



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



In the matter of:)
)
) ISCR Case No. 19-01605
)
Applicant for Security Clearance)

Appearances

For Government: Brian Olmos, Esq., Department Counsel
For Applicant: *Pro se*
08/10/2020

Decision

RIVERA, Juan J., Administrative Judge:

Applicant’s evidence is insufficient to mitigate the personal conduct and foreign influence security concerns raised by his and his wife’s contacts with her relatives in China, and his vulnerability to exploitation, manipulation, or duress. Access to classified information is denied.

Statement of the Case

Applicant submitted his most recent security clearance application (SCA) on January 26, 2017, answered interrogatories from the Defense Office of Hearings and Appeals (DOHA) on July 8, 2019, and submitted a sworn statement in November 28, 2017. After reviewing the information gathered during the background investigation, the Department of Defense (DOD) was unable to grant Applicant a clearance. On September 4, 2019, the DOD Consolidated Adjudications Facility (CAF) issued Applicant a Statement of Reasons (SOR) alleging security concerns under Guideline B (foreign influence) and Guideline E (personal conduct).

In his September 24, 2019 answer, Applicant admitted all of the SOR allegations and requested a hearing before an administrative judge. The Government moved to amend the SOR allegations on January 22, 2020. The amendment modified the language in SOR ¶ 1.a; withdrew SOR ¶¶ 1.b, 1.c, 1.d, and 2.a, and replaced them with

new allegations; and withdrew SOR ¶ 2.c (not replaced). Applicant denied all of the amended SOR allegations on February 15, 2020. I marked and attached to the record the Amendment to the SOR and Applicant's answer to it as Hearing Exhibit (HE) 1.

DOHA assigned the case to me on June 26, 2020, and issued a Notice of Hearing on July 10, 2020, scheduling a hearing for July 17, 2020. At the hearing, Applicant affirmatively stated that he had sufficient time to prepare for his hearing, was ready to proceed, and waived his right to 15 days advanced notice of his hearing. I granted Applicant's request for a closed hearing. (Tr. 11-12)

The Government offered six exhibits (GE 1 through 6). GE 1 through 5 were admitted without objection. GE 6 is a request for me to take administrative notice of the information about People's Republic of China (China). The document was marked and accepted for the limited purpose of taking administrative notice. Without objections, I took administrative notice as requested. (Tr. 69) The noted facts are outlined in the decision, *infra*. Applicant testified (presented no other evidence), as reflected in the hearing transcript (Tr.) received by DOHA on July 24, 2020.

Additional Procedural Ruling

After the presentation of the evidence, Department Counsel moved to amend the SOR to conform its allegations to the evidence presented. (Tr. 62-67) Applicant did not object, and the SOR was amended as follows:

1. SOR ¶ 1.a was amended by excepting the words "Chinese national" from the last sentence, and substituting "individual". (Tr. 63)
2. SOR ¶¶ 1.b and 1.c were withdrawn. (Tr. 66)
3. SOR ¶ 1.d was amended by excepting the words "polygraph" and substituting "personal subject," and excepting "2010 or 2011" and substituting "November 14, 2017." (Tr. 67)

Findings of Fact

Applicant asked me to consider his admissions and comments to the original SOR allegations. (Tr. 21-22) Those admissions and Applicant's admissions during his hearing are hereby incorporated into my findings of fact. After a complete and thorough review of the evidence of record, I make the following additional findings of fact:

Applicant is a 60-year-old principal engineer working for a federal contractor since January 2017. He received a bachelor's degree in 1982, and has completed several graduate-level courses, but has received no additional degrees.

Applicant married his first wife in August 1988. They separated in August 2013 and divorced in January 2015. He has three adult children of this marriage: a son, age 30; a daughter, age 28; and a stepdaughter, age 43.

Between 1983 and April 1990, Applicant worked for a Federal agency (Agency) as an engineer-physicist. During this employment, he held a high-level compartmentalized clearance. Applicant was trained to report any foreign travel or any close and continuous contact with foreigners while holding a clearance. (Tr. 60) Between 1990 and 2002, he worked for four different companies, some foreign and some domestic, and sometimes his job took him to other countries. During this period, he held no clearance.

Between September 2002 and December 2011, Applicant worked for a large Federal contractor. He submitted a SCA in December 2002, and was granted a high-level compartmentalized clearance. (GE 1) In January 2011, during the periodic reinvestigation of his clearance, Applicant participated in three polygraph-assisted interviews. During the second interview, he disclosed to the investigators that he had been in an extra-marital affair from 1998 to present. Applicant resigned his position with the Federal contractor in December 2011, but averred that it was not due to concerns about losing his clearance. (Tr. 47) Between January 2012 and January 2017, he worked for several private companies, and held no clearance. In January 2017, Applicant was hired by his current employer, a Federal contractor, and submitted his most recent SCA.

In 1997, while working for a private company (holding no clearance), Applicant met Ms. C. At the time, Ms. C was a Chinese national living in the United States with her husband (a Chinese national) as U.S. permanent resident card holders. They had entered the United States in 1991. (Tr. 74) In 1998, Applicant and Ms. C entered into a secret, extra-marital affair that ended when they were married in May 2018. Applicant explained that he entered into the affair with Ms. C because he was in a bad relationship with his first wife with a lot of negativity. (GE 5) Applicant noted that at the time he started the affair with Ms. C in November 1998, he worked for a private company and did not possess a clearance. Ms. C's first husband died around 2005. (Tr. 32) Applicant and Ms. C continue to be married to present.

Ms. C became a U.S. naturalized citizen in October 2002. (Applicant's Answer to the Amended SOR) Thus, Applicant had an affair with a Chinese national between 1998 and October 2002. Applicant was hired by a Federal contractor and submitted a SCA in December 2002. He did not disclose his close relationship with Ms. C because he believed that as a U.S. permanent resident card holder, she was considered a U.S. national. He also noted that such disclosure was not required in the 2002 SCA. After October 2002, she became a naturalized U.S. citizen and there was no need to disclose his close contacts with a U.S. citizen. Applicant was granted a clearance in 2002-2003, after Ms. C became a U.S. citizen, and he believe he was not required to disclose his affair. (September 2019 Answer to SOR; Tr. 34-35)

Applicant testified that he and Ms. C kept their extra-marital affair secret to eliminate vulnerability to exploitation, manipulation, or duress. (Tr. 23) They did not disclose their affair to any other person until he disclosed it to Agency interviewers during his 2011 polygraph-assisted interviews. He averred that his 2011 disclosure was voluntary, and it was made during his second polygraph-assisted interview to clarify the

interviewer's concerns about him being evasive. The only other people who knew about the affair were his divorce lawyer and a psychologist he consulted on executing the dissolution of his first marriage. (September 2019 Answer to SOR; Tr. 23)

Applicant's ex-wife and their children are not aware of the extent of the extra-marital affair, and he is not willing to disclose the affair to his ex-wife and children. Applicant would rather turn down a clearance than tell his family about the affair. (Tr. 52) He averred he could not be blackmailed because he would take the chance of losing his family before giving up any classified or sensitive information. In his November 2017 sworn statement, Applicant told the investigator that there was no infidelity on any one's part during his first marriage and that his affair was not a factor in his divorce. (GE 5; Tr. 23)

Applicant and Ms. C have represented to family and friends that their relationship started after he divorced his first wife in 2015. He intends to continue this false pretense even if it would result in him being denied a clearance. He explained that he values his relationship with his children more than he values his employment. (September 2019 Answer to SOR) He believes that if his children and his ex-wife were to find out about his long-term extra-marital affair, they would think poorly on him. (Tr. 49)

Ms. C has a sister who apparently is a U.S. naturalized citizen. Her mother is a citizen and resident of China. According to Applicant, his elderly mother-in-law (89-90 years old) suffers from dementia and requires a caregiver. (Tr. 25) Ms. C and her sister alternate traveling to China every year or every other year to visit and care for her mother. His mother-in-law receives a pension from her late husband. In addition, she owns two apartments in China, one of which is rented for income. Any additional financial expenses are covered by Ms. C and her sister. (Tr. 61-62)

Applicant testified that he has never travelled to China. (Tr. 54) He considers his contact and communication with his mother-in-law casual and infrequent. He believes that there is little likelihood that his relationship with her would create a risk for foreign influence or exploitation. Applicant recognizes that the government of China is a ruthless communist dictatorship and promised to remain alert to any attempts by any person or entity to exploit his relationship with his mother-in-law. He also promised to report any such contacts to appropriate U.S. authorities immediately. Applicant believes that he has deep life-long relationships and loyalties in the United States, and he promised to resolve any conflict of interest in favor of the United States. (September 2019 Answer to SOR)

Applicant successfully established that Ms. C was never a dual citizen of China and the United States. She was a Chinese national until her U.S. naturalization in October 2002. The Chinese government does not allow or recognize dual citizenship. Chinese nationality is lost upon acquiring citizenship in another country.

Applicant noted that Ms. C has been a U.S. citizen for 18 years. During that time she has developed long-standing relationships in the United States, and her allegiance is solely to the United States. (Tr. 23) He reiterated that if he was ever involved in any

conflict of interest between a foreign individual, group, organization or government entity, he would resolve that issue in favor of the United States interests. (Tr. 75)

I take administrative notice of the following facts concerning the People's Republic of China (China).

The leading state intelligence threats to U.S. interests are China and Russia, based on their services' capabilities, intent, and broad operational scope. The United States faces a continuing threat to its national security from Chinese intelligence operations.

Chinese actors are the world's most active and persistent perpetrators of economic and cyber espionage against the United States, and are considered "aggressive and capable collectors of sensitive U.S. economic information and technology." Importantly, "China's intelligence services, as well as private companies and other entities, frequently seek to exploit Chinese citizens or persons with family ties to China who can use their insider access to corporate networks to steal trade secrets using removable media devices or e-mail." There have been multiple prosecutions by the U.S. Dept. of Justice of those who participate in espionage and other crimes that benefit China.

Additionally, China continues to have significant human rights issues including arbitrary and unlawful killings by the government, torture, arbitrary detention, life-threatening prison and detention conditions, political prisoners, censorship, and overall substantial restriction on basic human rights.

Policies

The SOR was issued under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; and the *National Security Adjudicative Guidelines* (AG), promulgated by the Director of National Intelligence in Security Executive Agent Directive (SEAD) 4 (December 10, 2016), which are applicable to all adjudicative decisions issued on or after June 8, 2017.

Eligibility for access to classified information may be granted "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. The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

The AG list disqualifying and mitigating conditions for evaluating a person's suitability for access to classified information. Any one disqualifying or mitigating condition is not, by itself, conclusive. However, the AG should be followed where a case

can be measured against them, as they represent policy guidance governing access to classified information. Each decision must reflect a fair, impartial, and commonsense consideration of the whole person and the factors listed in AG ¶ 2(a). All available, reliable information about the person, past and present, favorable and unfavorable, must be considered.

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's security clearance. The Government must prove, by substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. The applicant bears the heavy burden of demonstrating that it is clearly consistent with the national interest to grant or continue his or her security clearance.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Thus, the Government has a compelling interest in ensuring each applicant possesses the requisite judgment, reliability, and trustworthiness of those who must protect national interest as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government. "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; AG ¶ 2(b). Clearance decisions are not a determination of the loyalty of the applicant concerned. They are merely an indication that the applicant has or has not met the strict guidelines the Government has established for issuing a clearance.

Analysis

In substance, under Guideline E, the SOR alleges and the evidence established that:

1. From November 1998 to January 2015, Applicant engaged in a secret extra-marital affair with a Chinese national who became a naturalized U.S. citizen in October 2002. From January 2015 to present, Applicant has misrepresented to family and friends that he did not start dating Ms. C until after his January 2015 divorce. (SOR ¶ 1.a)
2. Applicant falsified material facts during a personal subject interview with a Government investigator on November 14, 2017, when he stated that there was no infidelity during his previous marriage, when in fact he had been having a long-time extra-marital affair. (SOR ¶ 1.d)

Guideline E - Personal Conduct

AG ¶ 15 expresses the security concern pertaining to personal conduct:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions

about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

(a) refusal, or failure without reasonable cause, to undergo or cooperate with security processing, including but not limited to meeting with a security investigator for subject interview, completing security forms or releases, cooperation with medical or psychological evaluation, or polygraph examination, if authorized and required; and

(b) refusal to provide full, frank, and truthful answers to lawful questions of investigators, security officials, or other official representatives in connection with a personnel security or trustworthiness determination.

AG ¶ 16 describes the following conditions that could raise a security concern and be disqualifying in this case:

(b) deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of: . . . (3) a pattern of dishonesty or rule violations

Applicant's 17-year extramarital affair, his misrepresentations to family and friends, and his lack of candor and dishonesty with government investigators demonstrate questionable judgment, unreliability, and an unwillingness to comply with rules and regulations, establishing the above disqualifying conditions.

AG ¶ 17 provides seven conditions that could mitigate security concerns raised under this guideline. Only two of those mitigating conditions are potentially applicable to the facts in this case:

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

Applicant has not demonstrated that his questionable behavior has significantly changed. He engaged in a 17-year extramarital affair that led to his divorce in 2015. He married his paramour in 2018, but his deception of family and friends (pretending his relationship with his current wife started after the divorce) continues to present. Applicant intends to continue the false pretenses surrounding his extra-marital affair even if this would result in the denial of his clearance eligibility. He values his relationship with his children more than he values his employment. Applicant is concerned that if they found about his affair, his children and family would think poorly of him.

Thus, I find that Applicant is currently vulnerable to exploitation, manipulation, or duress. Furthermore, his long-term lack of candor, dishonesty, and questionable judgment raise questions about his reliability, trustworthiness, and ability to protect classified information. Applicant's evidence is insufficient to fully establish any mitigating factors under AG ¶ 17.

Guideline B - Foreign Influence

In substance, under Guideline B, the SOR alleges and the evidence established that:

1. Applicant's wife is a naturalized U.S. citizen who travels to China approximately every other year, to visit her elderly mother. (SOR ¶ 2.a)
2. Applicant's mother-in-law is a citizen and resident of China. (SOR ¶ 2.b)

AG ¶ 6 explains the security concern about "foreign contacts and interests" stating:

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.

AG ¶ 7 indicates three conditions that could raise a security concern and may be disqualifying in this case:

(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; and

(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.

Applicant's wife was born, raised, and educated in China. She immigrated to the United States in 1991, and became a naturalized U.S. citizen in October 2002. Her mother and extended family members are citizens and residents of China. She is close to her mother, has frequent contact with her mother or caretaker, and travels to China to visit and care for her mother every year or every other year. Ms. C and her sister provide financial support for their mother. Applicant, directly or through his wife, is also presumed to have a close relationship with his mother-in-law.

Applicant and his wife's relationships with residents of China create a concern about Applicant's "obligation to protect sensitive information or technology" and his desire to help his wife or her relatives who live in China. For example, if foreign intelligence agents or government officials wanted to subject Applicant to coercion, they could exert pressure on her or her relatives residing in China. Applicant would then be subject to coercion through his wife or her relatives and classified information could potentially be compromised.

An applicant's possession of close family ties with their family living in a foreign country are not, as a matter of law, disqualifying under Guideline B. However, if an applicant has a close relationship with even one relative, living in a foreign country, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information. See *generally* ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001).

The nature of a nation's government, its relationship with the United States, its history of intelligence gathering, and its human rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable to government coercion or inducement. 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 collection operations against the United States. The relationship of China with the United States, and its "history of conducting pervasive espionage against the United

States, puts a heavy burden of proof on Applicant” to demonstrate that his relationships with family members living in China do not pose a security risk. See ISCR Case No. 12-04780 at 3 (App. Bd. Nov. 13, 2013). Applicant should not be placed into a position where he might be forced to choose between loyalty to the United States and a desire to assist relatives living in China.

There is no evidence that intelligence operatives from any foreign country seek or have sought classified or economic information from or through Applicant or his relatives living in China. Nevertheless, it is not possible to rule out such a possibility in the future. Applicant’s relationships with family members living in China create a potential conflict of interest because these relationships are sufficiently close to raise a security concern about his desire to assist relatives in China by providing sensitive or classified information. Department Counsel produced substantial evidence of Applicant’s contacts or relationships with family living in China, raising the issue of potential foreign pressure or attempted exploitation.

AG ¶¶ 7(a) and 7(b) are established and further inquiry is necessary about potential application of any mitigating conditions.

AG ¶ 8 lists four conditions that could mitigate foreign influence security concerns including:

(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.;

(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;

(c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation; and

(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.

The Appeal Board concisely explained Applicant’s responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013).

There is a rebuttable presumption that a person has ties of affection for, or obligation to, his or her immediate family members, and this presumption includes in-laws. ISCR Case No. 07-06030 at 3 (App. Bd. June 19, 2008); ISCR Case No. 05-00939 at 4 (App. Bd. Oct. 3, 2007) (citing ISCR Case No. 01-03120 at 4 (App. Bd. Feb. 20, 2002)). Applicant has ties of affection for his wife, and by marriage to his in-laws, as indicated by his wife's frequent contact with her mother and other relatives in China.

AG ¶¶ 8(a) and 8(c) are not applicable. Applicant, directly or through his wife, has frequent contact with his mother-in-law, who is a citizen and resident of China. AG ¶ 8(b) partially applies. A key factor in the AG ¶ 8(b) analysis is Applicant's, and his wife's "deep and longstanding relationships and loyalties in the U.S." Applicant's relationship with the United States must be weighed against the potential conflict of interest created by his and his wife's relationships with family living in China. Applicant has strong connections to the United States. Notwithstanding, Applicant's wife has maintained strong connections to her family members living in China.

China is a leading intelligence threat to U.S. interests based on its services capabilities, intent, and broad operational scope. The United States faces a continuing threat to its national security from Chinese intelligence operations. Chinese actors are the world's most active and persistent perpetrators of economic and cyber espionage against the United States, and are considered aggressive and capable collectors of sensitive U.S. economic information and technology. Importantly, China's intelligence services, as well as private companies and other entities, frequently seek to exploit Chinese citizens or persons with family ties to China who can use their insider access to corporate networks to steal trade secrets using removable media devices or e-mail. There have been multiple prosecutions by the U.S. Dept. of Justice of those who participate in espionage and other crimes that benefit China. Additionally, China continues to have significant human rights issues.

Considering the record as a whole, Applicant failed to meet his burden of showing there is "little likelihood that [his relationships with family living in China] could create a risk for foreign influence or exploitation." I also find that Applicant's connections to the United States are outweighed by his and his wife's connections to China in the

security analysis. Foreign influence security concerns under Guideline B are not mitigated.

Whole-Person Concept

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case, and under the whole-person concept. (AG ¶¶ 2(a) and 2(c)) I have incorporated my comments under Guideline E and Guideline B in my whole-person analysis. Some of the factors in AG were addressed under those guidelines, but some warrant additional comment.

Applicant is a U.S. citizen who has worked for a Government Agency and federal contractors over the years, and for his current employer and clearance sponsor since 2017. He held clearances in the past and there is no evidence of any past security violations.

A Guideline B decision concerning a foreign country must take into consideration the geopolitical situation and dangers in that country including from intelligence agents. Considering China's pervasive espionage against the United States, and China's aggressive intelligence services, as well as the targeting of private companies and other entities, frequently seeking to exploit Chinese citizens or persons with family ties to China, Applicant's and his wife's contacts with Chinese family members create a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion. Applicant's favorable evidence is insufficient to mitigate the foreign influence security concerns. The weight of the evidence does not support granting Applicant's clearance.

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 E: | AGAINST APPLICANT |
| Subparagraphs 1.a and 1.d: | Against Applicant |
| Subparagraphs 1.b and 1.c: | Withdrawn by DC |
| Paragraph 2, Guideline B: | AGAINST APPLICANT |
| Subparagraphs 2.a and 2.b: | Against Applicant |
| Subparagraph 2.c: | Withdrawn by DC |

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

JUAN J. RIVERA
Administrative Judge