

Applicant responded to the SOR on July 22, 2014, and requested a hearing. The case was assigned to me on September 26, 2014, and was scheduled for hearing on November 14, 2014. The hearing was convened on that date. At hearing, the Government's case consisted of four exhibits (GEs 1-4). Applicant relied on one witness (himself) and 17 exhibits (AEs A-Q). The transcript (Tr.) was received on December 8, 2014.

Besides the exhibits offered by the parties, the Government requested administrative notice of certain facts with respect to the country of India. It cited 14 source documents, all official U.S. publications pertaining to India.

The cited source documents are identified in the Government's Administrative Notice as follows: *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage - 2008*, Office of the National Counterintelligence Executive (July 2009); *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage-2000*, Office of the National Counterintelligence Executive (undated); *Foreign Spies Stealing U.S. Economic Secrets in Cyberspace, Report to Congress on Foreign Economic Collection and Industrial Espionage, 2009-2011*, Office of the National Counterintelligence Executive (October 2011); *Summary of Major U.S. Export Enforcement, Economic Espionage, Trade Secrets and Embargo-Related Criminal Cases. January 2007 to the present*, U.S. Department of Justice (February 2014); *High Tech Firms/Executives Sentenced in Export Case*, U.S. Department of Commerce (November 2005); *Chyron Corporation Settles Charges of Unlicensed Export to India*, U.S. Department of Commerce (August 2004); *Berkeley Nucleonics Corporation Settles Charges of Unlicensed Exports*, U.S. Department of Commerce (June 2004); and *Sentry Settles Charges of Unlicensed Exports*, U.S. Department of Commerce (June 2004).

Additional cited source documents were comprised of the following: *Background Note: India*; U.S. Department of State (April 2012); *Quick Facts, India*, U.S. Department of State (February 2014); *Country Reports on Terrorism 2013, Chapter 2-Country Reports, South and Central Asia Overview*, U.S. Department of State (undated); *Country Reports on Terrorism 2009, Chapter 2-Country Reports, South and Central Asia Overview*, U.S. Department of State (April 2009); *Country Reports on Human Rights Practices for 2013: India*, U.S. Department of State (undated); and *CRS Report for Congress - U.S.-India Security Relations: Strategic Issues*, Congressional Research Service (January 2013).

Administrative or official notice is the appropriate type of notice used for administrative proceedings. Administrative notice is appropriate for noticing facts or government reports that are well known. See *Stein*, Administrative Law, Section 25.01 (Bender & Co. 2006). For good cause shown, administrative notice was granted with respect to the above-named background reports addressing the geopolitical situation in India. Administrative notice was extended to the documents themselves, consistent with the provisions of Rule 201 of Fed. R. Evid.

Summary of Pleadings

Under Guideline B, Applicant allegedly has (a) parents who are citizens and residents of India; (b) a father-in-law and mother-in-law who are citizens and residents of India; (c) two sisters-in-law and two brothers-in-law who are citizens and residents of India; and (d) an aunt and at least 12 cousins who are citizens and residents of India. Additionally, Applicant allegedly owned real estate since 1999 that is located in India and valued at approximately \$120,000 and currently owns property in India valued at approximately \$250,000.

In his response to the SOR, Applicant admitted that his parents and family members listed in the SOR are residents and citizens of India. He admitted, too, that he owns real estate in India (a \$120,000 parcel and a \$250,000 parcel), as an investment with the sole purpose of repatriating the investments and the profits to the United States when the conditions are favorable. He claimed he maintains contacts with his parents and in-laws weekly, and with his sisters-in-law, brothers-in-law, aunt, and cousins no more than twice a year. He claimed that neither his relationships with his family members residing in India or his property interests in India are likely to create any conflicts of interest that could be used effectively to influence, manipulate, or pressure him.

Findings of Fact

Applicant is a 46-year-old information technology (IT) consultant for a defense contractor who seeks a security clearance. The allegations covered in the SOR and admitted by Applicant are incorporated and adopted as relevant and material findings. Additional findings follow.

Background

Applicant was born and raised in India to parents of Indian descent. He immigrated to the United States for better education benefits in 1992 and became a naturalized U.S. citizen in July 2007. (GEs 1 and 2; Tr. 58-59) When he received his U.S. citizenship and passport, his Indian citizenship automatically canceled under Indian law. (GEs 1 and 2 and AE N) His Indian passport was formally cancelled in October 2008 by the Indian Consulate when he applied for a visa to visit India. (GE 1) In July 2011, Applicant formally renounced his Indian citizenship and mailed in his Indian passport to the Indian Consulate. (GE 1)

Applicant married in June 1997 and has one child (a son, age six) from his marriage. (GE 1; Tr. 65-66) His wife was born and raised in India and became a naturalized U.S. citizen in 1997. (GEs 3-4) When she became a U.S. citizen, she gave up her Indian citizenship. (GEs 1-4; Tr. 59) She is employed as a data base administrator for a U.S. banking institution. (Tr. 67)

Applicant earned a bachelor's degree from a respected university in India. (GE 1) He earned a master's degree from an accredited U.S. university in December 1996. (GE 1; Tr. 58) He claims no military service. As a consultant for a defense contractor, Applicant does not believe he could ever be pressured to disclose classified information. (Tr. 64) Hypothetically, were he ever to be asked by any person to disclose classified information, he would seek help from the U.S Embassy. (Tr. 64) Applicant has no plans to return to India to live after he finishes his consulting work in the United States. (Tr. 63, 94-95)

Applicant's parents were born in India and are citizens and residents of India. (GE 1-4) His father is a retired quality control inspector and has no affiliation with either the Indian government or its military. (GE 4; Tr. 73) His mother is a retired telephone supervisor and has no affiliation with either the Indian government or its military. (GEs 3-4; Tr. 73) Applicant maintains weekly contact with his parents and sees them once a year, either when he visits them in India or when they visit him in the United States. (Tr. 75) Both parents rely on their private pensions and look to Applicant for financial assistance only in emergencies or on certain occasions. (GEs 3-4; Tr. 73-74)

Applicant's son is a U.S. citizen by birth and has no dual citizenship with any other country. (GEs 1-4 and AE P; Tr. 65) Along with his wife, Applicant has a sister who was born and raised in India and became a naturalized U.S. citizen. (GEs 1-4) Applicant maintains regular contact with his sister.

Besides his parents, Applicant has a mother-in-law and father-in-law who are citizens and residents of India. (GEs 1-4) Neither his mother-in-law nor father-in-law have any affiliations with India's government or military. (GEs 3-4; Tr. 79-80) Applicant's father-in-law is a retired military officer in the Indian military who worked for different private companies for a few years before retiring. (Tr. 78-79) Applicant's mother-in-law is a retired school teacher. (GEs 3-4; Tr. 79) Both in-laws currently receive government pensions and occasional financial assistance from Applicant in emergency circumstances. (Tr. 79-80) Applicant maintains weekly contact with his mother-in-law and father-in-law. (GEs 3-4) They last visited Applicant in the United States in 2001. (Tr. 80)

Applicant also has two sisters-in-law and two-brothers-in-law who are citizens and residents of India. None of these relatives have any affiliation with the Indian government or military. (GEs 3-4; Tr. 70-73) Additionally, he has an aunt and a number of cousins (estimated to be 12) who are citizens and residents of India. (GEs 3-4) He maintains no more than occasional contact (i.e., once or twice a year) with his sisters-in-law, brothers-in-law, aunt, and cousins, and is not aware of any of these relatives having any affiliation with the Indian government or military.

Applicant's parents reside in Central India; his in-laws reside in a remote area close to the Pakistan border where hostilities have flared between Indian and Pakistani forces. (Tr. 77-78) Neither his parents nor his in-laws have any reported history of

coercion, pressure, or threats from Indian government or military officials. None of Applicant's relatives residing in India have any familiarity with Applicant's work. (Tr. 59)

Applicant's property interests in India and the United States

Applicant owns two parcels of land in India: one a smaller piece he purchased in 2002, valued at around \$120,000, and another he purchased in 2004, valued at \$250,000. (GE 4; Tr. 61-62, 81-83) Applicant bought both parcels for investment purposes and intends to sell the \$250,000 parcel when he completes the house still under construction and finds more favorable conversion rate conditions. (GEs 3-4; Tr. 90-92) Currently, he is moving as fast as he can to liquidate the property. He has no outstanding mortgages on either of the properties. (Tr. 95) Besides his two parcels of land, Applicant maintains a small bank account in India with about \$2,000 on average. (GEs 1-2)

In the United States, Applicant owns and controls over \$1 million in liquid assets. He owns mutual funds valued at close to \$1 million (AEs D-I, Tr. 57) and a brokerage account with assets of \$34,274. (GEs 1-2 and AE J). Also, he has a personal residence with a market value of around \$550,000. (AE K-L; Tr. 84-86) Applicant has prospered with his consulting business and earned between \$270,000 and \$400,000 in personal income in 2013. (Tr. 86-87)

Applicant's travels to India

After becoming a naturalized U.S. citizen in 2007, Applicant traveled to India in 2010-2011, 2012, and 2013 to visit his parents and in-laws. (GEs 1 and 3-4; Tr. 76-77) Once he obtained his U.S. passport, he always used his U.S. passport when traveling. (GEs 1-2 and 4 and AEs)

Country information on India

Considered the world's largest democratic republic, India is also a very diverse country, in population, geography, and climate. (*Background Note, India, supra*, at 2-4) India is the world's second most populous country and the world's seventh largest country in area. (*id.*)

Background

India is a constitutional democracy, whose Constitution defines it as a "sovereign, socialist, secular democratic republic." (*Background Note: India, supra*) It is a "multiparty, federal, parliamentary democracy with a bicameral parliament" and an historical reputation for respecting the rights of its citizens. (*see id.*) Since gaining its independence from great Britain in 1947, India has been involved in three full-scale wars with Pakistan in 1947, 1965, and 1971, and has had to defend itself against a 1999 intrusion of Pakistani-backed forces into Indian-held territory that nearly turned into full-scale war. *See Administrative Notice, supra*, at 3; *Background Note, id.*, at 12.

India survived a 1975 declaration of a state of emergency that carried a suspension of many civil liberties. (*id.* at 3) The country has experienced two assassinations of its leaders: Prime Minister Indira Gandhi in October 1984 and Prime Minister Rajiv Gandhi in May 1991. (*id.*) In recent years, India has been confronted with sporadic outbreaks of religious riots that resulted in numerous deaths and casualties, and violent attacks by separatist groups in various parts of the country. (*id.*) The Indian state of Jammu & Kashmir remains unstable, and a number of terrorist groups operate there, and more particularly along the Line of Control separating Indian and Pakistani-controlled Kashmir. See *Administrative Notice, supra*; *Quick Facts, India, supra*, at 6-7.

Human rights issues in India

Human rights remain a problem in India. There have been reports of extrajudicial killings of persons in custody, disappearances, torture and rape by police and security forces, who generally enjoy de facto impunity. See *Administrative Notice, supra*, at 4; *Country Reports on Human Rights Practices for 2013: India, supra*, at 1-2. The basic problem stems from the lack of clear accountability due to weak law enforcement, a lack of trained police, and an overburdened, under-resourced court system. which too often has resulted in cited human rights violations going unpunished. (*id.*, at 1) Police and security officials reportedly use torture and threaten violence during interrogations to extort money and summarily punish prisoners. (*id.* at 6-8) Rape, domestic violence, dowry-related deaths, honor killings, sexual harassment, and discrimination against women have remained serious problems. (*id.*)

Indian-Russian relations

Historically, India has enjoyed long-term military supply relationships with the Soviet Union. See *Background Note, supra*, at 8-9. Before its demise in the early 1990s, the Soviet Union was India's principal and most reliable trading partner, and an important source of economic and military assistance. (*Background Note: India, supra*, at 8-9) Today, Russia remains India's largest supplier of military systems and spare parts.

U.S.-Indian relations

For nearly five decades following Indian independence in 1947, the United States and India struggled to find common ground in a worthy bilateral relationship. See *CRS Report for Congress - U.S.-India Security Relations: Strategic Issues, supra*, at 1. From a positive perspective, the United States is India's largest foreign investment partner. Since December 2006, direct nuclear commerce with India has been permitted. The two countries have a common interest in the free flow of commerce and resources. See *Background Note: India, supra*, at 8-9.

The United States and India share a common interest in fighting terrorism and in creating a strategically stable Asia. The two countries continue to seek to foster better bilateral relations through their established working groups to address (1) strategic

cooperation; (2) energy and climate change; (3) education and development; (4) economics, trade and agriculture; and (5) science and technology, health and innovation. See *Background Note: India, supra*, at 8-9.

Security ties between the United States and India are strong and growing, marked by expanding bilateral defense and counter-terrorism cooperation. See *U.S. Relations with India*, at 4, U.S. Department of State (December 2012) Trade relationships between India and the United States are increasing as well. Travel between the two countries for work, study, and vacations has been expanding for a number of years. (*id.*)

Besides defense and trade, U.S.-India interests extend to cyber security and intellectual property protection. State-reported policy has stressed the need for improving computer security readiness. In furtherance of these objectives, the United States and India recently signed a memorandum of understanding (MOU) creating computer emergency response teams (CERTs). See AE A, *supra*, at 2; *Security Partnership for the 21st Century*, U.S. Department of State (July 2011).

U.S.-India interests in improving cyber security networks have recently led to the creation of a working group to coordinate policy positions in advance of international cyber events. See AE A, *supra*; *U.S.-India Bilateral Security and Regional Cooperation*, U.S. Department of State (June 2012). Also, the United States and India have made major strides in the strengthening of ties in the field of science and technology. See AE A, *supra*; *U.S.-India Bilateral Cooperation on Science and Technology*, U.S. Department of State (June 2012).

U.S.-India cooperation is fully evident, too, in India's pursuit of its expanded commitments to the development of nuclear energy for civilian purposes. See AE A, *supra*; *Reaching New Heights*; *U.S.-India Relations in the 21st Century* (undated) Since President Bush lifted the last sanctions against India in 2001, the U.S. Government has approved more than 700 licenses for direct commercial defense sales to India. Annual exports of controlled dual-use items to India has increased significantly since 2001. (*id.*)

U.S. efforts to strengthen its ties with India have been hampered some, however, by U.S. differences over India's nuclear weapons programs, its cooperation with the Iranian military, its lack of a negotiated resolution of the Kashmir dispute with Pakistan, and the pace of India's efforts to achieve long-planned economic reforms. (*CRS Report for Congress: U.S. - India Security Relations: Strategic Issues, supra*, at 42-43)

Important U.S. concerns have been raised, too, over reported cases involving government-sponsored entities and their illegal export, or attempted illegal export, of U.S. restricted dual use technology to India, including (1) military night vision components; (2) high-tech testing equipment that posed potential risks of diversion to a weapons of mass destruction program, (3) dual use equipment that can be used in military and civilian aircraft to extract engine vibration information, (4) equipment that can be used to manufacture material that improves the accuracy of strategic ballistic

missiles with nuclear capabilities, (5) and multiple cases involving illegal export of products presenting what the U.S. Government deemed involve unacceptable risks of diversion to programs capable of developing weapons of mass destruction, or related delivery systems. See *Administrative Notice, supra*, at 2-3, and the specific cases referenced, *supra*.

Recommended travel restrictions do exist for U.S. citizens visiting India. The State Department cautions U.S. citizens to avoid travel in general (with several noted exceptions) to the state of Jammu & Kashmir. (*Quick Facts, India, supra*, at 6-7).

Endorsements

Applicant is highly regarded by his colleagues and business associates who have worked with him and find him reliable and trustworthy. (AE B; Tr. 42-46; 51-53) They credited him with excellent project manager skills and being knowledgeable about server administration, networking, application, and database management. They stressed his strong project management skills, technical savvy, and integrity. (AE B; Tr. 42-46, 51-53) Each of his references extolled his strong personal character traits, systems expertise, and commitments to preserving U.S. security interests. (AE B; Tr. 42-46, 51-53)

In recognition of his consulting contributions, Applicant received a number of awards. (AE C) Applicant's commitments to his family are ably demonstrated as well. (AEs O-Q; Tr. 57) Photographs of Applicant, his wife, and son illustrate a close and supportive family who trust each other and appreciate the economic freedoms and prosperity they have come to enjoy in the United States.

Policies

The AGs list guidelines to be used by administrative judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information.

These guidelines include "[c]onditions that could raise a security concern and may be disqualifying" (disqualifying conditions), if any, and many of the "[c]onditions that could mitigate security concerns." They must be considered before deciding whether or not a security clearance should be granted, continued, revoked, or denied. The guidelines do not require administrative judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision. Each of the guidelines is to be evaluated in the context of the whole person in accordance with AG ¶ 2(c)

In addition to the relevant AGs, administrative judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in AG ¶ 2(a) . AG ¶ 2(a) is intended to assist the judges in reaching a fair and impartial commonsense

decision based upon a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following AG ¶ 2(a) factors:

(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.

Viewing the issues raised and evidence as a whole, the following adjudication policy factors are pertinent herein:

Foreign Influence

The Concern: 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 the this Guideline can and should considered 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. See AG ¶ 6.

Burden of Proof

Under the AGs, a decision to grant or continue an applicant's security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires administrative judges to make a commonsense appraisal of the evidence accumulated in the record, the ultimate determination of an applicant's eligibility for a security clearance depends, in large part, on the relevance and materiality of that evidence. See *United States, v. Gaudin*, 515 U.S. 506, 509-511 (1995). As with all adversarial proceedings, the judge may draw only those inferences which have a reasonable and logical basis from the evidence of record.

Conversely, the judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government's initial burden is twofold: (1) it must prove by substantial evidence any controverted facts alleged in the SOR, and (2) it must demonstrate that the facts proven have a material bearing to the applicant's eligibility to obtain or maintain a security clearance. The required materiality showing, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a security clearance. Rather, the judge must consider and weigh the cognizable risks that an applicant may deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the evidentiary burden shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation, or mitigation. Based on the requirement of Exec. Or. 10865 that all security clearances be clearly consistent with the national interest, the applicant has the ultimate burden of demonstrating his or her clearance eligibility. “[S]ecurity-clearance determinations should err, if they must, on the side of denials.” See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988). And because all security clearances must be clearly consistent with the national interest, the burden of persuasion must remain with the Applicant.

Analysis

Applicant is an IT consultant for a defense contractor. He immigrated to the United States in 1992 with his wife to pursue his advanced education goals and became a naturalized U.S. citizen in 2007.

Applicant and his wife and family have deep roots in India, a country rich in history and socio/political traditions, constitutional government and institutional respect for human rights, intermixed with periodic reports of abuses by police and government authorities. Despite encouraging efforts in the development of strategic partnerships between India and the U.S. in recent years, there have been cited instances of illegal and damaging export practices by Indian firms associated with the Indian government to create dual use diversion risks.

The Government urges security concerns over risks that Applicant's parents, in-laws, aunt, and cousins residing in India, might be subject to undue foreign influence by Indian government authorities to access classified information in Applicant's possession or control. Because Applicant and his wife have family members and friends who have Indian citizenship by birth and reside currently in India, they present potential heightened security risks covered by disqualifying condition (DC) ¶ 7(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,” of the AGs for

foreign influence. The citizenship/residence status of these family members in India pose some potential concerns for Applicant because of the risks of undue foreign influence that could potentially impact the security interests subject to Applicant's control.

Because the Government must be able to repose a high degree of trust and confidence in persons granted access to classified information (*Snepp v. United States*, 444 U.S. 507, 511 n.6 (1980)), applicants with family members in countries that pose a heightened risk require careful assessment of their government connections with family members residing in the country considered. Here, none of Applicant's family or his wife's family residing in India have any identified Indian government or military service affiliation. To be sure, none of Applicant's immediate and extended family members residing in India have any history of being subjected to any pressure, coercion. Nor do they appear to be vulnerable to the same. As a result, DC ¶ 7(b), "connection 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," warrants only partial application to Applicant's situation.

Besides having parents and in-laws who are citizens and residents of India, Applicant also retains considerable property interests in India. His property holdings in land and a liquid bank account warrant the application of DC ¶ 7(e), "a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign-operated business, which could subject the individual to heightened risk of foreign influence or exploitation," as well.

Applicant's family and extended family members residing in India does not by itself create a heightened risk. Applicant's contacts with his family members are manageable risks, and clearly not of the magnitude that could make them subject to a heightened security risk of pressure or compromise under the foreign influence guideline. There is a rebuttable presumption, of course, that a person has ties of affection for, or obligation to, their immediate family members, which Applicant does not dispute. See ISCR Case No. 01-03120 (App. Bd. Feb. 20, 2002) These ties of affection with immediate family members in a foreign country are considered *per se* to be more than casual. ISCR Case No. 00-0484 at 5 (App. Bd. Feb. 1, 2002) By similar reasoning, this rebuttable presumption extends to the family members of the person's spouse. ISCR Case No. 07-17673 at 3 (App. Bd. April 2, 2009)(citing ISCR Case No. 01-03120 at 4, *supra*) Indirect influence from Applicant's in-laws residing in India (through Applicant's spouse to Applicant) could cause a security concern under certain circumstances. This is especially true with countries whose geopolitical interests are considered hostile to those of the United States. See, e.g., ISCR Case No. 05-11292 (App. Bd. April 12, 2007).

The AGs governing collateral clearances do not dictate *per se* results or mandate particular outcomes for applicants with relatives who are citizens/residents of foreign countries in general. What is considered to be an acceptable risk in one foreign country may not be in another. The AGs do take into account the country's demonstrated

relations with the U.S. as an important consideration in gauging whether the particular relatives with citizenship and residency elsewhere create a heightened security risk. The geopolitical aims and policies of the particular foreign regime involved do matter.

While the reports of illegal exporting of potential dual-use technology to India is a matter of some security concern to the United States, India's emergent status as a strategic partner of the United States in controlling the proliferation of nuclear weapons is an important political development that serves to promote political solidarity, and reduce security risks and concerns between the two nuclear powers.

Based on his case-specific circumstances, MC ¶ 8(a), "the nature of the relationships with foreign persons, the country in which these persons are located, or the persons or activities of these 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 a foreign individual, group, organization, or government and the interests of the United States," is available to Applicant. Despite India's status as a known collector of dual-use technology, under these case-specific circumstances, neither Applicant, his immediate family, nor his extended family members residing in India pose any heightened security risks that could subject them to potential coercion, pressure, or influence from Indian government and military officials.

Another mitigating condition available to Applicant is MC ¶ 8(b). Where, "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 United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest," MC ¶ 8(b) applies. Applicant's demonstrated loyalty and professional commitments to the United States, are well demonstrated and sufficient under these circumstances to neutralize any potential conflicts that are related to his relationships with immediate and extended family members. Also, MC ¶ 8(c), "contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create risk for foreign influence or exploitation," has some applicability based on Applicant's infrequent contacts with his aunt and cousins.

Two other mitigating conditions have mixed application to Applicant's situation. MC ¶ 8(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," has limited value based on his oral assurances that he would report any foreign request for classified information. For there is no documented record of Applicant's prior reporting of his contacts with members of his family to warrant any more than minimal consideration at this time.

On the other hand, MC ¶ 8(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," applies

to Applicant's situation. His financial interests in India (i.e., two parcels of land and a small bank account) are relatively modest when compared to his U.S. interests. Whereas, his Indian property interests approximate no more than \$372,000 (based on Applicant's good-faith estimation), his liquid U.S. interests approximate \$1 million dollars. Additionally, he has a U.S. residence worth over \$500,000, and annual income between \$270,000 and \$400,000. Manifestly, his U.S. assets are worth considerably more than those assets he holds in India and are not likely to create any interest conflicts in the foreseeable future.

Whole-person assessment is available also to minimize Applicant's exposure to potential conflicts of interests with his Indian family members and childhood friend. Most importantly, Applicant is not aware of any risks of coercion, pressure, or influence that any of his family members might be exposed to. So, in Applicant's case, the potential risk of coercion, pressure, or influence being brought to bear on him, or any of his respective family members is minimal and mitigated.

Overall, potential security concerns over Applicant's having family members (both immediate and extended) and property interests in India are sufficiently mitigated to permit safe predictive judgments about Applicant's ability to withstand risks of undue influence attributable to his familial relationships and property interests in India. Favorable conclusions warrant with respect to the allegations covered by Guideline B.

Formal Findings

In reviewing the allegations of the SOR and ensuing conclusions reached in the context of the findings of fact, conclusions, conditions, and the factors listed above, I make the following formal findings:

GUIDELINE B (FOREIGN INFLUENCE):	FOR APPLICANT
Subparagraphs 1.a through 1.g and 1.i:	For Applicant

Conclusion

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 Applicant's security clearance. Clearance is granted.

Roger C. Wesley
Administrative Judge

