



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



In the matter of:	)	
	)	
[Redacted]	)	ISCR Case No. 23-01782
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Troy Nussbaum, Esq., Department Counsel  
For Applicant: *Pro se*

07/18/2024

**Decision**

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guideline B (Foreign Influence) Eligibility for access to classified information is granted.

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on November 2, 2022. On September 29, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) sent him a Statement of Reasons (SOR) alleging security concerns under Guideline B. The DCSA CAS acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016), which became effective on June 8, 2017.

Applicant answered the SOR on November 9, 2023, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on December

21, 2023, and the case was assigned to me on June 7, 2024. On June 13, 2024, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled to be conducted by video teleconference on July 11, 2024. I convened the hearing as scheduled. Government Exhibit (GX) 1 was admitted in evidence without objection. Department Counsel requested that I take administrative notice of relevant facts about the People's Republic of China and Hong Kong. The request and supporting documents were not admitted in evidence but are attached to the record as GX 2 and 3. I took administrative notice as requested. Applicant testified and submitted Applicant's Exhibits (AX) A through G, which were admitted without objection.

On July 16, 2024, I notified Department Counsel of my intention to issue a summarized decision in Applicant's favor. Department Counsel had no objection to a summary decision.

### **Findings of Fact**

In Applicant's answer to the SOR, he admitted the allegations in the SOR. His admissions are incorporated in my findings of fact.

Applicant is a 73-year-old employee of a defense contractor. He was born in the People's Republic of China, fled to Hong Kong, and came to the United States in 1971. He became a U.S. citizen in February 1977. He owned and operated a restaurant until he sold it in 1998. He decided to become better educated and earned an associate degree in December 2001. He was employed by a non-federal business as a test technician from November 2007 to January 2014, when he was hired by a defense contractor in January 2014. He has held a security clearance since May 2014. He was married in Hong Kong in 1978 and has two adult children who are native-born U.S. citizens. He has not visited Hong Kong for over 17 years.

The SOR alleges that Applicant has two stepsisters and three stepbrothers who are citizens and residents of Hong Kong. He admitted this allegation and stated that he has chat room contact with them three to five times a week.

Applicant has earned a reputation for being dependable, trustworthy, and devoted to his work and the community where he resides. At the hearing, he expressed his strong disdain for the governments of China and Hong King and strong devotion to the United States.

The presence of Applicant's stepsisters and stepbrothers in Hong Kong and his contacts with them are sufficient to raise the disqualifying conditions in AG ¶ 7(a) (contacts with foreign family members) and AG 7(b) (potential conflict of interest). However, I conclude that Applicant has presented sufficient evidence to establish AG ¶ 8(b) (deep and longstanding relationships and loyalties in the United States) and mitigate any concerns under Guideline B.

I conclude that Applicant has met his burden of persuasion to show that it is clearly consistent with the national interest to continue his eligibility for access to classified information. Clearance is granted.

LeRoy F. Foreman  
Administrative Judge