



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
) ISCR Case No. 20-01660
)
Applicant for Security Clearance)

Appearances

For Government: Ryan L. Farrell, Esq., Department Counsel
For Applicant: *Pro se*
08/04/2022

Decision

MASON, Paul J., Administrative Judge:

Based on a review of the record, including the testimony and exhibits, Applicant’s evidence mitigates the security concerns raised by the guidelines for foreign influence and outside activities. Eligibility for access to classified or sensitive information is granted.

Statement of the Case

On October 8, 2017, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to obtain security clearance required for a position with a defense contractor. On June 22, 2020, he provided sworn interrogatory responses to questions provided by a Department Counsel from DOHA concerning his relatives and contacts in South Korea and the United States. (GE 2) Attached to the exhibit are three personal subject interviews (PSIs) that Applicant had with an investigator from the Office of Personnel Management (OPM) on April 13, June 14, and June 20, 2018. After reviewing the results of a background security investigation, the Department of Defense (DOD) Defense Counterintelligence and Security Agency (DSCA) could not make the affirmative findings required to issue a security clearance. On February 5, 2021, DSCA issued a Statement of Reasons (SOR) to Applicant

detailing 20 security concerns (SOR 1.a through 1.t) under foreign influence (Guideline B). The SOR also alleges under foreign preference (Guideline C) that Applicant will receive an annual retirement annuity when he retires. (SOR 2.a) The SOR also alleges under paragraph 3 that Applicant's outside activities or employment (Guideline L) raise security concerns and posing a conflict of interest compromising security responsibilities and classified or sensitive information. (SOR 3.a) The action was taken under Executive Order (E.O.) 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 Security Executive Agent Directive 4, establishing *National Security Adjudicative Guidelines for Determining Eligibility for access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), made effective in the DOD on June 8, 2017. Applicant provided his answer to the SOR on February 19, 2021.

On an unidentified date, the Government filed an amendment to the SOR, seeking to move allegation 2.a verbatim from the foreign preference guideline (C) to the foreign influence guideline (B) and relabeling it as SOR 1.u. In the second amendment, the Government seeks to move allegation 3.a verbatim from the outside activities guideline (L) to the foreign influence guideline (B) and relabel it as SOR 1.v. In the third amendment, the Government moves to withdraw paragraph 2 (foreign preference, guideline C), and renumber paragraph 3 as paragraph 2. On May 15, 2021, Applicant denied the three amendments, and provided amended answers to his original February 2021 answers to the original SOR, including answers and explanations to the SOR 1.u and 1v allegations.

On February 16, 2022, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing to Applicant scheduling the hearing on March 11, 2022. The Government's two exhibits (GE 1 and 2) and Applicant's five exhibits (AE C through G) were admitted into evidence without objection. AR C through G been remarked because Applicant never sought to enter his wife's character reference, which he identified in his exhibit list as "pending," into evidence. DOHA received the transcript on March 21, 2022.

Rulings on Procedure

On April 7, 2021, Department Counsel requested that I take administrative notice of facts relating to the Republic of South Korea. These facts and underlying source material have been marked as Hearing Exhibit (HE) 1. On March 9, 2022, Department Counsel filed an updated Request for Administrative Notice to replace the one filed on April 7, 2021. (HE 2) Applicant requested on March 10, 2022 that I take administrative notice of facts contained in HE A and HE B. The facts administratively noticed are limited to matters of general knowledge and not subject to reasonable dispute. I granted the requests of both parties. I shall take administrative notice of HE 2, AE A and B.

Findings of Fact

The SOR alleges that: Applicant's immediate family relatives are citizens and residents of South Korea (SOR 1.a through 1.c); Applicant's extended family members are residents and citizens of South Korea (SOR 1.d); Applicant assisted his cousin, a citizen of South Korea, with his business matters (SOR 1.e); and 14 persons (SOR 1.f through 1.t), citizens (**not residents**) of South Korea, are Applicant's friends holding positions in the South Korean government or government-affiliated organizations. (emphasis added)

In his February 19, 2021 answer to the February 5, 2021 SOR, Applicant admitted SOR 1.a through 1.o, 1.q, and 1.t. He denied SOR 1.p, 1.r, and 1.s.

In his May 2021 amended answer to the undated amended SOR, Applicant changed several of his original answers. He admitted SOR 1.a, 1.b, 1.d, and 1.e. However, unlike his February 2021 answer, he denied SOR 1.c (brothers-in-law and sister-in-law), stating that "several sisters-in-law have either passed away or are citizens or residents of the United States." Though admitting 1.f through 1.s, and 1.q, he objected to the terminology in each of the allegations describing these persons as "friends" in the February 2021 SOR. He denied SOR 1.p, 1.r, and 1.s. Unlike his February 2021 answer to SOR 1.t, he denied SOR 1.t in his May 2021 amended answer, claiming that the account is in his name and confirming (without supporting documentation) there is less than \$300 in that account. He noted that "we do not have any substantial interests in Korea, or in any foreign business..." (May 2021 answer to the SOR)

In his May 2021 amended answer, Applicant denied SOR 1.u, explaining his rights to the annuity and indicating the retirement contributions are too small to create a conflict of interest. In his response to SOR 1.v, Applicant emphasized that he never provided any services for any foreign government. In working for previous law firms, he provided legal services for firm clients located in foreign countries, and not foreign countries. He no longer works for these firms. In examining the record in this case, I observed Applicant's demeanor as I listened to his testimony. I found his testimony to be generally credible. The discrepancies between his testimony and the information that he provided on the same person during the background investigation are reduced in significance by the volume and short relationship of most of the contacts (more than 50) that Applicant reported in his October 2017 security clearance application and his interrogatory answers in June 2020. See GE 1 and GE 2.

In 1972, Applicant was born in the United States to Korean parents who are naturalized U.S. citizens, and who have lived in this country for 40 years. He does not regard himself as a dual citizen of another country. He has a U.S. passport and has never been issued a passport by another country; his wife has a South Korean passport, but as a homemaker she does not travel. He received his bachelor's degree in 1994 and his juris doctor's degree in 1997. He passed two bars in two states and has been a practicing attorney for at least 22 years. He married his wife in June 1999. His

21-year-old daughter was born in the United States. His 19-year-old son was born in South Korea, but is a naturalized U.S. citizen. Applicant's family lives in a home that he purchased in 2007. (GE 1 at 5-10, 18-23 133; Tr. 16, 35-36; February 2021 answer to SOR)

Applicant has practiced law as a sole practitioner since 2014. From August 2009 to December 2013, he was an attorney working for a U.S. law firm. From June 2001 to June 2006 he lived and taught courses in South Korea. From July 2006 to May 2008, and May 2009 to December 2013, he conducted remote lectures from the United States while a member of a U.S. law firm. Applicant has never been investigated or possessed a security clearance. The reason why he is seeking eligibility is that he wants to spend less time traveling and transition to a new job in information technology (IT) that contributes to the stability of the United States in some fashion. His sponsor is a defense contractor dedicated to research and information systems. (GE 1 at 11-15, 133-134; GE 2 at 6-9; Tr. 37-38, 72-74)

SOR 1.a – Applicant's wife was born in South Korea in 1972. She is still registered as a permanent resident of the United States because she is fearful of taking the naturalization test. In 1999, she married Applicant in the United States. She became a permanent resident of this country in 2000 and began living with Applicant and working as a computer art designer in the same year. Next, she found a job as a rater for a social media company. She discontinued employment in the early 2000s to devote complete attention to raising their two children. Applicant's wife intends to remain in the United States. (GE 1 at 18-20; Tr. 41-43)

SOR 1.b – Applicant's mother-in-law is 86 years old and a citizen and resident of South Korea. His father-in-law passed away in 2013. The mother-in-law is 86 years old and lives in an assisted living facility which Applicant's wife's oldest brother pays for. Neither Applicant nor his wife provide financial assistance to his mother-in-law. She is retired from employment at a Korean publishing company. Applicant has not spoken with her for three or four years. His wife's last communication with her was during the winter holidays in 2021, and was sporadic before that time because her mother had her cell phone confiscated. Applicant's wife has visited her mother twice since 2005. The mother-in-law has no affiliation with a foreign government or military. (GE 1 at 25-28; Tr. 44-47)

SOR 1.c – Applicant admitted the allegation in his February 2021 answer to the SOR, but he provided little information about his three brothers-in-law, and two sisters-in-law. He stated only that he had not communicated with most of them for a long time. In his May 2021 answer, he denied the allegation, claiming that several sisters-in-law had died or become U.S. citizens. He did not identify the sisters-in-law who had died, and those who were still living.

Applicant's oldest brother-in-law is a citizen and resident of South Korea. He is 65 years old and chief operating officer (CEO) of a South Korean company. He is not affiliated with any foreign government or military. He pays the costs of the assisted living

facility of his mother. (SOR 1.b) His wife is 60 years old and also a resident citizen of South Korea. The record does not reveal her occupation. Applicant has quarterly contact with these persons by phone and in person. As noted above, he provided negligible additional information about two of his other two brothers-in-law and two sisters-in-law. He indicated he has no contact with them because they are not fluent in the English language and they generally do not correspond. (GE 1 at 30-33; Tr. 47)

SOR 1.d – Applicant has two cousins who are resident citizens of South Korea. The first cousin is president of an international school of law (SOR 1.e) where Applicant worked from 2001 through 2006. The second cousin (unalleged) is employed at another South Korean law school. Neither cousin is affiliated with any foreign government or military. Except for the two cousins described above, all of Applicant's other aunts, uncles, and cousins on his mother's side live in the United States. Reference D and E, U.S. citizens, are first cousins of Applicant. (GE 1 at 35-38; Tr. 17-18; Applicant's May 2021 answer to the SOR)

Applicant's wife's niece, the daughter of Applicant's oldest brother-in-law, is 34 years old, and a citizen and resident on South Korea. Applicant contacts her when he is visiting the country. There is no information about her occupation or her marital status, but she is not affiliated with a foreign government or military. Applicant's wife's 31-year-old niece is also a citizen and resident of South Korea. She works for a pension fund, but Applicant does not know if she is connected to a foreign government or military. Applicant interacts with them during his visits on special occasions to South Korea. (GE 1 at 32-35) Applicant does not know how many cousins his wife has in South Korea, and is not close with any of them. He was fairly certain that his wife was not close with any of them either. Applicant did not identify any of the cousins. (Tr. 48-49)

SOR 1.e – In his February 2021 answer to the SOR, Applicant admitted that he assisted his cousin (referred to in SOR 1.d above), a resident citizen of South Korea and president of an international school of law, with his business matters. Applicant also taught U.S. law in the English language between 2001 and 2006, and has not provided teaching assistance since then, but was still providing legal advice until October 2017. He contacts his cousin on a quarterly basis, by phone, in person, or social media. (GE 1 at 35-38, 108; Tr. 18, 49-50)

Applicant's other cousin (referenced above in SOR 1.d and unalleged), a resident of South Korea, is a professor employed by a South Korean law school. Applicant has never had any business relationship with this cousin. Their contact with each other occurs when they are visiting each other's country. This cousin has no affiliation with a foreign government or military. (GE 1 at 35-38; Tr. 49-50)

SOR 1.f – In Applicant's February 2021 answer to the SOR, he viewed the former South Korean prosecutor as an acquaintance while in the United States. In his May 2021 answer, Applicant objected to the former prosecutor described as a "friend" in the allegation. They met at Applicant's U.S. church in the same way Applicant met most of the other persons listed in SOR 1.f through 1.s. Applicant's last contact with the

individual was in 2017, five years ago at Applicant's former church. Applicant believes the former prosecutor has returned to South Korea. (Tr. 50-52; Applicant's May 2021 answer to the SOR)

SOR 1.g – Applicant initially met the South Korean citizen employed by the country's communications commission while Applicant was employed at the U.S. law firm (2009-2013). The firm arranged seminars in intellectual property. This person, a resident citizen of South Korea, attended a seminar where the two had contact. Applicant does not know whether the communications commission is a government entity. He has had no contact with this person since 2014. (Tr. 53-57)

SOR 1.h – Applicant's first contact with the South Korean citizen employed by the ministry of finance began in 2010 or 2011 at Applicant's church when the person was temporarily living in the United States for two years. Applicant communicates with this individual whenever he visits South Korea. With their families living two blocks from one another and having their children attend the same schools in their U.S. neighborhood, I find that their relationship was more than at an acquaintance level, even though the close relationship ended in about 2013, when Applicant believes this person returned to South Korea. Applicant's wife has never interacted with the minister of finance. Applicant does not know whether the individual still has the government job. In October 2017, Applicant considered his phone and face-to-face contact with this person as quarterly. (GE 1 at 59; Tr. 55-57)

Applicant has had contact with a second South Korean citizen working as a manager for the South Korean ministry of finance (unalleged). His interaction occurred between 2014 and 2017, when this person returned to South Korea. Applicant has never participated in business ventures with this person. (GE 1 at 69-70; Tr. 56-57)

SOR 1.i – Applicant's relationship with the South Korean citizen employed by the ministry of land, infrastructure, and transportation, lasted about the same length of time as SOR 1.h. Applicant had no further connection to the individual after he returned to South Korea in 2017. (GE 1 at 59-60; Tr. 57-58)

SOR 1.j – In his February 2021 answer that the South Korean citizen was employed by the Korean intellectual office. However, in his May 2021 answer, he claimed without explanation, that the South Korean citizen was an employee in the Korean patent office. Applicant's association with the person identified in SOR 1.j initially began at his U.S. church and occurred in the same manner as his association with the persons described in SOR 1.h and 1.i. He described his contact with this person occurs annually when one visits the other's country. (GE 1 at 67-68; Tr. 58)

SOR 1.k – Applicant met the South Korean citizen, an employee of the Korean ministry of foreign affairs, at his U.S. church in 2012 or 2013. In 2016, this person returned to South Korea. The only occasions of additional contact occur sporadically when Applicant is visiting Korea. Applicant indicated that he had never had financial contact with this individual. (GE 1 at 73-74; Tr. 58-59)

SOR 1.l – Applicant met the South Korean citizen, a reporter working for a Korean daily publication, at his U.S. church in 2010. There has been no further contact with this person since 2011. (GE 1 at 71-72; Tr. 59-60)

SOR. 1.m – In about 2012, a South Korean citizen, a former major general in the country's military, met at the same U.S. church where Applicant met the previous South Koreans, except for the person identified at SOR 1.g. Applicant saw the former major general regularly until the former military person returned to South Korea in approximately 2017. Applicant does not know whether this person worked in a position for the South Korean Embassy. He speculated that this individual was working for a think tank. (GE 1 at 76-77; Tr. 60-62)

SOR 1.n – This individual, a South Korean citizen, served in the Korean Air Force and currently works for the Korean government defense acquisition program. Applicant apparently met him about 2011 in the U.S. church, and the last time he spoke with this person was in 2012, with no communication after this person returned to South Korea in 2017. Based on the number of foreign contacts that Applicant reported in his e-QIP and his June 2020 interrogatory answers, I find Applicant was mistaken about the last time he had contact with this individual. (GE 1 at 82-83; GE 2; Tr. 62)

SOR 1.o – This individual, a citizen of South Korea, worked for the ministry of information and technology. Applicant surmised that he remembered this person from the church, but was not sure. Applicant's recollection of this individual was hazy. (Tr. 62-63)

SOR 1.p – This person, a citizen of South Korea, worked as the South Korean Ambassador to the United States. Applicant met him in 2014 at the U.S. church, but could not recall when this person returned to South Korea. Applicant never had financial dealings or a professional relationship with this person, but knows that he is no longer the Ambassador. (GE 1 at 115; Tr. 63-64; May 2021 answer to SOR)

SOR 1.q – This person, a citizen of South Korea, was employed as a military priest in the country. After meeting at Applicant's U.S. church, the priest conducted religious ceremonies at Applicant's church. Applicant saw him weekly at church between 2014 and 2017, and sees him occasionally during his visits to South Korea. Applicant could not recall whether this person was still in the military. I find that Applicant was mistaken when he testified seeing the priest only once in South Korea. Based on the regularity of contacts in the United States and sporadic interactions in South Korea, I find that Applicant's relationship with the priest was more than simply an acquaintance. (GE 74-76; Tr. 64-65)

SOR 1.r – Friends, citizens of South Korea, work for the South Korean federation of fisheries. In both answers to the SOR, Applicant denied the allegation because his contacts retired from the organization between 2016 and 2018. Applicant explained that he met them through a client who wanted to organize an office in the United States. His contact with them began in February 2017 and ended in September

of the same year. Applicant is unsure what type of office they wanted to establish. Applicant does not believe the fisheries is an agency of the South Korean government, but rather a co-operative. (Tr. 65-67)

SOR 1.s – The allegation reads that Applicant’s South Korean friends, who are citizens of the country, currently work for a Korean trade promotion agency. Applicant denied this allegation. He met these individuals through his church and not through professional interaction. They were not potential clients. Except for SOR 1.q, Applicant’s frequency of contact was minimal during the time these listed individuals lived in the United States. (Tr. 67-68) See *also*, Applicant’s May 2021 answer to SOR 1.s.

SOR 1.t – Applicant opened two or three bank accounts in 2001 to deposit his wages. The only account still open is described in his October 2017 e-QIP. Since he moved back to the United States in 2006, he has maintained no more than \$1,000 in the South Korean account which he uses to pay for transportation in trips around the country. (GE 1 at 101-102; GE 2 at 18; Tr. 68-69)

SOR 1.u – Applicant denied that he will receive an annuity from the South Korea university based on his employment at the university from 2001 to 2006. In his May 2021 answer, he averred that the retirement pension does not show a preference for South Korea over the United States. He pointed out that the future pension was not substantial and would not cause a conflict of interest. Applicant provided more focus about the pension in his testimony asserting his right to the money (less than one percent of his earnings while employed in South Korea) once he retires as a U.S. citizen. (May 2021 answer to the SOR; GE 1 at 20-22; Tr. 24-25, 28-30, 69-71)

SOR 1.v – Applicant denied he served as a consultant, or that he provided legal or intellectual property services for foreign countries, including South Korea and Japan, from 2010 to the present. In his May 2021 answer to the SOR, Applicant stated that while employed at previous law firms, he provided legal services for firm clients based in foreign countries, rather than foreign countries. In 2016, a Korean organization responsible for sponsoring startups through education and training, sponsored an American company not affiliated with the Korean government. The American company hired Applicant to provide lectures in intellectual property law over a six-week period. Ultimately, Applicant was hired by four Korean startup companies to do trademark registration for them, and was paid on a flat fee basis about \$1,000 per company. Without explaining the basis for his conclusion, he determined there was no conflict of interest because none of the startup companies were controlled by the organization providing the training and education for the startup companies or the Korean government. See GE 1 at 109; GE 2 at 18-19. Considering the lack of evidence demonstrating that Applicant performed legal services for a foreign country, I find no potential conflict of interest to Applicant’s potential security responsibilities that would increase the risk of a compromise of classified or sensitive information. Therefore, SOR 1.v is resolved in Applicant’s favor under both the foreign influence and outside activities guidelines.

In addition to his South Korean bank account (Tr. 68), Applicant's family was eligible for medical benefits (unalleged) provided by the Korean health care system based on his South Korean employment between 2001 and 2006. Those medical benefits expired in December 2018. (GE 1 at 103)

Applicant's net U.S. earnings for 2019 and 2020 were about \$200,000. His U.S. financial assets include a home worth about \$1,000,000, with approximately \$320,000 remaining on the mortgage. His U.S. checking and savings accounts total about \$150,000. He has \$80,000 to \$100,000 in his retirement income accounts. He began accruing his bank and retirement accounts in 1999 when he moved to the United States. Applicant and his wife have two cars. Since he ended his teaching job in 2006, Applicant has returned to South Korea about every two years for professional reasons, for conferences and seminars, or to visit family and friends. (GE 1 at 115-130; Tr. 31-40, 45)

Character Evidence

Reference C is an attorney with prior military service, having served the U.S. military for 12 years. Reference C has known Applicant since 2009 and worked with him on legal matters involving Korean clients. As a practicing attorney, Applicant has always complying with professional responsibility rules. Reference C vouches for Applicant's responsible and trustworthy behavior. (AE C)

Reference D, a U.S. citizen by birth, is Applicant's first cousin. They have known one another since early childhood and were roommates in college. Reference D indicated that he and Applicant have six aunts and uncles living in the United States. No additional information was provided identifying their residency status. According to reference D, 18 of the children of the six aunts and uncles are U.S. citizens (cousins) living in the Eastern part of the United States, and most are married. (The description of the 18 cousins implies that there are remaining cousins who are not U.S. citizens, or are living in a foreign country.) Reference D considers Applicant a trustworthy person who demonstrates that he cares about the future of his children. (AE D)

Reference E, Applicant's first cousin and a U.S. citizen, has known him since childhood. Their mothers are sisters who have lived in a city in the eastern part of the United States for approximately 40 years. They attended college together. Reference E lives in the same U.S. county as Applicant and interacts with him at social and sporting events. (AE E)

Reference F, a U.S. citizen and priest of a U.S. church, has known Applicant since 2008 when reference F was the priest of another U.S. church (Church X) where Applicant met most of the individuals identified in SOR 1f. through 1.s. Church X conducts religious services in four different languages.

Church X had Korean members from the Korean Embassy, Korean news organizations, and Korean companies. Generally, these Korean members would cycle

through the local area for two or three years before returning to Korea. As members of Church X, according to the reference F, Applicant and his wife were active in church activities, like hosting prayers and fundraising. Applicant has established no fresh contacts with persons affiliated with the Korean government since he applied for a security clearance. Based on his dependability and integrity, reference F attests to Applicant's security clearance eligibility. (AE F)

Reference G is the director of a federal records agency, with 45 years of U.S. military and civilian service. He has possessed several security clearances in that time. He has known Applicant since 2000. Their wives are sisters. Before reference G received higher level security clearances, his background investigation included scrutiny of his immediate and extended family members, as well as Applicant's immediate and extended family members. Applicant is proud to be a U.S. citizen and his trustworthiness is unwavering. (AE G)

Administrative Notice – Republic of Korea

The Republic of South Korea is a stable constitutional democracy, governed by a president and a unicameral legislature. The country has been close allies with the United States since 1950. Currently, thousands of U.S. service persons are stationed in South Korea, and the two countries have periodically conducted military exercises.

Although South Korea has strong bilateral relations with the United States, the country has been involved in multiple incidents of government espionage and intelligence collection activities that have resulted in U.S criminal proceedings. South Korea is one of the most active countries involved in industrial espionage directed at the United States.

The South Korean Government generally respects human rights and the rule of law. Though persistent problems with discrimination against women, persons with disabilities, and minorities, percolate occasionally, the country's record demonstrates that it values the importance of human rights.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines, which are flexible rules of law, are applied together with common sense and the general factors of 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(d) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security."

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 in seeking a favorable security decision.

Analysis

Foreign Influence

AG ¶ 6 sets forth the security under Guideline B:

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.

Conditions under AG ¶ 7 that could raise a security concern and may be disqualifying include:

(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;

(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;

(e) shared living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion; and

(f) substantial business, financial, or property interests in a foreign country, or in any foreign owned or foreign-operated business that could

subject the individual to a heightened risk of foreign influence or exploitation or personal conflict of interest.

Contacts and ties to family members who are citizens of a foreign country do not automatically disqualify an applicant from security clearance access. The potential for foreign influence depends on the foreign country involved. The form of a country's government, its relationship to the United States, whether it is known to target U.S. citizens for classified or sensitive information, and its human rights record, are relevant factors in gauging the chances that an applicant's foreign family members are vulnerable to foreign influence. South Korea, a constitutional democracy, has been a dependable partner to the United States, although it has committed industrial espionage and intelligence collection activities against this country in the past.

Applicant's mother-in-law, his three brothers-in-law, two sisters-in-law, and extended family members are citizens and residents of South Korea. Fourteen additional contacts identified in SOR 1.f through 1.s are citizens of South Korea. The presence of Applicant's family and extended family members in South Korea creates a heightened risk of foreign influence and coercion and a potential conflict of interest. The heightened risk and conflict of interest is increased by the Korean citizenship of the 14 additional contacts and Applicant's wife, who has been sharing a U.S. residence with Applicant for about 20 years. Their South Korea citizenship also establishes a conflict of interest. AG ¶¶ 7(a), 7(b), and 7(e) apply to the circumstances of this case. Applicant's South Korean bank account, his retirement annuity generated by his employment at the South Korean law school, and his family's eligibility for medical benefits, could intensify the heightened risk of foreign influence under AG ¶ 7(f).

Conditions under AG ¶ 8 that could mitigate security concerns include:

(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;

(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;

(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.

Except for his wife, Applicant's ties to his South Korean family members and contacts are occasional to non-existent. He has not communicated with his mother-in-law for three or four years. Applicant's wife's contact with her mother has been sporadic since 2005. Though the record is silent on the identification of all the in-laws, Applicant has had no contact with them because of the language barrier. His wife has had no contact with any of them either.

From 2001 to 2006, Applicant worked as a professor for his cousin, a citizen and resident of South Korea, at the university law school. It is noted that Applicant's testimonial claim that he performed no additional legal services for his cousin after 2006, is at odds with the information he provided in his security clearance application indicating that the services did not cease until 2017. Based on the minimal level of contact described by Applicant regarding his other relatives in his security clearance application, Applicant's quarterly contacts with his cousin invokes insignificant continuing security concerns under the foreign influence guideline.

Having evaluated all the foreign contacts identified in SOR 1.f through 1.s, including the ten contacts with current or past backgrounds in the South Korean military or government, Applicant met most of the contacts at his U.S. church between 2010 and 2014. Only SOR 1.g and 1.r met Applicant at other venues. All of the contacts returned to South Korea by 2018, and Applicant's contacts thereafter has been few and far between at best.

South Korea, which has a close geopolitical relationship with United States, operates a constitutional government that maintains respect for human rights and the rule of law. It is very unlikely that the country would attempt to exert foreign influence or coercion through one or more of Applicant's family or extended family members, or contacts identified in SOR 1.f through 1.s, to Applicant. Except for the contacts identified at SOR 1.g, who met Applicant at his law firm, and SOR 1.r, who met Applicant through a client, the other 12 contacts met Applicant at his U.S. church. None of the 14 contacts ever had professional or financial relationships with Applicant. Their return to South Korea by 2018, decreased the contact between Applicant and these individuals. While still a citizen of South Korea, Applicant's wife has been a U.S. resident alien and living with Applicant for the past 20 years. In sum, Applicant's current contact with these individuals no longer raises security concerns. Applicant's periodic travel to South Korea raises minimal independent security concerns because the travel has been for legitimate reasons that Applicant documented in his security clearance application. AG ¶ 8(a) and 8(d) apply.

Applicant was born in the United States in 1972 and, except for the teaching job in South Korea between 2001 and 2006, has lived and worked in this country the entire

time. He graduated from an undergraduate university in 1994 and a law school in 1997. He passed the bars in two states and has practiced law for at least 22 years. While still a citizen of South Korea, his wife has been a U.S. resident alien and living with Applicant. He has two adult-aged children. As described by his character references, Applicant's ties and bonds to America are such that he can be expected to resolve any potential conflict of interest in favor of the United States. AG ¶ 8(b) applies.

Applicant's South Korean bank account and his future retirement annuity are proportionally much smaller than his U.S. assets. The large difference in value makes it extremely unlikely that the South Korean bank account and future annuity could be used as a source for coercion or influence. Furthermore, the medical benefit coverage expired in December 2018. AG ¶ 8(f) applies.

Whole-Person Concept

I have examined the evidence under the specific guidelines in the context of the nine general factors of the whole-person concept listed at AG ¶ 2(d):

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

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for access to classified information must be an overall common-sense judgment based upon careful consideration of the guidelines and the whole-person concept.

I have considered Applicant's favorable character evidence that portrays him as a qualified attorney who follows the rules of professional responsibility, and has a reputation for being trustworthy. Considering the evidence as a whole, including Applicant's favorable credibility, I conclude that Applicant has overcome the security concerns arising from the guidelines involving foreign influence and outside activities.

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-1.v:	For Applicant

Paragraph 2, Guideline L:

FOR APPLICANT

Subparagraph 2.a (That information set forth in 1.v): For Applicant

Conclusion

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

Paul J. Mason
Administrative Judge