



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



In the matter of:)	
)	
)	ISCR Case No. 06-15146
)	
Applicant for Security Clearance)	

Appearances

For Government: Ray T. Blank, Jr., Esq., Department Counsel
For Applicant: *Pro Se*

May 12, 2008

Decision

LOUGHRAN, Edward W., Administrative Judge:

Applicant failed to mitigate the security concerns raised by his foreign influence and personal conduct. Eligibility for access to classified information is denied.

On December 21, 2007, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline B, Foreign Influence and Guideline E, Personal Conduct. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant answered the SOR in writing on January 14, 2008, and requested a hearing before an Administrative Judge. The case was assigned to me on March 3, 2008. DOHA issued a Notice of Hearing on March 14, 2008, and I convened the hearing as scheduled on April 9, 2008. The Government offered Exhibits (GE) 1 through 5,

which were received without objection. Applicant testified on his own behalf but did not submit any documentary evidence. I granted Applicant's request to keep the record open until April 23, 2008, to submit additional matters. Applicant submitted a fax cover sheet and two letters, which were marked AE A through C, and received without objection. Department Counsel's memo is Hearing Exhibit (HE) XVII. The record closed on April 23, 2008. DOHA received the transcript of the hearing (Tr.) on April 18, 2008.

Procedural and Evidentiary Rulings

Request for Administrative Notice

Department Counsel submitted a formal request that I take administrative notice of certain facts relating to Taiwan and Hong Kong. Applicant did not object. The request and the attached documents were not admitted into evidence but were included in the record as HE I through XVI. The facts administratively noticed are set out in the Findings of Fact, below.

Findings of Fact

Applicant is a 60-year-old engineer for a defense contractor. He was born in China. When he was very young, his parents and older siblings escaped to Taiwan. Applicant and his younger sibling remained in China with other relatives. He and his sibling went to live in Taiwan with his parents some years later. After he graduated college and completed his mandatory military service, he left Taiwan and came to the United States to attend graduate school. He obtained a Master of Science degree in computer engineering and a Ph.D. in computer science from an American university. He remained and became a U.S. citizen in 1981.¹

Applicant's wife was born in Taiwan. They have been married for more than 30 years. She also became a U.S. citizen in 1981. They have two adult children, both born in the U.S. His wife's brother is a citizen and resident of Taiwan. He works in production in the media. His wife (Applicant's sister-in-law) does not work. His daughter (Applicant's niece) is a Taiwanese citizen currently living with Applicant and his wife while she attends college.²

Applicant's mother lives in the United States and is a U.S. citizen. His father was a U.S. citizen. He is deceased. Applicant has five siblings. Four are U.S. citizens and residents. He has a sister that is a citizen of the United Kingdom and a resident of Hong Kong. She moved to Hong Kong years before it reverted to the People's Republic of China (PRC) in 1997. Because she was born in China, the PRC considers her a citizen of the PRC. Her husband is also a Hong Kong resident. Applicant believes his brother-in-law has the same citizenship status as his sister, but he is not certain. They used to own and operate a small company that did business on the Chinese mainland. They no

¹ Tr. at 47-50, 83; GE 1, 2.

² Tr. at 50, 61-64; Applicant's response to SOR; GE 1, 2.

longer own the business and she does not currently work. He teaches at a college. Applicant would occasionally see his sister during his trips to the PRC, but he has not seen her in several years.³

Applicant worked from 1996 to 2003, for a company that did business in Taiwan and the PRC. He made numerous business trips to both Taiwan and the PRC between 1997 and 2002, as part of his employment. His last trip to the PRC was a pleasure trip in 2002. He has not visited Taiwan since a pleasure trip in 2005. Applicant became friendly with and maintained sporadic contact with two employees from his former company that live in Taiwan. He saw one during a business trip to Taiwan in 2001. He visited the other acquaintance while he was in Taiwan in 2005. He has not had contact with either individual in more than a year.⁴

The previous company he worked for was going out of business and Applicant was in need of employment. A friend of his mentioned an opportunity in the PRC. He introduced Applicant over the phone to the owner of a start-up company in China. The owner paid for Applicant's flight to China, his hotel, and expenses to meet with Applicant and possibly hire him as a consultant. The company was looking to get into a technical field. The owner of the company told Applicant that the Chinese Army was very interested in their work. Applicant told the owner that there was a company in Taiwan that already was doing what they were looking at. He looked at their design and told them that he thought they had the right approach. Applicant decided not to seek employment or consulting work with the company. He did not want to work for a company that provided goods or services to the Chinese Army. Applicant did not report the reimbursement for expenses on the trip as income on the federal tax return he filed the next year. He did not believe that he was required to report the money because it just covered his expenses.⁵

Applicant submitted a Security Clearance Application (SF 86) on June 2, 2004. In his SF 86, Applicant listed all his trips to Taiwan and China. He was interviewed for his background investigation in about March or April 2006. A written statement was apparently not taken by the investigator. The investigator did not testify as a witness. If a Report of Investigation (ROI) containing a summarization of the interview was completed, it was not offered into evidence. Applicant admitted he told the investigator about his trips to China but he did not go into details about the trip wherein he discussed working as a consultant. Applicant was interviewed again on October 25, 2007, and a written statement was provided. The consulting trip to the PRC was fully discussed in the statement.⁶ He admitted in the statement:

³ Tr. at 50-61; Applicant's response to SOR; GE 1, 2.

⁴ Tr. at 65-68, 83-84; Applicant's response to SOR; GE 1, 2.

⁵ Tr. at 27-32; 64-73; Applicant's response to SOR; GE 1, 2.

⁶ Tr. at 73-83; Applicant's response to SOR; GE 1, 2.

I acknowledged that I deliberately did not mention this information during my earlier interview because I was afraid or concerned that by mentioning it, it would cause additional questions to be asked or scrutiny.⁷

Applicant testified that the second interview and statement took all day, but the first interview was much shorter, only about two hours. He stated he did not go into detail about the trip because the interview was very short. Applicant admitted that he discussed specifics about other trips. He further admitted that he told the investigator in 2006, that during the business trip in question he met other potential customers, attended training at their office, and did not recall the names of the customers. I specifically asked Applicant twice to ensure he understood, the question, "Was it your intention to let the agent believe that this was just another business trip for your company?" Applicant answered "Yes."⁸ I find that Applicant intentionally provided false, misleading, and incomplete answers to the background investigator in March or April 2006, when asked about the trip in question to the PRC.

Applicant has no foreign assets. He has well over \$1,000,000 in real estate and other assets in the U.S. Character letters from Applicant's supervisor and program manager attest that he is a trusted and highly regarded engineer. They state he is a genuinely nice person; a person of ability, integrity, persistence, and dedication; someone who is consistently honest, straight forward, professional, and trustworthy.⁹

Taiwan

In 1949, Taiwan was populated by refugees fleeing a civil war in China. That same year, Communists in mainland China established the People's Republic of China, and a separate, independent government was established in Taiwan. The PRC does not recognize Taiwan, and insists there is only "one China." Taiwan's large military establishment's primary mission is the defense of Taiwan against the PRC, which is seen as the predominant threat and which has not renounced the use of force against Taiwan. The PRC maintains intelligence operations in Taiwan. Taiwan is known to be an active collector of U.S. economic intelligence.

Taiwan is a multi-party democracy. Through nearly five decades of hard work and sound economic management, Taiwan has transformed itself from an underdeveloped, agricultural island to an economic power that is a leading producer of high-technology goods. On January 1, 1979, the United States formally recognized the PRC as the sole legal government of China. The U.S. also announced that it would maintain cultural, commercial, and other unofficial relations with the people of Taiwan. The Taiwan Relations Act (TRA) signed into law on April 10, 1979, created the legal

⁷ GE 2 at 9.

⁸ Tr. at 73-83; GE 1, 2.

⁹ Tr. at 85-86; GE 1, 2; AE A-C.

authority for the conduct of unofficial relations with Taiwan. The American Institute in Taiwan, a private nonprofit corporation with offices in Taiwan, is authorized to issue visas, accept passport applications, and provide assistance to U.S. citizens in Taiwan. A counterpart organization was established by Taiwan. It has multiple offices in the U.S.

Maintaining strong, unofficial relations with Taiwan is a major U.S. goal. The U.S. does not support Taiwan independence, but it does support Taiwan's membership in appropriate international organizations such as the World Trade Organization (WTO), which it joined in 2002, Asia-Pacific Economic Cooperation (APEC) forum, and the Asian Development Bank. In addition, the U.S. supports appropriate opportunities for Taiwan's voice to be heard in organizations where its membership is not possible.

The TRA enshrines the U.S. commitment to help Taiwan maintain its defensive capability. The U.S. continues to sell appropriate defensive military equipment to Taiwan, in accordance with the TRA. President Bush publicly stated in 2001 that the United States would do "whatever it takes" to help Taiwan's defense and approved a substantial sale of U.S. weapons to Taiwan, including destroyers, anti-submarine aircraft, and diesel submarines. The White House also was more accommodating to visits from Taiwan's officials than previous U.S. Administrations, and permitted visits from Taiwan's president in 2001 and 2003, and Taiwan's vice president and defense minister in 2002.

Since then, there have been changes in U.S.-Taiwan relations. Taiwan's new president disavowed key concepts long embraced by the opposing party - the "status quo" that there is only one China and Taiwan is part of it - and instead has adopted the more provocative position that Taiwan already "is an independent, sovereign country," a "status quo" he promises to maintain. There was also a series of recent corruption scandals.

In response to Taiwan's political developments, the Administration appears to have dialed back its earlier enthusiasm for supporting Taiwan's initiatives. While still pursuing a close relationship with Taiwan, U.S. officials now appear to be balancing criticisms of the PRC military buildup opposite Taiwan with periodic cautions and warnings to the effect that U.S. support for Taiwan is not unconditional, but has limits.

Hong Kong

Hong Kong has been a Special Administrative Region of the PRC since July 1, 1997, ending more than 150 years of British colonial rule. Hong Kong has a high degree of autonomy, except in the areas of defense and foreign policy, which are the responsibility of the PRC. The Hong Kong Special Administrative Region is headed by a Chief Executive voted on by an Election Committee made up of approximately 800 Hong Kong residents from four constituency groups, including the PRC's National People's Congress. Under Chinese nationality law, persons of Chinese descent who were born on the Chinese mainland or Hong Kong are considered citizens of the PRC.

The PRC is a large and economically powerful country, with a population of over a billion people and an economy growing at about 10% per year. The PRC has an authoritarian government, dominated by the Chinese Communist Party. The PRC has a poor record with respect to human rights, suppresses political dissent, and its practices include arbitrary arrest and detention, forced confessions, torture, and mistreatment of prisoners. The PRC is one of the most aggressive countries in targeting sensitive and protected U.S. technology, and economic intelligence. It has targeted the U.S. with active intelligence gathering programs, both legal and illegal. The PRC also maintains intelligence operations in Hong Kong.

While Hong Kong remains a free and open society where human rights are respected, courts are independent, and there is a well-established respect for the rule of law, concerns include limitations on residents' ability to change their government, the legislature's limited power to affect government policies, self-censorship, violence and discrimination against women, and restrictions on worker's rights to organize and bargain collectively.

Policies

When evaluating an applicant's suitability for a security clearance, the Administrative Judge must consider the revised adjudicative guidelines (AG). 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 over-arching adjudicative goal is a fair, impartial and common sense decision. According to AG ¶ 2(c), 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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

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 as to obtaining 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 protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 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* 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 set out in AG ¶ 7:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.

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

- (a) contact 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 sensitive information or technology and the individual’s desire to help a foreign person, group, or country by providing that information;

(d) sharing 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

(i) conduct, especially while traveling outside the U.S., which may make the individual vulnerable to exploitation, pressure, or coercion by a foreign person, group, government, or country.

Applicant's sister and brother-in-law are residents of Hong Kong. She is a citizen of the United Kingdom. Her husband may also be a U.K. citizen. They are also considered to be Chinese citizens. The PRC has an authoritarian government, dominated by the Communist Party, with a poor human rights record, and targets the U.S. for espionage. His wife's brother is a citizen and resident of Taiwan, a country known to be an active collector of U.S. economic intelligence. Applicant's niece is a Taiwanese citizen and lives with him in the United States while she attends college. Applicant's foreign connections create a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion. They also create a potential conflict of interest. AG ¶¶ 7(a), (b) and (d) have been raised by the evidence.

I do not find that Applicant's limited contact with two acquaintances in Taiwan is sufficient to raise a disqualifying condition. SOR ¶¶ 1.e and 1.f are concluded for Applicant.

There is insufficient evidence to conclude that Applicant's routine business trips and personal trips to PRC and Taiwan made him vulnerable to exploitation, pressure, or coercion by a foreign person, group, government, or country. The consulting trip he made to the PRC in which he discussed employment by a company that could do business with the Chinese Army may have made him vulnerable. Clearly Applicant was concerned enough about what happened on the trip that he chose to mislead the background investigator about the trip. That specific trip raises security concerns under AG ¶ 7(i). His other trips, while relevant evidence, do not raise a disqualifying condition. SOR ¶ 1.h is concluded for Applicant.

Conditions that could mitigate Foreign Influence security concerns are provided under AG ¶ 8:

(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 U.S.;

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships

and loyalties in the U.S., 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;

(d) the foreign contacts and activities are on U.S. Government business or are approved by the cognizant security authority;

(e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country; 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.

Applicant has been in this country for more than 30 years and has been a U.S. citizen for almost three decades. His wife is a U.S. citizen and his two adult children were both born in the U.S. His mother and four of his five siblings are U.S. citizens and residents. He has no foreign assets and substantial U.S. assets. If Applicant had been completely forthcoming about his consulting trip to the PRC, I would have found that he had such deep and longstanding relationships and loyalties in the United States that he could be expected to resolve any conflict of interest in favor of the U.S. interest, and I would have therefore found AG ¶ 8(b) applicable. However, without his complete and total candor to investigators about foreign events, I am unable to make that affirmative finding. No mitigating condition is fully applicable.

Guideline E, Personal Conduct

The security concern relating to the guideline for Personal Conduct is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following are potentially applicable:

(b) deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative;

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information;

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information. This includes but is not limited to consideration of:

(1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or other government protected information;

(2) disruptive, violent, or other inappropriate behavior in the workplace;

(3) a pattern of dishonesty or rule violations;

(4) evidence of significant misuse of Government or other employer's time or resources; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as (1) engaging in activities which, if known, may affect the person's personal, professional, or community standing.

Applicant intentionally provided false, misleading, and incomplete answers to a background investigator. AG 16(b) and (e) have been established.

SOR ¶ 2.b alleges that Applicant did not declare on his income tax return the money he received in payment during the business trip he took to the PRC. The Government has not established: (1) that Applicant received money in excess of his expenses; (2) that he was required to report the money received on the trip; (3) that Applicant intentionally failed to list the money on the return to avoid paying taxes. There is insufficient evidence to find Applicant committed personal conduct that would support a disqualifying condition for this allegation. SOR ¶ 2.b is concluded for Applicant.

Conditions that could mitigate Personal Conduct security concerns are provided under AG ¶ 17. The following are potentially applicable:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by improper or inadequate advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security clearance process. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
- (e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress; and
- (f) the information was unsubstantiated or from a source of questionable reliability.

Applicant was less than totally forthcoming about his consulting trip to the PRC when he was interviewed for his background investigation in March or April 2006. He did not correct the situation before being confronted. AG ¶ 17(a) is not applicable. When specifically questioned by the background investigator in 2007, he provided the full details of the trip in a written statement. This has lessened his vulnerability to exploitation, manipulation, and duress. AG ¶ 17(e) is applicable. No other mitigating condition is fully applicable.

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 the circumstances. The Administrative Judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

- (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) 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 common sense judgment based upon careful consideration of the guidelines and the whole person concept.

Applicant's sister and her husband live in Hong Kong and are considered by the PRC to be citizens of the PRC. His wife's brother is a citizen and resident of Taiwan. Her niece is a Taiwanese citizen and lives with Applicant and his wife while she is attending college. I considered the totality of Applicant's family ties to Hong Kong and Taiwan. Hong Kong is no longer a British colony. Hong Kong remains a free and open society where human rights are generally respected. It has some autonomy but is closely connected to the PRC. The PRC has an authoritarian government, a bad human rights record, and has a very aggressive espionage program aimed at the U.S.

Taiwan is an ally of the United States. However, Guideline B is not limited to countries hostile to the United States. "The United States has a compelling interest in protecting and safeguarding classified [or sensitive] 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."¹⁰ The distinctions between friendly and unfriendly governments must be made with caution. Relations between nations can shift, sometimes dramatically and unexpectedly.

Furthermore, friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security. Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. Nevertheless, the nature of a nation's government, its relationship with the U.S., 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 U.S.

Applicant has extensive U.S. ties and connections. He and his wife have been U.S. citizens for many years. Their two adult children were born in the U.S. His mother and four of his siblings are U.S. citizens. He has no foreign assets and substantial real estate and other assets in the U.S. He is a well respected, highly regarded engineer. But for the concerns raised by Applicant's personal conduct, I would have found that he mitigated the concerns raised by his foreign connections. Because he was not totally

¹⁰ ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004).

honest to the background investigator about his trip to the PRC, his judgment and trustworthiness is in question and his vulnerability to foreign pressure, coercion, exploitation, or duress remains a concern.

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has not mitigated the Foreign Influence and Personal Conduct security concerns.

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
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	Against Applicant
Subparagraph 1.h:	For Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Edward W. Loughran
Administrative Judge