



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



In the matter of:)	
)	
)	ISCR Case No. 22-01017
)	
Applicant for Security Clearance)	

Appearances

For Government: Nicholas Temple, Esq., Department Counsel
For Applicant: *Pro se*

10/18/2023

Decision

GARCIA, Candace Le'i, Administrative Judge:

Applicant mitigated the foreign influence security concerns. Eligibility for access to classified information is granted.

Statement of the Case

On June 23, 2022, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline B (foreign influence). The action was taken under Executive Order (Exec. Or.) 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 adjudicative guidelines (AG) implemented by DOD on June 8, 2017.

Applicant responded to the SOR (Answer) on August 24, 2022, and requested a hearing before an administrative judge. The case was assigned to me on March 24, 2023. The Defense Office of Hearings and Appeals (DOHA) issued a notice on March 30, 2023, scheduling the matter for a video teleconference hearing on May 2, 2023.

I convened the hearing as scheduled. The Government's administrative notice request was appended to the record as Hearing Exhibit (HE) II. Government Exhibits (GE) 1 and 2 and Applicant Exhibits A through H were admitted in evidence without objection. Applicant testified, and he did not call any witnesses. At his request, I kept the record open until May 16, 2023. By that date, he submitted documentation which I collectively marked as AE I and admitted in evidence without objection. DOHA received the hearing transcript (Tr.) on May 15, 2023.

Request for Administrative Notice

Department Counsel's request that I take administrative notice of certain facts about the Islamic Republic of Pakistan (Pakistan) was included in the record as HE II, as noted above. Applicant did not object. I have taken administrative notice of facts contained in HE II, which are summarized below.

Pakistan

Pakistan is a federal parliamentary republic. It has been engaged in a decades-long armed conflict with militant groups that target government institutions and civilians. Pakistan's military has carried out three coups since Pakistan's independence in 1947, and as of 2022, remained a dominant force in the country's political arena. Its chief external focus was on the perceived threat from India and the implications of the fall of the government in Kabul, but over the past 15 years, the Pakistani military has also increased its role in internal security missions, including counterinsurgency and counterterrorism. The Pakistani military establishment also has a large stake in the country's economic sector; through two large conglomerates, it is involved in a diverse array of commercial activities, including banking, construction of public projects, employment services, energy and power generation, fertilizer, food, housing, real estate, and security services.

The separation in 1947 of British India into the Muslim state of Pakistan, with west and east sections, and largely Hindu India was never satisfactorily resolved, and India and Pakistan fought two wars and a limited conflict, in 1947 to 1948, 1965, and 1999, respectively, over the disputed Kashmir territory. A third war between these countries in 1971, in which India assisted an indigenous movement reacting to the marginalization of Bengalis in Pakistani politics, resulted in east Pakistan becoming the separate nation of Bangladesh.

The U.S. Department of State travel advisory for Pakistan is "Level 3: Reconsider Travel," due to terrorism and sectarian violence. U.S. citizens are advised not to travel to several areas of the country in the Balochistan and Khyber Pakhtunkhwa provinces, including the former federally administered tribal areas, due to terrorism and kidnapping. U.S. citizens are further advised not to travel to the immediate vicinity of the India-Pakistan border due to terrorism and the potential for armed conflict. Though Pakistan's security environment has improved since 2014, the presence of foreign and indigenous terrorist groups poses a danger to U.S. travelers to Pakistan. Terrorists have targeted U.S. diplomats and diplomatic facilities in the past.

Kidnapping remains a concern throughout Pakistan. Extremist groups and criminals have targeted business owners and prominent families to finance terror operations and profit through ransom. U.S. and foreign nationals working for non-government organizations have been targets, and U.S. nationals have been kidnapped in other countries and held in Pakistan. The U.S. Government has limited ability to provide emergency services to U.S. citizens in Pakistan due to the security environment.

Pakistan experienced significant terrorist threats in 2020, with the number of attacks and casualties slightly higher than in 2019. Major terrorist groups that focused on conducting attacks in Pakistan included Tehreek-e-Taliban Pakistan (TTP) and ISIS-Pakistan. In 2020, Pakistan made limited progress on the most difficult aspects of its 2015 national action plan to counter terrorism, specifically in its pledge to dismantle all terrorist organizations without delay or discrimination. Separatist militant groups conducted terrorist attacks against varied targets in Balochistan and Sindh provinces. The U.S. Department of State has assessed Islamabad as being a medium-threat location, and Karachi, Lahore, and Peshawar and being high-threat locations, respectively, for crime directed at or affecting official U.S. Government interests.

Significant human rights issues in Pakistan included credible reports of: unlawful or arbitrary killings, including extrajudicial killings, forced disappearance, torture and cases of cruel, inhuman, or degrading treatment or punishment by the government or its agents; harsh and life-threatening prison conditions; arbitrary detention; political prisoners; politically motivated reprisal against individuals in another country, including killings, kidnappings, or violence; arbitrary or unlawful interference with privacy; support to the Taliban, a non-state armed militant group that recruited and used child soldiers; serious restrictions on free expression and media, including violence against journalists, unjustified arrests and disappearances of journalists, censorship, and criminal defamation laws; serious restrictions on internet freedom including site blocking; substantial interference with the freedom of peaceful assembly and freedom of association, including overly restrictive laws for the operation of nongovernmental organizations and civil society organizations; severe restrictions of religious freedom; restrictions on freedom of movement; serious government corruption; lack of investigation of and accountability for gender-based violence; trafficking in persons; crimes involving violence or threats of violence targeting members of racial and ethnic minorities; crimes involving violence or threats of violence targeting lesbian, gay, bisexual, transgender, queer, or intersex persons; the existence or use of laws criminalizing consensual same-sex sexual conduct between adults; restrictions on workers' freedom of association; and use of the worst forms of child labor.

Findings of Fact

Applicant admitted all the SOR allegations in his Answer. He is 50 years old. He married in 2001, divorced in 2006, and remarried in 2011. He has two children, age 20 from his previous marriage and age 10 from his current marriage, and four adult stepchildren. He was born in Pakistan and earned a bachelor's degree there in 1994. He moved to the United States in 2003, and he earned a master's degree in 2005 and a

doctorate degree in 2010. He became a naturalized U.S. citizen in 2016. He has owned his current home since 2020. (Tr. at 25-26, 29, 31-32, 34, 37-55, 58-60, 67, 90, 92-96, 119-120, 127-128; GE 1-2)

Applicant worked as an engineer for a private company from 2010 until his entire group was laid off in March 2019. He was subsequently unemployed until July 2019, when he worked for a private company as a principal engineer until approximately 2021. He also received an offer of employment from a DOD contractor in July 2019, contingent on obtaining a security clearance. As of the date of the hearing and since approximately 2021, he has worked for another private company. He has never held a security clearance. (Tr. at 7-8, 25-26, 29, 90-93; GE 1-2; AE I)

Before becoming a naturalized U.S. citizen in 2016, Applicant was issued Pakistani passports in 2003 and 2009, which expired in 2008 and 2014, respectively. He was also issued a temporary Pakistani passport in approximately 2008, which expired in 2009. He used his 2003 Pakistani passport to travel to Pakistan in 2005, to attend his siblings' weddings. While in Pakistan, he and his first spouse divorced. He did not use his 2008 or 2009 Pakistani passports to travel. He was issued a U.S. passport in 2016, and it is not scheduled to expire until 2026. He used his U.S. passport to travel to Pakistan in 2021. He renounced his Pakistani citizenship in 2022, as further discussed below. (Tr. at 28-29, 58, 119, 125-126; GE 1-2; AE A, B)

In 1991, Applicant joined the Pakistani military to pursue a college education. The Pakistani military covered the cost of his undergraduate tuition, provided him with a living stipend, and paid him a salary. In return, he was required to fulfill a six-year commitment upon graduation. After obtaining his bachelor's degree in 1994, he completed military training and was commissioned as a captain in 1995. He also unsuccessfully attempted, beginning in 1994 and then every two to three years, to resign from the Pakistani military. In 2003, the Pakistani government awarded him a scholarship to pursue his master's and doctorate degrees in the United States. In return, he was required to work in Pakistan for two years. When he moved to the United States to pursue higher education, the Pakistani military placed him on "five-year study leave" and continued to pay him a salary. (SOR ¶ 1.f; Tr. at 27-29, 31-32, 37-57, 119-125, 134; GE 1-2; AE A, C, D, E)

In 2008, the Pakistani military informed Applicant that he needed to return to Pakistan. He chose to remain in the United States to complete his doctorate degree, and the Pakistani military consequently marked him as overstaying his leave. It ceased communication with him and terminated his military pay. He sent resignation letters to the Pakistani military in 2008, 2010, and 2012, but received no response. In 2021, he returned to Pakistan and paid the Pakistani government \$12,000 USD for the military salary he received while studying in the United States between 2003 and 2008. The Pakistani military consequently accepted his resignation. He also renounced his Pakistani citizenship and received a certificate of renunciation from the Pakistani government in 2022. (Tr. at 27-29, 31-32, 37-57, 119-125, 134; GE 1-2; AE A, C, D, E)

Applicant's spouse was born in Pakistan. They met and married when she immigrated to the United States in 2011. She works as a realtor in the United States. She resides with Applicant and their 10-year-old child, who was born in the United States. Applicant coaches this child's various sports teams. Applicant's stepchildren are dual U.S.-Pakistani citizens residing in the United States; one was born in Pakistan and became a naturalized U.S. citizen, and the remaining three are native-born U.S. citizens. (Tr. at 29, 90, 93, 101-102; GE 1-2)

Applicant's 20-year-old child from his previous marriage is a resident of Pakistan. (SOR ¶ 1.a) This child was born in the United States and is a dual citizen of Pakistan and the United States. When Applicant and his former spouse divorced in 2005, his former spouse was awarded sole custody of this child "per Pakistan, Islamic rulings." Since then, Applicant has paid \$100 USD monthly in child support to his former spouse, through his father. Applicant expects to continue paying child support for this child until this child gets married. During his September 2019 background interview, he indicated that this child was a student in Pakistan, but he could not provide any further information because he did not have any contact with this child. He testified that despite his efforts to stay in touch with this child, his former spouse and relatives made it difficult, and so he eventually ceased contact in approximately 2014. (Tr. at 31, 58-62, 109-118, 126; GE 1-2)

Applicant's mother has been deceased since 2019. His 80-year-old father is a citizen and resident of Pakistan. He was commissioned in the Pakistani military in 1966 and retired as a major in 1992. (SOR ¶ 1.b) He lives with Applicant's two brothers and their families, in a home that was purchased by Applicant's brothers. One or both brothers will inherit this home. Applicant saw his father in Pakistan when he traveled there in 2021. He talks to his father once every two weeks, and he provides his father with \$350 USD monthly in financial support. (Tr. at 27, 29-31, 34-37, 57, 62-66, 68, 99-100, 109-118; 122-123, 125; GE 1-2)

Applicant's two sisters and two brothers are also citizens and residents of Pakistan. (SOR ¶ 1.c) His sisters are housewives. His brothers work for a bank and a hospital, respectively, and both of their spouses are housewives. Applicant met his brothers' spouses when he traveled to Pakistan in 2021. Applicant's one brother-in-law, the spouse of his older sister, works for the Pakistani police. (SOR ¶ 1.e) Applicant testified that he believed this brother-in-law would be retiring from the Pakistani police "in a few months." Applicant's other brother-in-law, the spouse of his younger sister, served as an officer in the Pakistani military (SOR ¶ 1.d). Applicant testified that this brother-in-law retired from the Pakistani military "a couple of years back." (Tr. at 29-31, 35, 64, 66-90; GE 1-2)

Applicant talks to his older sister once every five to six months and on special occasions. He also sees her once every two years, when she visits her son (Applicant's nephew) who lives in the United States, as further discussed below. Applicant talks to his younger sister once yearly and on special occasions. He saw one of his sisters when he traveled to Pakistan in 2021. He last spoke to his older brother in approximately 2020 or 2021, and he speaks to his younger brother on special

occasions. He does not have contact with the husband of his older sister. He met his other brother-in-law in 2005, and then saw him again during his 2021 trip to Pakistan. Applicant testified that “they are my sister’s husband[s] and [we] rarely talk.” (Tr. at 29-31, 35, 64, 66-90, 127; GE 1-2)

Applicant’s mother-in-law, three brothers-in-law, and two sisters-in-law are also citizens and residents of Pakistan. (SOR ¶ 1.c) These are his spouse’s family members. Applicant’s father-in-law has been deceased since 2019. As of the date of the hearing, his mother-in-law was undergoing cancer treatment. He met her for the first time when she visited him and his spouse in the United States in approximately 2014. His spouse talks to her mother weekly, and he talks to his mother-in-law on special occasions through his spouse. He did not know much about his spouse’s siblings in Pakistan and was aware only that one of his spouse’s brothers was a lawyer, and one of his spouse’s sisters was a university teacher pursuing a doctorate degree. His spouse electronically communicates with her sisters, and she infrequently speaks to her brothers. He saw some of these family members during his 2021 trip to Pakistan. He testified that none of his spouse’s family members are affiliated with the Pakistani government or military. (Tr. at 29-31, 35, 64, 66-90, 127; GE 1-2)

Applicant’s nephew, the son of his eldest sister, is a citizen of Pakistan who previously resided in Pakistan. (SOR ¶ 1.c) Applicant testified that this nephew has lived in the United States since approximately 2015. After he obtained his bachelor’s degree in the United States, he has since worked for a private company in the United States. (Tr. at 74-77; GE 1-2)

Applicant stated that none of his family members in Pakistan are aware that he is seeking a security clearance. He stated that he told his father in 2019 simply that he was undergoing a background investigation. His family is aware that he is an engineer. He stated that he would report to the proper authorities if any of his family members in Pakistan were contacted by anyone seeking information about him. (Tr. at 84-86, 131-134)

Applicant maintained contact with three individuals with whom he served in the Pakistani military who reside in Pakistan. (SOR ¶ 1.g) He met these individuals in 1991, when they attended college together in Pakistan. He maintains quarterly to monthly electronic contact with them. He testified, “I have never had any emotional association with any of my school fellows.” (Tr. at 31-32; GE 1)

In 2018 and 2019, Applicant had contact with a representative from the Pakistani embassy. (SOR ¶ 1.h) His initial contact with the representative occurred at a Pakistani-American community and youth convention in the United States. He had subsequent contact with the representative for the purpose of finding academic coordination between the “Pakistani diaspora in academics in the USA and universities in Pakistan,” through his non-profit organization’s alumni activities, as further discussed below. He also had contact with another representative of the Pakistani government in approximately 2018 and 2019. (SOR ¶ 1.i) His contact with this individual occurred at a

community outreach event in the United States with “local Pakistani diasporas.” He has not since had contact with either of these individuals. (Answer; Tr. at 26-27, 32; GE 1-2)

Applicant opened a bank account in Pakistan in 1999, through which he received his pay from the Pakistani military. After the Pakistani military ceased paying him in 2008, this bank account carried a zero balance, and he closed the account in 2009. He and his spouse do not own, and do not have any expectation of inheriting, any property or assets in Pakistan. As previously discussed, Applicant has owned his current home in the United States since 2020. His combined assets in the United States total just under \$1 million USD. He stated, “The USA is my home, the home of my [child] and my wife, and this is where I will be buried. If I must continue fighting to prove that I have only one home, the USA, I will continue fighting.” (Tr. at 30, 32-33, 48, 94-100, 127-131; GE 1-2)

In 2018, Applicant co-founded a non-profit organization in the United States. The organization is dedicated to promoting higher education among talented and needy students, to include individuals who graduated from the same college in Pakistan as he did and who are pursuing higher education in the United States. He has since voluntarily served as one of its directors. He received the President’s Gold Volunteer Service award in recognition of more than 500 hours of volunteer service to the United States in 2022. (Tr. at 26, 29, 91-92, 100-109, 127; GE 1; AE A, F, G, H)

The individual who hired and has served as Applicant’s manager since July 2019 described Applicant as an “asset to any engineering organization,” vouching for Applicant’s valuable technical capability. Applicant’s former director, to whom Applicant reported from 2010 to 2012, also attested to Applicant’s valued technical expertise. A professor, for whom Applicant served as a graduate teaching assistant and graduate research assistant between 2003 and 2010, described Applicant as trustworthy. She noted that he received a graduate award in 2009, and he was recognized as a mechanical engineering excellence teaching fellow in 2010. Applicant has authored and co-authored numerous publications since 2010. He also filed several patents from 2013 to 2015 and was issued one such patent in 2015. (Tr. at 29; AE I)

Policies

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 to be used 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, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge’s overarching 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 access to classified information will be resolved in favor of 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 the 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of Exec. Or. 10865 provides that adverse 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* Exec. Or. 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline B, Foreign Influence

The security concern for foreign influence is set out in AG ¶ 6:

Foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

The guideline notes several conditions that could raise security concerns under AG ¶ 7. The following are potentially applicable in this case:

(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; and

(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.

The nature of a nation's government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, or the country is known to conduct intelligence operations against the United States. In considering the nature of the government, an administrative judge must also consider any terrorist activity in the country at issue. *See generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006) (reversing decision to grant clearance where administrative judge did not consider terrorist activity in area where family members resided). AG ¶ 7(a) requires substantial evidence of a "heightened risk." The "heightened risk" required to raise one of these disqualifying conditions is a relatively low standard. "Heightened risk" denotes a risk greater than the normal risk inherent in having a family member living under a foreign government.

Applicant's nephew, a citizen of Pakistan, has resided in the United States since 2015. He obtained his bachelor's degree in the United States and has since worked for a private company in the United States. In addition, Applicant has not had contact with the Pakistani embassy representative or the other Pakistani government representative since 2019. I find that none of the disqualifying conditions under AG ¶ 7 are applicable to Applicant's nephew, the Pakistani embassy representative, or the other Pakistani government representative, and I therefore find SOR ¶ 1.c in part, and SOR ¶¶ 1.h and 1.i, in Applicant's favor.

Applicant served in the Pakistani military from 1995 to at least 2003, during which time the Pakistani military paid for his college education in Pakistan. He also maintained contact with three individuals with whom he served in the Pakistani military. Applicant's child is a resident of Pakistan, and Applicant's father, two sisters, two brothers, mother-in-law, three brothers-in-law, and two sisters-in-law are Pakistani citizens residing in Pakistan. Applicant's father served in the Pakistani military from 1966 until his retirement in 1992. As of the date of the hearing, Applicant's one brother-

in-law worked for the Pakistani police and Applicant expected that he would be imminently retiring. Applicant's other brother-in-law served in the Pakistani military until his retirement several years ago. Applicant has paid \$100 USD monthly in child support, through his father, to his former spouse for his child in Pakistan since approximately 2005, and he intends to continue to do so until this child marries. Applicant and his spouse maintain regular contact with their family in Pakistan, and he even saw some of them when he traveled to Pakistan in 2021.

Though Pakistan's security environment has improved since 2014, the presence of foreign and indigenous terrorist groups poses a danger to U.S. travelers through Pakistan, and terrorists have targeted U.S. diplomats and diplomatic facilities in the past. Kidnapping remains a concern throughout Pakistan, as extremist groups and criminals have targeted business owners and prominent families to finance terror operations and profit through ransom. U.S. and foreign nationals working for non-government organizations have been targets, and U.S. nationals have been kidnapped in other countries and held in Pakistan. Significant human rights issues remain in Pakistan. AG ¶¶ 7(a), 7(b), and 7(e) are established.

AG ¶ 8 provides conditions that could mitigate security concerns. The following are potentially applicable:

- (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; and
- (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.

Applicant's child is a Pakistani resident, and Applicant's father, siblings, and in-laws are Pakistani citizens residing in Pakistan. Accordingly, AG ¶ 8(a) is not established for the reasons set out in the above discussion of AG ¶¶ 7(a), 7(b), and 7(e). Applicant and his spouse maintain close contact with their family in Pakistan. AG ¶ 8(c) is not established.

Applicant has lived in the United States since 2003. After earning his master's and doctorate degrees in the United States, he has since worked in the United States.

Before he moved to the United States to pursue higher education, he unsuccessfully attempted to resign from the Pakistani military in 1994 and every two to three years thereafter. After the Pakistani military informed him in 2008 that he needed to return to Pakistan, he chose to remain in the United States. He sent resignation letters to the Pakistani military in 2008, 2010, and 2012. In 2021, he paid the Pakistani government the military salary he received while studying in the United States between 2003 and 2008, and he renounced his Pakistani citizenship. I considered the totality of Applicant's ties to Pakistan against his ties to the United States. The concerns over Applicant's ties to Pakistan, through his family there, do not create doubt about Applicant's current reliability, trustworthiness, good judgment, and ability to protect classified information. Applicant has met his burden of demonstrating that he would resolve any conflict of interest in favor of the U.S. interest. AG ¶ 8(b) is established.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors 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 a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I have incorporated my comments under Guideline B in my whole-person analysis. After weighing the disqualifying and mitigating conditions under this guideline and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the foreign influence security concerns. Accordingly, I conclude he has carried his burden of showing that it is clearly consistent with the national interest to grant his eligibility for access to classified information.

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.i:

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's eligibility for a security clearance. Eligibility for access to classified information is granted.

Candace Le'i Garcia
Administrative Judge