas, no one has raised the banner of "heightened risk" over the United States to suggest that it is unsafe to have family members reside here.

With relatively low-profile parents, both of whom are actual residents of Taiwan, and a sister who actually resides in the United States while she is attending her brother's university to obtain her own degrees, there is a very low potential of forcing Applicant to choose between the interests of the United States and those of Taiwan, the PRC, a terrorist organization, or those family members. While the PRC may be a destabilizing factor to the world, not just to Taiwan, there is zero evidence of any relationship between Applicant's parents or his sister with the PRC that would raise a heightened risk.

While Applicant's ties to Taiwan, essentially only to his parents, remain, they are outweighed by his deep and long-standing relationships and loyalties in the United States. He was born in the United States. His sister is here. While he attended primary schools in Taiwan, he earned two degrees from a university in the United States, and his life, home, assets, and professional career are in the United States. His deep relationship with

the United States is such that I find that it is unlikely that Applicant will be placed in a position of having to choose between the interests of the United States and the interests of Taiwan. He can be expected to resolve any conflict of interest in favor of the U.S. interest.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at SEAD 4, App. A, ¶ 2(d):

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

Under SEAD 4, App. A, ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. Moreover, I have evaluated the various aspects of this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis. See *U.S. v. Bottone*, 365 F.2d 389, 392 (2d Cir. 1966); see also ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006).

There is some evidence against mitigating Applicant's situation. Taiwan is believed to be an active collector of U.S. economic intelligence and proprietary information. With parents who are Taiwanese citizen-residents, there is a potential risk that Taiwan would attempt to coerce Applicant through his parents still residing there. There is also the remote possibility that the PRC will reject the *status quo* and decide to invade Taiwan in an effort to actually annex it, placing all Taiwanese residents in jeopardy.

The mitigating evidence under the whole-person concept is simply more substantial. Applicant is a 34-year-old native-born U.S. citizen whose parents returned with him to Taiwan when he was an infant. At the age of 18, because he was born in the United States to a citizen of Taiwan, he made the choice to renounce his Taiwanese citizenship and he declared himself a U.S. citizen. He returned to the United States sometime between 2003 and 2005. He is an employee of a defense contractor, and he has been serving as a senior electrical engineer with his current employer since June 2017. He was a systems engineer with another defense contractor from July 2011 until December 2015. He received a bachelor's degree in 2011, and a master's degree in 2017, both from a respected U.S. university. His sister, a Taiwanese citizen, currently attends the same university from which her brother graduated.

Overall, the evidence leaves me without any questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all of these reasons, I conclude Applicant has mitigated the security concerns arising from his foreign influence. See SEAD 4, App. A, AG ¶¶ 2(d)(1) through 2(d)(9).

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 B: FOR APPLICANT

Subparagraphs 1.a. through 1.c.: For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

ROBERT ROBINSON GALES
Administrative Judge