DATE: November 30, 2007

In re:	)	
	)	
----------	)	ISCR Case No. 06-21000
SSN: ----------	)	
	)	
Applicant for Security Clearance	)	
	)	

DECISION OF ADMINISTRATIVE JUDGE
ROBERT J. TUIDER

APPEARANCES

FOR GOVERNMENT
Daniel F. Crowley, Esq., Department Counsel

FOR APPLICANT
Pro Se

SYNOPSIS

Applicant is 61 years old, was born in China, and moved to Taiwan while an infant with his parents. After completing college in Taiwan, he immigrated to the U.S. in 1970, and became a U.S. citizen in 1985. He holds a senior position with a defense contractor with whom he has been employed since 1993. He has continuously held a secret clearance since 1994. Foreign influence concerns were raised primarily as a result of having an elderly father, who is a resident citizen of Taiwan. After analyzing all of the facts and considering the whole person, Applicant has mitigated the foreign influence concerns raised. Clearance is granted.

STATEMENT OF THE CASE

On January 29, 2004, Applicant submitted a security clearance application (SF 86).[1] On December 21, 2006, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to him, pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended, modified and revised.[2]

The SOR alleges security concerns under Guideline B (Foreign Influence). The SOR detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for him, and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

In an answer notarized on January 15, 2007, Applicant responded to the SOR allegations, and elected to have his case decided at a hearing. The case was assigned to me on March 7, 2007. On March 20, 2007, DOHA issued a notice of hearing scheduling the case to be heard on April 19, 2007. The hearing was held as scheduled. The Government offered two documents, which were admitted without objection as Government Exhibits (GE) 1 and 2. The Applicant offered 12 exhibits, which were admitted without objection as Applicant Exhibits (AE) 1 through 12. I held the record open to afford Applicant additional opportunity to submit additional material. Applicant timely submitted two additional documents, which were admitted without objection as AE 13 and 14. DOHA received the transcript (Tr.) on April 30, 2007.

PROCEDURAL RULINGS

Administrative Notice

Department Counsel requested administrative notice of the facts in Exhibits (Exs.) I through XII. Without objection from Applicant, I took administrative notice of the documents offered by Department Counsel, which primarily pertained to Taiwan. (Tr. 10-12).

Administrative or official notice is the appropriate type of notice used for administrative proceedings. *See* ISCR Case No. 05-11292 at 4 n.1 (App. Bd. Apr. 12, 2007); ISCR Case No. 02-24875 at 2 (App. Bd. Oct. 12, 2006) (citing ISCR Case No. 02-18668 at 3 (App. Bd. Feb. 10, 2004)); *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n.4 (3d Cir. 1986)). The most common basis for administrative notice at ISCR proceedings, is to notice facts that are either well known or from government reports. *See* Stein, ADMINISTRATIVE LAW, Section 25.01

[1]GE 1.(Security Clearance Application is dated January 29, 2004, on the signature page). For convenience, the security clearance application in this decision will be called an SF 86.

[2]On Aug. 30, 2006, the Under Secretary of Defense (Intelligence) published a memorandum directing application of revised Adjudicative Guideline to all adjudications and other determinations made under the Directive and Department of Defense (DoD) Regulation 5200.2-R, *Personnel Security Program* (Regulation), dated Jan. 1987, as amended, in which the SOR was issued on or after Sep. 1, 2006. The revised Adjudicative Guidelines are applicable to Applicant's case.

(Bender & Co. 2006) (listing fifteen types of facts for administrative notice). Various facts pertaining to Taiwan were derived from Exs. I through XII as indicated under subheading "Taiwan" of this decision.

FINDINGS OF FACT

In his response to the SOR, Applicant admitted all of the allegations in the SOR except SOR ¶ 1.a. His admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence of record, I make the following findings of fact.

Applicant is 61 years old. He was born in the People's Republic of China (PRC)(China) in 1946. His father served in the Nationalist Army under General Chiang Kai-shek and fought against the Japanese during World War II and later against the Communists in China after the War. As the Communists made military gains in China, Applicant's parents with Applicant fled from China to Taiwan in 1948. Applicant was raised in Taiwan. He attended college in Taiwan from June 1965 to May 1969, and was awarded a bachelor of science degree majoring in mechanical engineering. He immigrated to the U.S. in 1970 on a student visa and attended a U.S. university from June 1970 to August 1971, and was awarded a master's degree in aerospace and mechanical engineering.

Shortly after completing his master's degree, he worked in Canada from 1972 to 1979. AE 14. In 1979, he returned to the U.S., was granted permanent residence status (green card), and became a U.S. naturalized citizen in June 1985. At the date of hearing, his most recent U.S. passport was issued to him in April 1995. He has remained continuously in the U.S. since he returned from Canada in 1979.

Applicant continued his graduate education after returning to the U.S. He attended a prestigious university from September 1985 to March 1989, and was awarded a Certificate of Special Studies in Administration and Management. He also attended a university from September 1994 to July 1997, and was awarded a master's degree in computer engineering.

Applicant was married to his Chinese-born wife from November 1972 to January 2001. She, like him, grew up in Taiwan. That marriage ended by divorce. During their marriage, two children were born while they lived in Canada, a son in 1977, and a daughter in 1978. Applicant later reconciled with his ex-wife and they remarried in August 2005. Applicant's wife and two children became naturalized U.S. citizens in June 1985. His two adult children graduated from college, live in the U.S., and are embarked on successful careers. His daughter is a high school counselor and his son works in the information technology field. Tr. 95.

Applicant holds a senior position for a defense contractor, and has been employed by that defense contractor since August 1993. His direct supervisor stated, "[Applicant] is responsible for development of military systems vital to our national security and our current global war on terrorism. His leadership, management and technical skills are critical to Department of Defense missions and directly support U.S. interests." AE 6. Applicant has successfully held a secret security clearance since January 1994, and submitted an application for a periodic reinvestigation and top secret upgrade in October 2004 at the request of his employer. Applicant has never had a reported security violation during the thirteen years he held a secret clearance. Tr. 69-71, AE 3.

SOR ¶ 1.a. states, "Your father is a citizen of China and resident of Taiwan." Applicant presented evidence correcting his father's citizenship, which is Taiwan versus China. Tr. 16, 27-34, AE 1, AE 2, AE 12. After Applicant's family moved to Taiwan in 1948, his father had infrequent contact with Applicant as a result of job-related absences from the family. Applicant's father is 86 years old and in "fair" health. Tr. 76. Shortly after arriving in Taiwan, Applicant's father worked for a company founded by a well-known U.S. Army Corps Aviator. Tr. 76-77. He worked in the aviation industry for most of his adult life and retired in 1986 and enjoys a quiet life in Taiwan. Applicant telephones his father approximately "two times" a month. Tr. 75.

Applicant's father stated in a letter, "I am of no value to any government entity and it is extremely unlikely that I could be used to place my son (Applicant) in a position of having to choose between the interests of any foreign government or group and the interests of the United States of America. Even if this remote possibility occurs and my life is threatened, I trust my son can still be expected to resolve any conflict of interests and choose in favor of the interests of the United States." AE 1. Applicant visited his father in June 1996 and January 2004, the last visit being an attempt to convince him to move to the U.S. His father declined to move to the U.S. because he thought he "was too old to move." Tr. 36-39, AE 3. SOR ¶ 1.a. and 1.c. Other than his father, Applicant has no immediate family members living in Taiwan. Applicant's mother is 85 years old and lives in a nursing home in the U.S. Tr. 80.

Applicant's in-laws in Taiwan consist of a 68-year-old brother-in-law, and two sisters-in-law, ages 61 and 55. SOR ¶ 1.b. His brother-in-law is a retired teacher. Tr. 115. Applicant met his brother-in-law two times, the last time was approximately 21 years ago, which was the last time he spoke to him. Applicant saw his older sister-in-law approximately "five or six years ago" and saw his younger sister-in-law approximately "twenty-some years ago." Tr. 58. His 61-year-old sister-in-law works in a private finance company for a commercial company. Tr. 113. His 55-year-old sister-in-law is a retired data entry clerk, who worked for a private accounting firm. Tr. 112.

Applicant's wife submitted a letter and referred to the frequency of her contact with her siblings as "very infrequent contact, averaging less than a couple of phone calls a year. We don't get together for holidays, birthdays, weddings, births, deaths or any other occasions." She further stated, "I did not attend either of my parents' funerals in Taiwan, going against tradition and the wishes of my siblings. I am not emotionally involved with, or obligated to, my siblings." AE 4. Applicant barely knows his in-laws by name, is not familiar with where they live, and has very infrequent or no contact with them. Tr. 35.

Applicant traveled to China in June 1995, August 1995, May 1996, June 1997, July 1997, August 1998, June 1999, March 2000, and June 2000. SOR ¶ 1.d. This travel was at the direction of and on behalf of his employer. He was accompanied by other company employees on these trips. Regarding these trips to China, Applicant's Facility Security Officer stated, "All international trips for [company] business including foreign contacts and activities were reported to and approved by the local Security Office holding [Applicant's] clearance. There have been no reported incidents of any inappropriate foreign contacts for any of [Applicant's] international travel." Tr. 39-40, AE 3, AE 7, AE 8, AE 9.

Applicant owns a home and five rental properties, all located in high cost areas. He estimates his gross worth, which includes real and personal property, as well as stocks, bonds, and bank accounts to approximate $5.2 million, less liabilities of $2 million, for a net worth of $3.2 million. Tr. 96. He regularly exercises his right to vote and all rights of U.S. citizenship. He has no assets in Taiwan.

Applicant submitted evidence in the form of testimony and reference letters that demonstrated he has outstanding character and is a devoted family man. He volunteered teaching at a middle school, and is involved in a number of community activities. Tr. 100-125, AE 4, AE 5, AE 10, AE 11, AE 13, AE 14. Applicant is highly respected by his peers and superiors at work and is a valued employee. AE 3, AE 6, AE 7, AE 8, AE 9.

Applicant stated, ". . . I have established a lot of good relationships with the service men and women, and I have a lot of respect [for] them. It's absolutely important for me to perform my job with a clearance, and there's no way in any shape or form I would do anything that would jeopardize someone at a personal level that are working with me . . . ." Tr. 125-126.

Taiwan[3]

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 (PRC), and a separate, independent government was established in Taiwan. The PRC does not recognize Taiwan, and insists there is only "one China."

Taiwan is a multi-part democracy. Through nearly five decades of hard work and sound economic management, Taiwan has transformed itself from an underdeveloped, agricultural island to a economic power that is a leading producer of high-technology goods.

On January 1, 1979, the U.S. 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 people on Taiwan. The Taiwan Relations Act (TRA) signed into law on April 10, 1979, created the legal 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 accessed 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.

[3] The contents of the Taiwan section are from Exs. I through XII.

The TRA enshrines the U.S. commitment to assisting 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.

China is a large and economically powerful country, with a population of over a billion people and an economy growing at about 10% per year. China has an authoritarian government, dominated by the Chinese Communist Party. China 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.

Both China and Taiwan are known to be active collectors of U.S. economic intelligence. The PRC also maintains intelligence operations in Taiwan.

POLICIES

In an evaluation of an applicant's security or trustworthiness suitability, an administrative judge must consider the "Adjudicative Guidelines for Determining Eligibility For Access to Classified Information" (Guideline[s]), which sets forth adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines are divided into Disqualifying Conditions (DC) and Mitigating Conditions (MC), which are used to determine an applicant's eligibility for access to classified or sensitive information.

These Guidelines are not inflexible ironclad rules of law. Instead, recognizing the complexities of human behavior, an administrative judge should apply these guidelines in conjunction with the factors listed in the adjudicative process. Guideline ¶ 2. An administrative judge's over-arching adjudicative goal is a fair, impartial and common sense decision. Because the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept," an administrative judge should consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision. Guideline ¶ 2(c).

Specifically, an administrative judge should consider the nine adjudicative process factors listed at Guideline ¶ 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."

Since the protection of the national security is the paramount consideration, the final decision in each case is arrived at by applying the standard that "[a]ny doubt concerning personnel being considered for access to classified [or sensitive] information will be resolved in favor of national security." Guideline ¶ 2(b). 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.

In the decision-making process, the Government has the initial burden of establishing controverted facts by "substantial evidence,"[4] demonstrating, in accordance with the Directive, that it is not clearly consistent with the national interest to grant or continue an applicant's access to classified information. Once the Government has produced substantial evidence of a disqualifying condition, the burden shifts to Applicant to produce evidence "to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and [applicant] has the ultimate burden of persuasion as to obtaining a favorable clearance decision." Directive ¶ E3.1.15. The burden of disproving a mitigating condition never shifts to the Government. *See* ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).[5]

A person seeking access to classified or sensitive 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. It is because of this special relationship the government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to such information. Decisions under this Directive include, by necessity, consideration of the possible risk an applicant may deliberately or inadvertently fail to protect or safeguard classified or sensitive information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of such information.

[4] "Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the record." ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). "This is something less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge's] finding from being supported by substantial evidence." *Consolo v. Federal Maritime Comm'n*, 383 U.S. 607, 620 (1966). "Substantial evidence" is "more than a scintilla but less than a preponderance." *See v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994).

[5] "The Administrative Judge [considers] the record evidence as a whole, both favorable and unfavorable, evaluate[s] Applicant's past and current circumstances in light of pertinent provisions of the Directive, and decide[s] whether Applicant ha[s] met his burden of persuasion under Directive ¶ E3.1.15." ISCR Case No. 04-10340 at 2 (App. Bd. July 6, 2006).

The scope of an administrative judge's decision is limited. Nothing in this Decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant's allegiance, loyalty, or patriotism. Executive Order 10865, § 7.

CONCLUSIONS

Upon consideration of all the facts in evidence, and after application of all appropriate legal precepts, factors, and conditions, including those described briefly above, I conclude the following with respect to the allegations set forth in the SOR:

Guideline B (Foreign Influence)

Upon consideration of all the facts in evidence, and after application of all appropriate legal precepts, factors, and conditions, including those described briefly above, I conclude the following with respect to the allegations set forth in the SOR:

Guideline ¶ 6 explains the Government's concern about "foreign contacts and interests" stating, "if the individual has divided loyalties or foreign financial interests, [he or she] 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."

Guideline ¶ 7 indicates conditions that could raise a security concern and may be disqualifying in this case, including:

> (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;

The mere possession of close family ties with a person in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if only one relative lives in a foreign country, and an applicant has contacts with that relative, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information. *See* ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001). Applicant has frequent contacts with his father, who is a resident citizen of Taiwan. He has infrequent or no contact with his in-laws. This close relationship with

his father creates a heightened risk of foreign pressure or attempted exploitation because Taiwan has an active collection program.

The Government produced substantial evidence of these two disqualifying conditions as it pertains to Applicant's father, and the burden shifted to Applicant to produce evidence and prove a mitigating condition. As previously indicated, the burden of disproving a mitigating condition never shifts to the Government.

Three Foreign Influence Mitigating Conditions under Guideline ¶ 8 are potentially applicable to these disqualifying conditions:

> (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;

Guidelines ¶¶ 8(a) through 8(c) apply to his relationships with his in-laws. His contacts with his brother-in-law and two sisters-in-law are clearly casual, and infrequent. These very limited and infrequent contacts are not a security concern because it is unlikely Applicant will be placed in a position of having to choose between his-in laws and the interests of the United States.

Appellant, however, did not establish Guideline ¶¶ 8(a) or 8(c) in regard to his father. He did not establish "it is unlikely [he] will be placed in a position of having to choose between the interests of [his father] and the interests of the U.S." His frequent contacts with his father could potentially force him to choose between the United States and Taiwan. He did not meet his burden of showing there is "little likelihood that [his relationship with his father] could create a risk for foreign influence or exploitation."

Guideline ¶ 8(b) partially applies because Appellant has developed a sufficient relationship and loyalty to the U.S., as he can be expected to resolve any conflict of interest in favor of the U.S. interest. He has continuously lived in the United States since 1979. He became a U.S. citizen in 1985. His wife and two children also became U.S. citizens in 1985. He received two graduate degrees in U.S. colleges and universities. His mother lives in a nursing home in the U.S. Her contacts and linkage to the United States are far greater than his linkage to Taiwan. He is heavily vested in the U.S., financially and emotionally.

"Whole Person" Analysis

In addition to the enumerated disqualifying and mitigating conditions as discussed previously, I have considered the general adjudicative guidelines related to the whole person concept under Directive ¶ E2.2.1. "Under the whole person concept, the Administrative Judge must not consider and weigh incidents in an applicant's life separately, in a piecemeal manner. Rather, the Judge must evaluate an applicant's security eligibility by considering the totality of an applicant's conduct and circumstances."[6] The directive lists nine adjudicative process factors (APF) which are used for "whole person" analysis. Because foreign influence does not involve misconduct, voluntariness of participation, rehabilitation and behavior changes, etc., the eighth APF, "the potential for pressure, coercion, exploitation, or duress," Directive ¶ E2.2.1.8, is the most relevant of the nine APFs to this adjudication.[7] In addition to the eighth APF, other "[a]vailable, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination." Directive ¶ E2.2.1. Ultimately, the clearance decision is "an overall common sense determination." Directive ¶ E2.2.3.

The Appeal Board requires the whole person analysis address "evidence of an applicant's personal loyalties; the nature and extent of an applicant's family's ties to the U.S. relative to his [or her] ties to a foreign country; his or her ties social ties within the U.S.; and many others raised by the facts of a given case." ISCR Case No. 04-00540 at 7 (App. Bd. Jan. 5, 2007).

Substantial mitigating evidence weighs towards grant of Applicant's security clearance. Applicant has lived in the United States for 28 years, and he has been a naturalized citizen for 22 years. When he became a U.S. citizen, he swore allegiance to the United States. His wife and two children are also U.S. naturalized citizens. His ties to the United States are stronger than his ties to his father in Taiwan. He has no financial ties to Taiwan in contrast to his U.S. financial ties which consist of gross assets worth $5.2 million. There is no evidence he has ever taken any action which could cause potential harm to the United States. In fact, and most notably, he has successfully held a security clearance for 13 years.

Applicant's employer's confidence and trust in him is so high as to warrant recommending him for a top secret clearance. Applicant takes his loyalty to the United States very seriously, and he has worked diligently for a defense contractor for 14 years. His supervisors, co-workers, family, and friends assess him as loyal, trustworthy, conscientious, responsible, mature, and of high integrity. He has an excellent reputation as a friend, family member, employee and U.S. citizen. His witnesses and documentary evidence recommend him

[6] ISCR Case No. 03-04147 at 3 (App. Bd. Nov. 4, 2005) (quoting ISCR Case No. 02-01093 at 4 (App. Bd. Dec. 11, 2003)); ISCR Case No. 05-02833 at 2 (App. Bd. Mar. 19, 2007) (citing *Raffone v. Adams*, 468 F.2d 860 (2nd Cir. 1972) (taken together, separate events may have a significance that is missing when each event is viewed in isolation).

[7] *See* ISCR Case No. 02-24566 at 3 (App. Bd. July 17, 2006) (stating that an analysis under the eighth APF apparently without discussion of the other APFs was sustainable); ISCR Case No. 03-10954 at 5 (App. Bd. Mar. 8, 2006) (sole APF mentioned is eighth APF); ISCR Case No. 03-17620 at 4 (App. Bd. Apr. 17, 2006) (remanding grant of clearance because Judge did not assess "the realistic potential for exploitation"), *but see* ISCR Case No. 04-00540 at 6 (App. Bd. Jan. 5, 2007) (rejecting contention that eighth APF is exclusive circumstance in whole person analysis in foreign influence cases).

for a security clearance. No witnesses recommended denial of his security clearance or produced any derogatory information about him.

After weighing the disqualifying and mitigating conditions, all the facts and circumstances, in the context of the whole person, I conclude Applicant has mitigated the security concerns pertaining to foreign influence.

I take this position based on the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), my "careful consideration of the whole person factors"[8] and supporting evidence, my application of the pertinent factors under the Adjudicative Process, and my interpretation of my responsibilities under the Guidelines. Applicant has mitigated or overcome the government's case. For the reasons stated, I conclude he is eligible 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

Subparagraph 1.a.: Excepting the word "China" and substituting the word "Taiwan."	For Applicant
Subparagraphs 1.b. – 1.d.:	For Applicant

DECISION

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is granted.

Robert J. Tuider
Administrative Judge

[8]*See* ISCR Case No. 04-06242 at 2 (App. Bd. June 28, 2006).