



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



In the matter of:)	
)	
)	
)	ISCR Case No. 20-00237
)	
Applicant for Security Clearance)	

Appearances

For Government: Carroll J. Connelley, Esq., Department Counsel
For Applicant: *Pro se*

04/29/2021

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant provided financial support for several years to three female resident citizens of the Philippines, whom he met online, initially seeking romance. He has never met them in person, but continues to send \$300 per month each to two of the women. While he regards his support as charity, these foreign ties present a heightened risk of undue foreign influence. Clearance eligibility is denied.

Statement of the Case

On April 29, 2020, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline B, foreign influence, and explaining why it was unable to grant or continue a security clearance for him. The DCSA CAF took the action under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG) effective within the DOD on June 8, 2017.

On May 14, 2020, Applicant responded to the SOR allegations and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). Referral of the case to the Hearing Office was delayed because of the COVID pandemic. On February 17, 2021, Department Counsel indicated that the Government was ready to proceed to a hearing. On March 2, 2021, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the interest of national security to grant or continue a security clearance for Applicant. I received the case assignment and file on March 4, 2021. On March 8, 2021, and again on April 20, 2021, I informed Applicant that DOHA was conducting online video hearings because of ongoing travel restrictions due to the pandemic. Following a successful test of the Defense Collaboration Services (DCS) system, on April 29, 2021, I scheduled a DCS video teleconference hearing for May 20, 2021.

At the hearing, two Government exhibits (GEs 1-2) were admitted without objection. A Government request for administrative notice with extracts of the source documents concerning the Philippines was accepted as a hearing exhibit (HE 1) without objection. Applicant submitted nine exhibits (AEs A-I), which were accepted into the record without any objections, and he testified as reflected in a hearing transcript (Tr.) received on May 27, 2021.

Administrative Notice Request

The Government's October 26, 2020 request for administrative notice was based on seven publications of the U.S. State Department reporting human rights, terrorism and security, travel, and money laundering issues in the Philippines; three publications of the U.S. Justice Department reporting espionage and related criminal activities targeting the United States by the Philippines or Philippine interests; and one publication by the U.S. Defense Department reporting espionage by Americans. Applicant confirmed that he received the Government's request for administrative notice with the source documents.

Pursuant to my obligation to take administrative notice of the most current political conditions in evaluating Guideline B concerns (see ISCR Case No. 05-11292 (App. Bd. Apr. 12, 2007)), I informed the parties that I would take administrative notice of the facts requested by the Government, subject to the relevance and materiality of the source documentation, and whether the facts are substantiated by reliable government sources. I also informed the parties that, after reviewing the source documents, I may take administrative notice of additional facts based on updated positions of the U.S. government. Applicant was offered an opportunity to propose facts for administrative notice, which he declined. The facts administratively noticed are set forth below.

Findings of Fact

The SOR alleges that Applicant provides approximately \$300 per month to two resident citizens of the Philippines (SOR ¶¶ 1.a-1.b) and \$200 a month to another resident citizen of the country (SOR ¶ 1.c). Applicant admitted that he continues to provide financial support for the Philippine women in SOR ¶¶ 1.a and 1.b, whom he met online ten

years ago. He described them as “extremely poor” and indicated that his “targeted humanitarian aid” for them is “just enough for food assistance and minimal shelter so they do not live on the streets.” He stated that if he suspected they were being exploited in an effort to leverage him, he would contact security immediately. He admitted that he had previously provided financial support for a third Philippine woman (SOR ¶ 1.c), whom he met online seven years ago. He has not provided her any financial assistance in over a year, and they no longer communicate.

Applicant’s admissions to having befriended and provided financial support to the three Philippine women are accepted and incorporated in my factual findings. After considering the pleadings, exhibits, and transcript, I make the following additional findings of fact.

Applicant is a 48-year-old senior electrical engineer. He has never married and has no children. A college graduate with a bachelor’s degree in electrical and computer engineering earned in May 1997, he took a hiatus from his career and was unemployed from July 2004 to May 2008 while focusing on attaining a more healthy weight. Applicant has worked for his current employer, a defense contractor, since September 2016. (GE 1.)

On November 10, 2016, Applicant completed a Questionnaire for National Security Positions (SF 86) for security clearance eligibility. In response to an SF 86 inquiry concerning any close or continuing contacts with a foreign national in the last seven years, Applicant listed three women in the Philippines. He also answered affirmatively to an SF 86 inquiry concerning whether he had ever provided financial support for any foreign national. His SF 86 disclosures about these women, including about his contacts with them, and his financial support for them, follow.

Foreign contact #1 (SOR ¶ 1.a)

Applicant met this woman online in a chatroom October 2009 when he was looking for a new relationship. (GE 1; Tr. 32.) Their contacts quickly turned from the chatroom to texts on the phone. (Tr. 33, 40.) She is a single mother and a resident citizen of her native Philippines. As of November 2016, she was selling mostly perfume at a boutique for her employment. Applicant indicated on his SF 86 that he had a romantic interest in her at one time (See also Tr. 46), but their relationship had evolved into “online friends of [a] semi-romantic nature” as of November 2016. (GE 1.) He now asserts that he “was just looking for people to talk with.” (Tr. 33.) He had sent her photos of himself at one time. (Tr. 46.) Applicant indicated on his SF 86 that he was helping her out “periodically due to her poor economic condition” and that he had contact with her by text messaging two or three times a month “to catch up on what’s happening in [their] personal lives.” Applicant estimated on his SF 86 that he had provided her with some financial support on a monthly basis and had given her about \$10,000 total over the years he has known her. (GE 1.) His support for her started early on with \$50 to purchase some food after she lost her employment. By 2012 or 2013, he was sending her \$300 a month, usually in response to

a request for rent money. (Tr. 35, 54.) Previously, she would contact him randomly and ask for money for food. (Tr. 53-55.)

Foreign contact #2 (SOR ¶ 1.b)

Applicant met this resident citizen of the Philippines online in the same chatroom in October 2009 when he was looking for a romantic interest. As with female friend #1, his contacts with female friend #2 went quickly to text messaging. (Tr. 44.) He reported on his SF 86 that his romantic interest in her quickly waned, but he also described their relationship as “online friends of [a] semi-romantic nature.” As with female friend #1, he provided her some photos of himself. (Tr. 46.) They stayed in touch over the years, primarily by electronic means, about a couple times a month. A single mother, she was cleaning houses in her town as of November 2016. Applicant “helped her through some rough times financially with food/medical bills when needed.” (GE 1.) His support started with small amounts but after a few years, it became \$300 a month. (Tr. 46.) Applicant estimated on his SF 86 that he had provided her with some financial support on a monthly basis and had given her about \$6,000 total over the years he has known her. (GE 1.)

Foreign contact #3 (SOR ¶ 1.c)

As of November 2016, Applicant had what he describes as “a romantic interest” in a resident citizen of the Philippines whom he met online through a chatroom in November 2012. (GE 1; Tr. 48-49.) They were in contact almost daily by texting, primarily about food and entertainment. Now age 28, she was unemployed and living with a family friend. By November 2016, he had given her monthly support totaling \$8,000 because she was struggling financially due to her lack of education and her mother’s death. (GE 1.)

Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM) on June 29, 2018, partially about his listed foreign contacts. Applicant reported that he was still in contact by electronic means with the three women in the Philippines; with female friends #1 and #2 weekly and with female friend #3 monthly. He indicated about the foreign female friends that #1 was currently a full-time student; that #2 was cleaning residences under “more of a handshake agreement;” and that #3 was unemployed. He reported sending friends #1 and #2 each \$300 a month for estimated total support of \$15,700 to friend #1 and \$11,700 to friend #2, and \$200 a month to friend #3 for a total of \$11,800 over the years. Applicant related that he had never met these women in person. (GE 2.)

On July 3, 2018, Applicant was contacted telephonically by the OPM investigator about possible foreign influence concerns. Applicant provided the birthdates, birthplaces, and current addresses in the Philippines for the three women. (GE 2; Tr. 34.) The addresses for female friends #2 and #3 were in cities in Mindanao, but not those reported by the U.S. State Department as being at highest risk for terrorist activity. He denied he could be blackmailed because his relationships with them are discrete, and because the assistance he provides them is for food, shelter, and basic necessities to make their lives easier. He views his support as aiding the less fortunate and explained that he is

continuing a tradition of helping others that was started by his grandmother. Applicant related that none of the foreign women know his income or anything about his employment other than that he works with computers. He admitted that no one is aware of his contacts with these Philippine women because he texts the women on his private phone. (GE 2.)

Applicant did not cease his communication with or support for the Philippine women after he started working for the defense contractor because he did not think it appropriate to do so. He testified that he has not witnessed any inconsistencies in his contacts with them over the years. (Tr. 30.) He has continued to provide both of the Philippine female friends #1 and #2 \$300 each month in financial support. (Tr. 57-58.) He transfers the funds through a website that uses banks as payout locations in the Philippines. (Tr. 35-36, 46, 48.) He has tried to ensure that the money he sent over the years was used for housing, food, and other items, such as a rice cooker, and he asked for and was sent some photographs and receipts of some of the items purchased. (AE I; Tr. 29-30, 37-38.) He helped female friend #1 with her education by providing some money for class materials and some placement test fees. (Tr. 42-43.) Apparently, she completed her degree and was then able to find employment, but only for a month or two before the pandemic hit and she lost her job. (Tr. 62-63.) Some of the financial support for female friend #2 went to medical care for her and dental care for her daughter. (AE I.) There have been occasions when the Philippine women have asked him for money to purchase something but there was a limit on how much he was willing to give. (Tr. 55.)

Applicant communicates with Philippine female friend #1 weekly, usually about her situation and the weather. (Tr. 33, 46.) She is not employed currently. She had a job doing secretarial work for a small company and took some college courses before she lost her job in the pandemic and moved with her son near her parents in a small house in the mountains. (AE I; Tr. 36-37.) She does not pay rent but is billed for electricity and water, which together costs her \$50 to \$100 a month. Applicant understands that her small home is "gifted by the town." (Tr. 38.) Several years ago, female friend #1 asked him for money to purchase "a motorcycle or something or a bike to get around," and he refused her. (Tr. 55-56.)

Applicant communicates with Philippine female friend #2 weekly. (Tr. 45.) She has a daughter who lives with her. (AE I; Tr. 46.) Due to the pandemic, female friend #2 is not currently employed. She has not completed high school and has found her job prospects limited to cleaning or laundry duties. Her rent costs her "roughly \$100" per month. (Tr. 47-48.)

Applicant has not had any communication with, or provided any money to, the Philippine woman #3 since sometime in 2019. (AE B; Tr. 51-52.) She is romantically involved with someone else. (AE B.) Applicant took that as her needs were being met, and she no longer needed his assistance. (Tr. 52.)

Applicant has not tried to provide any financial support for the women through a charitable organization for the following reasons:

I wasn't aware of any that I trusted. Charities, I don't, it's hit or miss on how effective specific charities are, [and] they tend to capture all of the proceeds for their own management. And so, there's very few charities that I would trust. . . Especially in that area of the world, you know, [it's] more likely that they would embezzle or, you know, to capture [those] proceeds themselves. (Tr. 41.)

Applicant cannot recall any specific instance where he has told anyone about his financial support for the Philippine women, although he had perhaps mentioned it to a co-worker who runs a charity in the United States. He asked his friend how he deals with donations, but it wasn't applicable to the Philippines. (Tr. 58-59.) Applicant testified that the \$600 in monthly financial support is "not that great of a burden" for him. (Tr. 63.) He has mentioned to both of them that he would like them to become more self-sufficient. (Tr. 64.) He has not proposed a cut-off date for his financial support. If able, he intends to continue to provide the financial support for female friends #1 and #2 for the foreseeable future. (Tr. 65.)

Applicant testified that he would report any suspicious activity immediately. (Tr. 67.) Because of the difficulties living in the Philippines, he has advised his female friends there to stay off the streets and only go to the market when it is necessary. To the extent that there is a security risk because of his foreign contacts in the Philippines, he considers them mitigated in part because of the security protocols at his workplace. He understands that travel to the Philippines is ill-advised and has no plans to travel there. (AE H.)

Work Performance

Applicant held an interim security clearance from March 2017 until it was withdrawn because of the April 2020 SOR. (Tr. 31.) During that time, he worked on a few classified programs but his work did not routinely require classified access. (Tr. 28.) He had to decline an April 2021 request for subject matter expert support at a facility located in another part of the United States because he does not currently hold a clearance. (AE G; Tr. 28-29.) He estimates that only about 10 to 20 percent of his work would require classified access. (Tr. 32.)

Applicant's performance evaluations for 2017 through 2019 show that he has been a highly effective contributor since he started his employment. He is a subject matter expert in boundary scan tests. Dedicated and detailed in his work, he has become a valuable member of the organization. He has been eager to learn and willing to help his teammates. (AEs D-F.)

Administrative Notice

Administrative notice is not taken of the source documents in their entirety, but of specific facts properly noticed and relevant and material to the issues. After reviewing the source documents relied on by the Government, I have taken administrative notice of the facts set forth in the Government's October 26, 2020 request and incorporate them by

reference in this decision, as updated and supplemented by more recent State Department reports. For additional background investigation regarding the Philippines relationship with the United States, I reviewed the U.S. State Department's website, including its *Bilateral Relations Fact Sheet*, issued for the Philippines on January 21, 2020. Of note, some of the source documentation relied on by the Government has been updated. On March 30, 2021, the State Department issued its *2020 Country Reports on Human Rights Practices: Philippines*, and on April 20, 2021, the State Department issued a *Philippines Travel Advisory*. On April 7, 2021, the State Department commented in a press briefing about recent moves by the People's Republic of China (PRC) in the South China Sea and their impact on the Philippine-U.S. relationship. Salient facts about the Philippines include the following.

The Philippines is a multiparty, constitutional republic with a bicameral legislature. Midterm elections in May 2019 were generally seen as free and fair. U.S.-Philippine relations are based on strong historical and cultural links and a shared commitment to democracy and human rights. The U.S. has designated the Philippines as a major Non-NATO ally, and there are close and abiding security ties between the two nations. The Manila Declaration signed in 2011 reaffirmed the 1951 U.S.-Philippines Mutual Defense Treaty as the foundation for a robust, balanced, and responsive security partnership. The U.S.-Philippine Bilateral Strategic Dialogue advances discussion and cooperation on bilateral, regional, and global issues. The United States has provided considerable assistance to the Philippines toward the goals of strengthening democratic governance and supporting Philippine government efforts to promote inclusive development and contribute to security and development cooperation in the Indo-Pacific. There are an estimated four million U.S. citizens of Philippine ancestry in the U.S., and more than 220,000 U.S. citizens in the Philippines, including a large presence of U.S. veterans.

The United States continues to provide disaster relief and recovery to the Philippines. The two countries have a strong trade and investment relationship, and are members of many of the same international organizations, including the United Nations. In response to the PRC recently amassing militia in the South China Sea, the U.S. shares the concerns of its Philippine ally. On April 7, 2021, the United States reiterated its strong support for the Philippines. The Biden Administration would consider any armed attack against the Philippines as a trigger for the U.S.' obligations under the U.S.-Philippines Mutual Defense Treaty.

Since the 1980s, several individuals or entities, including some American citizens of Philippine birth, have engaged in criminal espionage of classified information or sensitive technologies (economic espionage) to the Philippines. An intelligence analyst with the Federal Bureau of Investigation was convicted in 2006 of conspiracy to transmit national defense information, transmission of national defense information, unlawful retention of national defense information, and unauthorized use of a computer, for unlawfully obtaining and passing classified documents and information to Philippine government officials starting in August 2000. He had been recruited, and he committed the crimes out of a sense of loyalty to his native Philippines. More recent illegal activity involved the unlawful export of firearms, including some high powered military-grade

weapons and assault weapon components, to the Philippines. There is no report in the record of any economic espionage activity involving the Philippines since October 2013.

For more than a decade, terrorists, insurgents, and criminal actors carried out major attacks against civilians, primarily in southern Mindanao and the islands of Basilan and Sulu. In 2019, the Philippines was one of the top ten countries with the most terrorist incidents and casualties. Since January 2019, there have been multiple bombings in Mindanao resulting in injuries and deaths, including dual suicide bombings on August 24, 2020. In March 2020, the State Department's Bureau of Diplomatic Security assessed Manila as being at medium threat for crime and a high threat for terrorism directed at or affecting official U.S. interests. Terrorist groups, such as the New People's Army (NPA), the Abu Sayyaf Group (ASG), and Jemaah Islamiyah (JI), and elements within the two main insurgent groups, the Moro National Liberation Front (MNLF) and the Moro Islamic Liberation Front (MILF), continued to pose a security threat. On April 24, 2021, the United States raised the threat level for travel to the Philippines from Level 3 to Level 4-do not travel, due to COVID-19. The travel advisory for the Sulu Archipelago and to Marawi City in Mindanao remained at Level 4 due to crime, terrorism, civil unrest, and kidnapping in the Archipelago and terrorism and civil unrest in Marawi City. Terrorists and armed groups continue to conduct kidnappings on land and at sea for ransom, bombings, and other attacks targeting U.S. citizens, foreigners, civilians, local government institutions, and security forces in the Archipelago. Conflicts between remnants of terrorist groups and Philippine security forces in Marawi present a risk of death or injury to civilians. The State Department also advises that travel be reconsidered to other parts of Mindanao, where the Philippine government maintains a state of emergency and greater police presence due to kidnappings, bombings, and other attacks by terrorist and armed groups.

The State Department designated the Philippines as a major money-laundering jurisdiction in 2019. Insurgents operating in the country derive funding from kidnapping for ransom and narcotics and arms trafficking. The Philippine National Police, which maintains internal security in most of the country, shares responsibility for counterterrorism and counterinsurgency operations with the Armed Forces of the Philippines. The Armed Forces has some domestic security functions in regions of high conflict, such as Mindanao. There were numerous reports that government security agencies and their informal allies committed arbitrary or unlawful killings in 2020 in connection with the government-directed campaign against illegal drugs. Killings of activists, judicial officials, local government leaders, and journalists by government allies, antigovernment insurgents, and unknown assailants continued in 2020. Police impunity for killings was widely suspected. Other significant human rights issues in 2020 included reported forced disappearance by and on behalf of the government and non-state actors; harsh and life-threatening prison conditions; arbitrary detention by the government; prosecutions of journalists and censorship; and corruption. The police investigated a limited number of complaints of human rights abuses. Slow judicial processes remained an obstacle to bringing to justice government officials alleged to have committed human rights abuses.

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has 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). When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant’s eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), 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 decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

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. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that 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. Section 7 of EO 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline B: Foreign Influence

The security concern relating to the guideline for foreign influence is articulated 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 that is 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.

Applicant has had regular contact by text messaging, for the most part weekly, with two single mothers in the Philippines since October 2009. He met them online seeking a romantic relationship. He has provided them financial support, initially on a random basis, but since about 2012 at \$300 per month each. He estimated in July 2018 that he had sent about \$15,700 to female friend #1 and \$11,700 to female friend #2. He admitted at his hearing that he has continued to support them at \$300 each per month. Based on that admission, he has provided another \$10,200 to each of the foreign women since July 2018. Additionally, he provided financial support totaling \$11,800 to female friend #3 between November 2012 and July 2018. He continued to give her \$200 a month until sometime in 2019, when he ceased contact with her after she became romantically involved with someone else. Since October 2009, he has provided financial support in excess of \$60,000 to female resident citizens of the Philippines whom he has never met in person.

Contacts and connections to foreign citizens can present a heightened risk under AG ¶ 7(a) or create a potential conflict of interest under AG ¶ 7(b). Those disqualifying conditions provide:

(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

(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.

Not every foreign contact or tie presents the heightened risk under AG ¶ 7(a). The “heightened risk” denotes a risk greater than the normal risk inherent in having a friend living under a foreign government. The nature and strength of the friendship ties or other foreign interests and the country involved (*i.e.*, the nature of its government, its relationship with the United States, and its human rights record) are relevant in assessing whether there is a likelihood of vulnerability 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 on, the foreign government; or the country is known to conduct intelligence operations against the United States. In considering the nature of the foreign government, the administrative judge must take into account any terrorist activity in the country at issue. See *generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006).

The Philippines and the United States have a positive relationship based on strong historical and cultural links and a commitment to democracy and human rights. In April 2021, the United States reiterated its strong support for the Philippines and its commitment to its obligations under the U.S.-Philippines Mutual Defense Treaty. Yet, Guideline B concerns are not limited to countries hostile to the United States. The Appeal Board has long held that “[t]he 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.” See ISCR Case No. 02-11570 (App. Bd. May 19, 2004). Some individuals with Philippine ties have been implicated in espionage of classified or economic information, although recent illegal activity has largely involved arms trading. There is no indication that the women are involved in any illicit or terrorist activities. However, terrorism and kidnapping for ransom are persistent problems in the Philippines. The State Department advises that travel be reconsidered to Mindanao, where the Philippine government maintains a state of emergency and greater police presence due to kidnappings, bombings, and other attacks by terrorist and armed groups.

Applicant continues to have weekly contact by text messaging with female friends #1 and #2, and he provides them each \$300 a month in financial support. Although he testified that he wants them to become more self-sufficient, he intends to provide this support for the foreseeable future. Applicant admitted that he has had a semi-romantic interest in the women. His relationships with these women go beyond a general desire in providing aid to the less fortunate. There is a theoretical risk of pressure or coercion that could be applied against him through these Philippine women that no longer applies with respect to female friend #3, with whom Applicant has had no contact since sometime in 2019. AGs ¶¶ 7(a) and 7(b) apply because of his ongoing ties and contacts with female friends #1 and #2.

AG ¶ 7(f) is triggered when security concerns arise from “substantial business, financial, or property interests in a foreign country, or in any foreign owned or foreign-operated business that could subject the individual to a heightened risk of foreign influence or exploitation or personal conflict of interest.” Applicant does not have any financial interest of his own in the Philippines that would implicate AG ¶ 7(f). His financial support for the two women in the Philippines is a reflection of the concern he has for the foreign women and is not a source of potential risk or conflict independent of his relationship with them. He testified that the \$600 a month he currently provides does not cause him any financial stress. Under the circumstances, I find AG ¶ 7(f) does not apply.

Application of the aforesaid disqualifying conditions AG ¶¶ 7(a) and 7(b) triggers review of possibly mitigating conditions under AG ¶ 8. The following could have some application based on the facts in this case:

(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.

Regarding AG ¶ 8(a), what is known about the positions or activities of female Philippine friends #1 and #2 is that they are currently unemployed. Female friend #1 finished some college classes and briefly held a job doing secretarial work before the pandemic. Friend #2 did not graduate from high school, and she worked cleaning houses before the pandemic. Other than friend #1 currently receiving her housing rent-free from her municipality, there is no evidence that either woman depends on a government entity in the Philippines. Both appear to rely on Applicant for their support. As for the country involved, the United States and Philippines have a good relationship. However, human rights issues and the risk of terrorism in the Philippines preclude full mitigation under AG ¶ 8(a).

The first component of AG ¶ 8(b) is not established. Applicant has no sense of loyalty, obligation, or allegiance to the Philippines or its government. He has never traveled to the Philippines and has no present intention to do so. However, it cannot reasonably be concluded that his sense of obligation to female friends #1 and #2 is so minimal to make it unlikely that he will be placed in a position of having to choose between their interests and those of the United States. Over the last 11½ years, he has given approximately \$25,900 to friend #1 and \$21,900 to friend #2. Applicant has a case for

some mitigation under the second prong of AG ¶ 8(b), “the individual has such deep and longstanding relationships and loyalties in the United States, that [he] can be expected to resolve any conflict of interest in favor of the U.S. interest.” Applicant is a life-long resident citizen of the United States. He was educated in the United States and has worked for companies in his area. His only ties to the Philippines are these female friends. Nonetheless, issues of vulnerability to undue foreign influence persist because of the longevity (over a decade) of these foreign ties; the semi-romantic nature of these relationships; and his willingness to continue his financial support for these foreign citizens despite knowing that it raises security issues for the DOD. Applicant has been forthcoming about his foreign contacts with the DOD, but he has not taken any steps to inform anyone else. He testified that he thought it sufficient to report those contacts on his SF 86, but his failure to inform his family and friends about such longstanding foreign ties increases his vulnerability to undue foreign influence rather than mitigates it.

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 his conduct and all relevant circumstances in light of the nine adjudicative process factors listed at AG ¶ 2(d). Those factors are as follows:

- (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.

In foreign influence cases, it must be acknowledged that people act in unpredictable ways when faced with choices that could be important to a foreign family member or friend. As stated by the DOHA Appeal Board in ISCR Case No. 08-10025 (App. Bd. Nov. 3, 2009), “Application of the guidelines is not a comment on an applicant’s patriotism but merely an acknowledgment that people may act in unpredictable ways when faced with choices that could be important to a loved-one, such as a family member.” Moreover, in evaluating Guideline B concerns, the Appeal Board has held that:

Evidence of good character and personal integrity is relevant and material under the whole person concept. However, a finding that an applicant possesses good character and integrity does not preclude the government from considering whether the applicant’s facts and circumstances still pose a security risk. Stated otherwise, the government need not prove that an applicant is a bad person before it can deny or revoke access to classified information. Even good people can pose a security risk because of facts

and circumstances not under their control. See ISCR Case No. 01-26893 (App. Bd. Oct. 16, 2002).

Applicant chooses to continue to provide “targeted” financial assistance rather than establish some distance in his relationships with these foreign women by helping them indirectly through a charitable non-governmental organization. He testified that if placed in the untenable position of having to choose between the interests of the United States and the interests of his female friends in the Philippines, he would choose the United States. Even so, the Government need not wait to see what Applicant would do in such a situation. The Appeal Board has repeatedly held that the government need not wait until an applicant mishandles or fails to safeguard classified information before denying or revoking security clearance eligibility. See, e.g., ISCR Case No. 08-09918 (App. Bd. Oct. 29, 2009), (citing *Adams v. Laird*, 420 F 2d 230, 238-239 (D.C. Cir. 1969)). It is well settled that once a concern arises regarding an applicant’s security clearance eligibility, there is a strong presumption against the grant or renewal of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990). After applying the disqualifying and mitigating conditions to the evidence presented, I conclude that it is not clearly consistent with the national interest to grant or continue security clearance eligibility for Applicant at this time.

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:	AGAINST APPLICANT
Subparagraphs 1.a-1.b:	Against Applicant
Subparagraph 1.c:	For Applicant

Conclusion

In light of all of the circumstances, it is not clearly consistent with the national interest to continue Applicant’s eligibility for a security clearance. Eligibility for access to classified information is denied.

Elizabeth M. Matchinski
Administrative Judge