



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
 )  
----- ) ISCR Case No. 19-02466  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Daniel O'Reilley, Esq., Department Counsel  
For Applicant: Allen V. Edmunds, Esq.

10/05/2020  
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**Decision**  
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WESLEY, ROGER C. Administrative Judge

Based upon a review of the case file, pleadings, exhibits, and testimony, Applicant mitigated foreign influence concerns relating to his connections to South Korea. Eligibility for access to classified information or to hold a sensitive position is granted.

**Statement of the Case**

On February 26, 2020, the Department of Defense (DoD) Consolidated Central Adjudication Facility (CAF) issued a statement of reasons (SOR) to Applicant detailing reasons why under the foreign influence guideline the DoD could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017.

Applicant responded to the SOR on March 14, 2020, and initially requested a decision based on the administrative record. At the request of Applicant's counsel on June 22, 2020, the case was converted to a hearing proceeding. A hearing was scheduled for August 21, 2020, and heard on the scheduled date. At the hearing, the Government's case consisted of one exhibit (GE). Applicant relied on ten exhibits and one witness (himself). The transcript (Tr.) was received on September 2, 2020.

Besides its evidentiary exhibit, the Government requested administrative notice of facts contained in 12 attachments related to the country of South Korea. Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 16-02522 at 2-3 (App. Bd. July 12, 2017); 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)). Administrative notice is appropriate for noticing facts or government reports that are well known. See Stein, *Administrative Law*, Sec. 25.01 (Bender & Co. 2006). For good cause shown, administrative notice was granted with respect to the above-named background reports addressing the geopolitical situations in South Korea.

Administrative notice was extended to the documents themselves, consistent with the provisions of Rule 201 of the Fed. R. Evid. This notice did not foreclose Applicant from challenging the accuracy and reliability of the information contained in the reports addressing the current status of South Korea. For good cause shown, and there being no objections from the parties, I also took administrative notice of *Background Note, South Korea*, U.S. Department of State (June 2000) and *U.S. Relations with the Republic of South Korea, Bilateral Relations Fact Sheet*, U.S. Department of State (July 2018)

### **Summary of Pleadings**

Under Guideline B, Applicant allegedly (a) has a father who is a citizen and resident of South Korea; (b) has a brother and four sisters who are citizens and residents of South Korea; (c) has a father-in-law and mother-in-law who are citizens and residents of South Korea; and (d) has close and continuing contact with at least three additional citizens and residents of South Korea.

In his response to the SOR, Applicant admitted most of the allegations pertaining to his family members' citizenship and residency status in South Korea with explanations. He claimed his father is an ordinary Korean citizen, and he keeps in touch with his father as a filial duty to his father. He claimed his father-in-law passed away some time ago and his mother-in-law is an elderly woman who is no threat to the security of the United States.

Applicant denied having any current close relationships with any of his listed additional citizens in South Korea and claims he currently keeps mainly in touch with his own family. He further claimed that he has his own family in the United States and pledges his loyalty to the United States Government

## Findings of Fact

Applicant is a 46-year-old network engineer for a defense contractor who seeks a security clearance. The allegations covered in the SOR and admitted by Applicant are incorporated and adopted as relevant and material findings. Additional findings follow.

### Background

Applicant immigrated to the United States in November 2007 and became a naturalized U.S. citizen in January 2018. (GE 1; Tr. 20, 35) He married in September 2009 and has one child (age seven and a U.S. citizen by birth) from this marriage. (GE 1; Tr. 21, 35) His spouse was born and raised in South Korea and became a naturalized U.S. citizen in 2018 (GE 1; Tr. 20, 35-36, 70-71) Both Applicant and his wife hold U.S. passports. (AEs G and J) Applicant's wife (formerly a school teacher) is currently a homemaker who takes care of their young son. (Tr. 37) When they acquired U.S. citizenship, respectively, they renounced their South Korean citizenship. (Tr. 20-21, 26)

Applicant completed his formal education in South Korea and has not pursued any higher education credits since his immigration to the United States. (GE 1 and AE B) Between 2014 and 2020, he earned certificates from his employers documenting his demonstrated knowledge and proficiency in routing switching, security, networks, and solutions as a network engineer. (AE B)

Applicant has no U.S. military service, but reported two years of required military service in South Korea, between April 1994 and October 1996. (GE 1; Tr. 34) Applicant was discharged from his South Korea military obligations upon completion of his mandatory two years of service. (GE 1)

Since January 2020, Applicant has been employed by his current defense contractor. (GE 1; Tr. 40-42) Between November 2007 and October 2017, he was employed by other defense and non-defense employers in various capacities. (GE 1) He is licensed to drive a motor vehicle in his U.S. state of residence. (AE H) Applicant has never held either a U.S. issued security clearance or a public trust position. (Tr. 22, 68)

Both Applicant and his wife are registered to vote in U.S. elections. (AE L) Since immigrating to the United States, neither Applicant nor his wife have voted in any foreign elections. (Tr. 26)

### Family connections with South Korea

Applicant's mother recently passed away. (Tr. 23) His father is a citizen and resident of South Korea. (GE 1) Applicant has a brother and four sisters who are citizens and residents of South Korea. (GE 1; Tr. 23-24) While his father-in-law passed away some time ago, his mother-in-law is a citizen and resident of South Korea. (GE 1; Tr. 24-25)

Applicant maintains annual contact by telephone with his father and last saw his father in 2013 during Applicant's last trip to South Korea. (Tr. 24) Applicant maintains annual contact with his brother and less frequent contact with his older sisters. (Tr. 24, 66) As with his father, he last saw his brother and sisters in 2013 on his last trip to South Korea. (Tr. 24, 56-57, 66). None of his family members have ever visited him in the United States. (Tr. 51-52, 57-58) Applicant maintains even less frequent contact with his mother-in-law and last talked with her by telephone over two years ago. (Tr. 58-59)

While Applicant listed several friends and acquaintances in his electronic questionnaires for investigations processing (e-QIP) who are South Korean citizens and residents, he has not spoken to any of these listed persons in several years and does not consider them to be close to him in any way. (Tr. 59-60) He has not seen any of these former acquaintances since he immigrated to the United States in 2007. (Tr. 60-61)

None of Applicant's family members in South Korea have any known knowledge of what kind of work he does. (Tr. 23-24, 64-65, 68) And, none of his family members and acquaintances residing in South Korea have any reported associations or ties to the South Korea government or military. (GE 1; Tr. 64-65)

### **Financial assets**

Applicant and his wife have no property or financial interests (inclusive of bank accounts) of their own in South Korea. (Tr. 26) By contrast, they own some real estate in the United States (AE C) and maintain residential leases in their U.S. state of residence. (GEs C and D; Tr. 28) They also maintain their checking accounts with U.S. banking institutions in their U.S. state of residence. (AEs E-F) These documented accounts reveal that they have \$24,000 in one account and \$33,000 in the other account. (AEs E-F) This year Applicant opened a 401(k) retirement account in a U.S. financial institution and currently has close to \$5,000 in the account. (Tr. 68)

Applicant neither provides nor receives any financial support from his father, siblings, or mother-in-law residing in South Korea and does not have any personal financial dealings with them. Asked whether he intends to return to South Korea in the foreseeable future, Applicant confirmed he has no current intention to return to his birth country. (Tr. 32, 64)

### **Country status of South Korea**

South Korea (officially the Republic of Korea) is a self-governing state with a population of over 46 million people. *See Background Note: Korea, supra.* Its religions are comprised of Christianity (today one of South Korea's largest religions), Buddhism, Shamanism, Confucianism, and Chandogyo. (*id.*) Since its liberation in August 1945, South Korea is described as a republic with powers shared between the president and the legislature, which consists of a unicameral national assembly (*id.*, at 2) Its judiciary consists of a Supreme Court, appellate courts, and a Constitutional court.

The origins of Korea's people are somewhat obscure. See *Background Note: Korea, supra*. Korea was first populated by peoples who migrated to the peninsula from the northwestern regions of Asia. An independent kingdom for much of its long history, Korea was occupied by Japan beginning in 1905 following the Russo-Japanese War. See *Background Note: Korea, supra* and *The World Factbook: South Korea*, the U.S. Intelligence Agency (May 2020).

Following the end of Japanese colonial administration in 1945, migration trends from the South to the North reversed and more Koreans returned to the South from Japan and Manchuria. (*id.*) This reverse migration continued after the Republic of Korea was established in 1948 and during the Korean War (1950-1953). See *Background Note, Korea, supra*, at 8-10, and *The World Factbook: South Korea, supra*. A 1953 armistice split the Peninsula along a demilitarized zone at about the 38<sup>th</sup> parallel. Under Park Chung-hee's leadership of South Korea (1961-1979), South Korea achieved rapid economic growth, with per capita income in the country rising to roughly 17 times the level of North Korea in 1979. See *id.*

In August 1991, South Korea joined the United Nations (UN), along with North Korea, and has been an active participant in most UN specialized agencies and numerous international fora. See *Background Note: Korea, supra*, at 10. South Korea maintains diplomatic relations with more than 170 countries and has a broad network of trading relationships throughout the world. Since normalizing relations with Japan in 1965, the two countries have built a strong bilateral relationship centering on principles of mutually beneficial economic activities. Divergent positions on the process of relinquishing North Korea's weapons system and South Korea's more turbulent politics continue to undermine interstate relations between South and North Korea.

### **U.S.–South Korean Relations**

The United States and Korea's Joseon Dynasty established diplomatic relations under the 1882 Treaty of Peace, Amity, Commerce, and Navigation, and the first U.S. diplomatic envoy arrived in Korea in 1883. See *U.S. Relations with the Republic of South Korea, Bilateral Relations Fact Sheet, supra*. Since their first establishing diplomatic relations, the United States and South Korea have maintained a long and enduring history of friendship and cooperation based on shared values and interests. (*id.*, at 2-3) Working together, the two countries are committed to combating regional and global threats and strengthening their economies. (*id.*) For its part, the United States has maintained Army, Navy, Air Force, and Marine personnel in South Korea in fulfillment of its commitments under the U.S.-Korea Mutual Defense Treaty to help South Korea defend itself against external aggression.

Today, the United States provides no development assistance to South Korea. See *U.S. Relations with the Republic of South Korea, Bilateral Relations Fact Sheet, supra*. While a recipient of U.S. assistance in the years after the Korean War, South Korea is now a development aid donor. Over the past several decades, South Korea has achieved a notably high level of economic growth and is currently the United States'

sixth largest trading partner with a trillion dollar economy. (*id.*, at 4-5) Bilateral relations between the United States and South Korea are marked by large-scale flows of manufactured goods, agricultural products, services, and technology.

South Korea's direct foreign investment in the United States has nearly doubled since 2011 from \$19.7 billion to \$38.8 billion in 2016. (*id.*) This makes South Korea the second largest Asian source of foreign direct investment into the United States. The Korean-United States trade agreement entered into force in March 2012 only underscores the depth of South Korea's trade ties with the United States. (*id.*) Notably, the United States and South Korea reached an agreement in August 2018 on renegotiation of their 2012 trade agreement.

Reinforcing their strong bilateral relations with each other, the United States and South Korea belong to a number of the same international organizations. See *U.S. Relations with the Republic of South Korea, Bilateral Relations Fact Sheet, supra*. Common memberships include the UN, G-20, Organization of Economic Cooperation and development, Asia-Pacific Economic Cooperation Forum, Association of Southeast Asian Nations (ASEAN), the International Monetary Fund (IMF), the World Bank, and the World trade Organization (WTO)

### **South Korean government espionage activities**

Despite South Korea's long history of democratic governance and strong bilateral relations with the United States, South Korea has been involved in government espionage and collection activities against the United States that have resulted in U.S. criminal proceedings See Administrative Notice, South Korea, *supra*, at 2-5.

The U.S. Department of Justice has highlighted numerous instances of South Korean persons and corporations securing proprietary and/or export-controlled information in contravention of U.S. law. Examples include South Korean citizens charged with illegal exportation of military-grade accelerometers to Iran; illegal exportation of carbon fiber and other materials to Iran and China via South Korea; illegal exportation of infrared military technology to South Korea; illegal exportation of technical data to South Korea; and illegal exportation of rocket propulsion systems, engines, and technology to South Korea. See Request for Administrative Notice, South Korea, *supra*; *Summary of Major U.S. Export Enforcement, Economic Espionage, Trade Secret and Embargo-Related Criminal Cases (January 2015 to the Present)*, U.S. Department of Justice (January 2018)

Globally, South Korea remains one of seven countries most actively engaged in foreign collection and industrial espionage against the United States. The United States restricts the export of sensitive, dual-use technologies that can have civilian uses, but also can be used for military purposes or to build weapons of mass destruction. Reports document that South Korea has been the unauthorized recipient of technology controlled under the U.S. control laws, including material that could be used in missile delivery/reentry systems, encryption, software, military truck parts, and night vision cameras. See Request Administrative Notice, South Korea, *supra.*; *Summary of Major*

*U.S. Export Enforcement, Economic Espionage, Trade Secret and Embargo-Related Criminal Cases, supra.*

### **South Korea's human rights record**

Human rights are generally respected by the South Korean government. See *Republic of Korea 2019 Human Rights Report*, U.S. Department of State (March 2020). Although, there have been reports of human rights problems. Identified problems include societal discrimination against women, persons with disabilities and minorities, domestic violence and rape, and corruption. (*id.*) Overall, though, South Korea's human rights record is compatible with generally accepted international norms of state respect for human rights.

### **Character references and awards**

Applicant is highly regarded by his supervisors, colleagues (past and present), and friends who know him. Uniformly, they credit him with honesty, reliability, and trustworthiness. (AE A; Tr. 27) Applicant has received numerous awards from his current employer recognizing his contributions as a network engineer. (AE K)

### **Policies**

By virtue of the jurisprudential principles recognized by the U.S. Supreme Court in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988), "no one has a 'right' to a security clearance." 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." *Id.* at 527. Eligibility for access to classified information may only be granted "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.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The AGs list guidelines to be considered by judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information. These guidelines include conditions that could raise a security concern and may be disqualifying (disqualifying conditions), if any, and all of the conditions that could mitigate security concerns, if any. These guidelines must be considered before deciding whether or not a security clearance should be granted,

continued, or denied. Although, the guidelines do not require judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision.

In addition to the relevant AGs, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in ¶ 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial, commonsense decision based on a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following ¶ 2(a) factors: (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 of the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Viewing the issues raised and evidence as a whole, the following individual guidelines are pertinent herein:

### **Foreign Influence**

*The Concern:* 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.

### **Burdens of Proof**

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. 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 about potential, rather than actual, risk of compromise of classified information.



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. See also Exec. Or. 12968 (Aug. 2, 1995), § 3.1.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4<sup>th</sup> Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). 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). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

### **Analysis**

Applicant and his wife immigrated to the United States in 2007 and became naturalized U.S. citizens in 2018. He has a father, brother and four sisters, and a mother-in-law who are citizens and residents of South Korea. He has no property or financial interests in South Korea.

Key to the Government’s foreign influence concerns are Applicant’s immediate and extended family members who are citizens and residents South Korea. Despite South Korea’s long history of democratic governance and strong bilateral relations the country enjoys with the United States, South Korea has been involved in government espionage and collection activities against the United States that have resulted in U.S. criminal proceedings.

While Applicant’s contacts with his father, siblings and mother-in-law are infrequent, they are longstanding. And, there is a rebuttable presumption that a person with immediate family members in a foreign country has ties of affection for, or obligation to, his or her immediate family members, and this presumption covers in-laws (to include Applicant’s mother-in-law who resides in South Korea). ISCR case No. 07-06030 at 3 (app. Bd. June 19, 2008); ISCR Case No. 05-00939 at 4 (May 15, 2018)(citing ISCR Case No. 01-03120 at 4 (App. Bd. Feb. 20, 2002)

To be sure, the risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, the government ignores the rule of

law including widely accepted civil liberties, a family member is associated with or dependent upon the government, the government is engaged in a counterinsurgency, terrorists cause a substantial amount of death or property damage, or the country is known to conduct intelligence collection operations against the United States. With respect to South Korea, the country is free from risks of potential hostage taking. South Korea's strong bilateral relations with the United States and long history of recognition of democratic principles of governance together help to minimize any risk of pressure or compromise to any of Applicant's family members residing in South Korea.

Still because of South Korea's history of collection activities against the proprietary interests of U.S. corporations and individuals, the Government urges security concerns over risks that Applicant and his family members in South Korea might be subject to exploitation, coercion or duress by civilian or military authorities in the country to access classified information in Applicant's possession or control. Applicant's family ties warrant some application of two of the disqualifying conditions of the foreign influence guideline DC ¶¶ 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" and 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."

True, none of Applicant's family members in South Korea have any history to date of being subjected to any coercion or pressure. These historical antecedents limit the risk of any potential conflict situation. And, while the absence of any past coercive or compromising measures taken by South Korean authorities does not absolve Applicant from any coercive or compromising risks in the future given South Korea's checkered history of collection activities in the United States, the risks of such actions being taken against his himself or family members in South Korea is minimal considering South Korea's bilateral ties with the United States. And, when it comes to risk assessment, South Korea's government relations with the United States are among the most important considerations to be considered when assessing risks associated with an applicant's family ties and property interests in that country. See ISCR Case No. 16-02435 at 3 (May 15, 2018)(citing ISCR Case No. 15-00528 at 3 (App. Bd. March 13, 2017)

Mitigation is available to Applicant under the foreign influence guideline of the AGs. Based on his case-specific circumstances, mitigating condition (MC) ¶ 8(a), "the nature of the relationships with foreign persons, the country in which these persons are located, or the persons or activities of these 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," applies to Applicant's situation.

Considering all the circumstances of this case, the resident status of Applicant's family members in South Korea create no more than remote risks of a conflict situation that could place Applicant in a position that could force him to choose between his personal interests and the security interests of the United States. Given the substantial financial and family ties that Applicant and his wife currently maintain in the United States, any potential conflicts that Applicant could potentially face any of his family members in South Korea promise to be minor and reconcilable with Applicant's sizable family, personal financial stakes in the United States, and demonstrated appreciation of and devotion to U.S. security interests.

Because neither Applicant's relationships with his family members in South Korea are significant, the risks of his having to make personal choices incompatible with U.S. security interests are minimal. Based on the evidence compiled in this record, safe predictions can be made about the future safety of Applicant's family members in South Korea and his ability to protect himself and his spouse against any physical or economic pressures brought to bear on him by South Korean government or military officials.

Other mitigating conditions available to Applicant are ¶¶ 8(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 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." In Applicant's case, he has demonstrated little recent contact with his family members residing in South Korea. And, he has no reported property or financial interests in South Korea. By contrast, he and his wife have considerable property and financial interests in the United States.

In sum, Applicant's connections to his relatives living in South Korea are less significant than his connections to his family members and financial interests in the United States. Applicant's substantial connections to the United States when considered together with his diminished foreign connections with South Korea are sufficient to overcome the foreign influence security concerns under Guideline B.

### **Whole-person assessment**

Whole-person assessment of Applicant's foreign influence risks to ascertain whether they are fully compatible with eligibility requirements for holding a security clearance takes account of the U.S. citizenship of Applicant, his wife and son who are citizens and residents of the United States. Based on the evidence presented, there is no evidence that his relatives or former acquaintances residing in South Korea are government employees or military personnel. While less is known about Applicant's former friends and acquaintances in South Korea, none of his family members residing in South Korea have any known ties or connections to South Korea's government or military.

A Guideline B decision concerning South Korea must also take into consideration the geopolitical situation and dangers of the country. Because of its significant collection

activities in the United States, South Korea must be considered a country that poses some heightened risks despite its long history democratic governance and strong bilateral relationships with the United States. Still, based on the developed record, South Korea remains a trusted ally in the war on terrorism.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude foreign influence security concerns are mitigated. Eligibility for access to classified information is granted.

### **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.d: 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.

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Roger C. Wesley  
Administrative Judge