



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



In the matter of: )  
 )  
 REDACTED ) ISCR Case No. 14-00021  
 )  
 Applicant for Security Clearance )

**Appearances**

For Government: David F. Hayes, Esq., Department Counsel  
For Appellant: Sheldon I. Cohen, Esq.

09/15/2014

**Decision**

MENDEZ, Francisco, Administrative Judge:

Applicant mitigated the security concerns arising from his familial ties (in-laws and other distant contacts) to China. He has continuously resided in the United States for nearly 30 years. He attended and earned advanced academic degrees from U.S. schools. He has been gainfully employed as a federal contractor for over 20 years. He became a U.S. citizen in 1999 and shortly thereafter was granted a U.S. security clearance. Over the past 15 years, he has worked on classified U.S. projects and established a track record of stringently protecting the secrets entrusted to his care. Applicant established that he will resolve any potential conflict of interest arising from his familial ties to China in favor of the United States. Clearance is granted.

**Statement of the Case**

On April 17, 2014, the Department of Defense (DOD), in accordance with DOD Directive 5220.6, as amended (Directive), issued Applicant a Statement of Reasons (SOR), alleging security concerns under Guideline B (Foreign Influence). On April 25, 2014, Applicant answered the SOR and requested a hearing to establish his continued eligibility for access to classified information.

On June 18, 2014, Department Counsel notified the Hearing Office that the Government was ready to proceed with a hearing. On July 9, 2014, a notice of hearing was issued setting the hearing for August 13, 2014. The hearing was held as scheduled. Department Counsel offered exhibits (Gx.) 1 and 2, as well as a number of official, unclassified U.S. Government documents regarding the People's Republic of China (PRC or China) for administrative notice.<sup>1</sup> Gx. 1 was admitted without objection. Applicant's objection to Gx. 2, a DOD background report of investigation, was sustained, as the Government did not present an authenticating witness.<sup>2</sup> Applicant's objections to my consideration of the documents offered for administrative notice were overruled.<sup>3</sup> Applicant testified, called several character references as witnesses, and offered Applicant's Exhibits (Ax.) A through AA, which were admitted without objection. Applicant also offered, without objection, several documents for administrative notice regarding the PRC.<sup>4</sup> The hearing transcript (Tr.) was received on August 21, 2014.

### **Findings of Fact**

After a thorough review of the pleadings, transcript, and exhibits, and making only those reasonable inferences therefrom, I make the following findings of fact:

Applicant, who is in his fifties, is married and has one child. He was born in China and immigrated to the United States in 1985 to advance his education. He received two master's degrees and a doctorate from U.S. universities. He decided to settle in the United States. He has been continuously employed as a federal contractor since earning his doctorate degree in 1991. He became a U.S. citizen in 1999, and shortly thereafter was granted a security clearance. Over the past 15 years, he has worked on classified projects in support of U.S. Government contracts. He has been with his current employer for over ten years.<sup>5</sup>

Applicant and his wife have been married for over 25 years. She was also born in China. She immigrated to the United States in the late 1980's and since then has continuously resided the United States. She also became a U.S. citizen in 1999.

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<sup>1</sup> The 20 documents submitted for administrative notice are referenced in Hearing Exhibit (Hx.) I.

<sup>2</sup> Directive, Enclosure 3, ¶ E.3.1.20; ISCR Case No. 02-12199 at 8 (App. Bd. Oct. 7, 2004).

<sup>3</sup> Although Applicant's objections were overruled, I have considered his objections in weighing and properly evaluating the matters submitted for administrative notice. Applicant's written objections were marked and included in the record as Hx. II.

<sup>4</sup> Applicant's request for administrative notice and the 29 documents he submitted as attachments were collectively marked Hx. III. Attachments 27 – 29 are newspaper articles regarding the U.S. Government's supposed espionage efforts targeting other countries. Despite the lack of objection, I find that these documents are unreliable and irrelevant to the security concerns at issue and, thus, were not considered. For similar reasons, I did not consider the newspaper article attached to Hx. II. Without objection, the rest of the attached documents were accepted for administrative notice.

<sup>5</sup> Tr. at 70-79, 115, 130-131, 138-139; Gx. 1.

Applicant and his wife's only child was born and raised in the United States.<sup>6</sup> A close friend, who has known Applicant since they attended graduate school together, described Applicant as honest, trustworthy, and "very stable and loyal to his family and his little girl."<sup>7</sup> The witness went on to state that Applicant's soon-to-be teenage daughter is the "center of his life."<sup>8</sup>

In 1999, Applicant initially applied for access to classified information in connection with his job as a federal contractor. Notwithstanding the fact that he voluntarily and automatically relinquished his Chinese citizenship when he became a U.S. citizen, Applicant went ahead and surrendered his former Chinese passport to U.S. Government investigators during his initial security clearance background investigation. After becoming a U.S. citizen, Applicant has not sought to exercise any right or privilege of foreign citizenship. He solely uses his U.S. passport on his foreign travels. He was granted a security clearance and has held it without incident for the past 15 years.<sup>9</sup>

Applicant submitted documentation of receiving and successfully completing company-sponsored training on the "security and protection of information" for the past four years. He credibly testified about taking and successfully completing security-related briefings and courses through his employer every year for the past 10 years. He noted that, whether the security-related briefings and courses are mandatory or just recommended, he voluntarily takes them all on a yearly basis.<sup>10</sup> A work colleague and friend testified about Applicant's security conscientiousness, noting that Applicant has never discussed with him the classified projects he has worked on over the years, even though they both work for the same employer, both hold clearances, and have known each other for the past 19 years.<sup>11</sup>

Applicant's work performance, as reflected in his evaluations for the past five years and reported by his character references, has been nothing short of exceptional. He has received multiple, highly prestigious awards and commendations for his work in support of sensitive U.S. Government contracts.<sup>12</sup> His work references, who have known him for a combined total of nearly 50 years and have worked in the defense industry for decades, fully recommend him for continued access to classified information. One of his supervisors describes Applicant as stringently conscientious about the rules and a brilliant visionary, who is able to get other employees to work together in meeting the goals of their employer and one of its main customers, the U.S.

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<sup>6</sup> Tr. at 74-79, 115, 150-151; Gx. 1; Ax. P.

<sup>7</sup> Tr. at 66-67.

<sup>8</sup> Tr. at 67.

<sup>9</sup> Tr. at 35, 76-77, 131-133, 137; Gx. 1; Ax. A.

<sup>10</sup> Tr. at 92-95; Ax. R.

<sup>11</sup> Tr. at 57-58.

<sup>12</sup> Tr. at 24-58; Ax. F - O.

Government.<sup>13</sup> Another supervisor, who has worked with Applicant for 20 years and at times on a “day-to-day basis,” states that Applicant’s “ethics and integrity are beyond reproach.”<sup>14</sup>

Applicant’s foreign familial connections became a focus of concern during his current periodic reinvestigation and those security concerns are addressed in the SOR. Applicant disclosed his foreign familial connections and travel on his initial and current security clearance applications.<sup>15</sup>

Beyond Applicant’s wife and daughter, his closest family members are his mother and Sister A. Both reside in the United States and live relatively close to Applicant. Applicant’s mother immigrated to the United States from China and has been living in the United States for about 24 years. She is a citizen of China, but has been granted permanent U.S. residency status. She is retired, does not receive retirement benefits from China, and lives comfortably on her savings.<sup>16</sup>

Sister A also immigrated to the United States from China. She has principally resided in the United States since 1996. She earned a juris doctorate and two master of laws degree from U.S. law schools. Except for the time she was studying, Sister A has been continuously employed by U.S. law firms or companies. Her studies and work in the United States has been approved by the U.S. Government. She is a Chinese national, but has applied for U.S. permanent residency status and hopes to become a U.S. citizen.<sup>17</sup>

Applicant has another sister, Sister B. She is originally from China, but has been a longtime citizen and resident of County Y.<sup>18</sup> She immigrated to Country Y in the early 1990’s, because her husband was hired by a company in Country Y. He is now retired. Applicant believes Sister B never worked outside the home after immigrating to Country Y. He last saw Sister B about three to four years ago, when their father passed away. He has infrequent contact with Sister B, typically around the holidays and on birthdays. She is unaware of the nature of his work, and she and her husband have never inquired as to who he works for or what he does for a living.<sup>19</sup>

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<sup>13</sup> Tr. at 31-35, 45.

<sup>14</sup> Ax. O. *See also* Tr. at 127-128.

<sup>15</sup> Gx. 1; Ax. A. *See also* Tr. at 77-81, 142-148.

<sup>16</sup> Tr. at 73-74, 168-171; Gx. 1; Ax. A.

<sup>17</sup> Tr. at 100-117, 158-162; Gx. 1; Ax. A, Ax. Q, Ax. S – AA.

<sup>18</sup> Although Sister B’s foreign residency and citizenship are alleged as a security concern, neither party presented matters for administrative notice or information regarding Country Y. However, it is generally well recognized that Country Y is a highly developed, democratic country with a strong respect for the rule of law. It is also one of the United States strongest allies.

<sup>19</sup> Tr. at 100-117, 154-158; Gx. 1; Ax. A, Ax. Q, Ax. S – AA.

Applicant's only close relatives in China are his father-in-law, mother-in-law, and brother-in-law.<sup>20</sup> Applicant's father-in-law and mother-in-law resided for a time in the United States, living with and being supported to an extent by Applicant and his wife. They returned to China several years ago. Due to their advanced ages, frail health, and the likely toll international air travel would place on their bodies, as well as other personal factors, it appears unlikely that they will return to live in the United States. By moving back to China, Applicant's in-laws lost their U.S. permanent residency status (green cards). Applicant's wife has frequent contact with her parents, and he will generally "chime in" during the phone calls to greet his in-laws and ask how they are doing. Applicant and his wife do not send money nor provide financial support to her parents or anyone else in China.<sup>21</sup>

Applicant's brother-in-law is an entrepreneur and owns his own company in China. Applicant's contact with his brother-in-law is also limited to quick greetings when his wife speaks with her brother. Applicant and his wife generally visit with her brother when they travel to China.<sup>22</sup> Applicant's travels to China have been far more frequent and extensive over the past five years, because of his late father's ill health and passing. During some of these recent travels to China, Applicant and his wife have visited with distant relatives and met up with old friends and classmates. When they visit China, Applicant and his family generally stay in an apartment owned by Sister B.<sup>23</sup>

Applicant and his wife do not own any foreign property, assets, or bank accounts. They do not have any foreign financial interest. They have owned and lived in their home in the United States for over ten years. Applicant estimates they have over \$450,000 in equity in their home. He submitted documentation showing that their net worth is approximately three million dollars. His entire net worth is tied up in his U.S. home and U.S. held investments. His gross income from his employment as a defense contractor is over \$155,000 annually.<sup>24</sup>

In response to Department Counsel's questions regarding whether he was "involved at all . . . with any sort of Chinese organizations, social or otherwise, academic?," Applicant responded that the only Chinese-American association he was even tangentially involved with was sending his daughter to a Sunday school to learn the Chinese language and culture.<sup>25</sup> He lamented that his daughter goes to the classes

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<sup>20</sup> Applicant's father-in-law and mother-in-law are alleged as a concern at SOR 1.c. His brother-in-law is alleged as a concern at SOR 1.e, but is misidentified as a "friend."

<sup>21</sup> Tr. at 117-124, 150, 163, 168, 172-173; Gx. 1; Ax. A.

<sup>22</sup> Tr. at 125-127, 151-152, 163; Gx. 1; Ax. A.

<sup>23</sup> Tr. at 136-137, 146-153, 171; Gx. 1. Although Applicant's travel to China and these other foreign contacts were not alleged as a security concern, I have considered such in assessing the security concerns at issue and the evidence presented in mitigation.

<sup>24</sup> Tr. at 81-82, 148-149, 153-154; Gx. 1; Ax. B – C.

<sup>25</sup> Tr. at 141-142.

“reluctantly,” and noted that her command of the Chinese language is “not very good” and is tinged with a very noticeable “American accent.”<sup>26</sup> When asked whether he would ever capitulate to pressure from a foreign power, Applicant credibly testified as follows:

Well, so when I changed my citizenship, I swore loyalty and allegiance to this country, the United States of America, and this is my home. So I've been here for a long time. I invested close to 30 years of my life here in this country, and it's been quite a long journey actually. Sometimes it's not that easy. It's a hard-fought journey.

When I first came, I only had a suitcase, a few clothes in it, as a student, to now, I have a home, and a family, and I really have worked hard for this, and I cherish this. And, you know, you have known, by now, I have a very good family. I have a great wife and a wonderful daughter. And together, we have really built a good life here. It's not easy.

And this is our home. Right here. I want to do everything to protect us, you know? [Looking directly at the Judge and then Department Counsel] Your Honor, Mr. Hayes, and I'm sure, like you, my family is the most important thing in my life. I want to protect it with all the powers I have. I will not do anything to jeopardize this; to the life we built together.

All right. If I may say something, you know, this clearance is important to me. It will affect my job, my livelihood, and my family, *but I also know, and am deeply aware, this is a privilege. It's not a right. And I would do the utmost to uphold the trust and fulfill the responsibility that comes with that privilege. I would do everything in my power to fulfill the obligations that comes with this privilege*, so I thank you for your considerations.<sup>27</sup>

### **Administrative Notice**

The PRC has an authoritarian, communist government. China and the United States have a complicated relationship. Both countries work closely together in areas of mutual interest, including combating threats to global security posed by rogue states and actors, as well as the threat posed by climate change. Additionally, China is one of the United States largest trading partners. However, certain PRC actions and conduct pose a direct security and economic threat to the United States. For instances, the PRC is the most aggressive country conducting espionage against the United States.

The PRC's intelligence-gathering programs focus on sensitive and protected U.S. technologies. The PRC intelligence services and private companies frequently try to target Chinese citizens or individuals with family ties to China who can use their insider access to corporate networks to steal secrets using removable media devices or e-mail.

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<sup>26</sup> Tr. at 172.

<sup>27</sup> Tr. at 129-130 (emphasis added).

PRC targeting efforts, however, are not solely restricted to U.S. citizens of Chinese descent or who otherwise have some familial or other connections to China.

The PRC also rewards the actions of private citizens who obtain technology for it. The PRC, through government agencies, its military, and private enterprises and individuals, has engaged in cyber warfare against the United States, specifically targeting U.S. Government agencies and private U.S. corporations.

The PRC has a troubling and long history of committing human rights abuses, including violent and, at times deadly, suppression of political dissent, arbitrary arrest and detention, forced confessions, torture, and mistreatment of prisoners. The PRC conducts warrantless searches and monitors private communications of its citizens and others, including telephone conversations, text messaging, and e-mail traffic. PRC security personnel conduct surveillance of those who visit China, including searching personal possessions left in hotel rooms, such as computers, without consent.

### **Policies**

“[N]o one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). Individual applicants are only eligible for access to classified information “only upon a finding that it is clearly consistent with the national interest” to authorize such access. Executive Order (E.O.) 10865, *Safeguarding Classified Information within Industry*, § 2 (Feb. 20, 1960), as amended.

When evaluating an applicant’s eligibility, an administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations, the guidelines list potentially disqualifying and mitigating conditions. The guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies the guidelines in a commonsense manner, considering all available and reliable information, in arriving at a fair and impartial decision.

The Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.14. On the other hand, an 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.” Directive ¶ E3.1.15. An applicant has the ultimate burden of persuasion to establish their eligibility.

In resolving the ultimate question regarding an applicant’s eligibility, an administrative judge must resolve “[a]ny doubt concerning personnel being considered for access to classified information . . . in favor of national security.” AG ¶ 2(b). Moreover, “security clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531.<sup>28</sup>

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<sup>28</sup> See also, ISCR Case No. 07-16511 at 3 (App. Bd. Dec. 4, 2009) (“Once a concern arises regarding an Applicant’s security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance.”).

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence.<sup>29</sup> This relationship transcends normal 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 an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.<sup>30</sup>

Clearance decisions must be made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” E.O. 10865 § 7.<sup>31</sup> Thus, a decision to deny a security clearance amounts to a finding that an applicant, at the time the decision was rendered, did not meet the strict guidelines established for determining eligibility for access to classified information.

## Analysis

### Guideline B, Foreign Influence

The security concern regarding an individual with foreign contacts and connections, to include contact with and connections to family members residing in a foreign country, is set forth at AG ¶ 6:

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.<sup>32</sup>

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<sup>29</sup> ISCR Case No. 10-09986 at 3 (App. Bd. Dec. 15, 2011) (“A clearance adjudication is an applicant’s opportunity to demonstrate that, prior to being awarded a clearance, he actually possesses the judgment, reliability, and trustworthiness essential to a fiduciary relationship with this country.”).

<sup>30</sup> ISCR Case No. 11-13626 (App. Bd. Nov. 7, 2013) (security clearance determinations require administrative judges to make predictive judgments about an individual’s ability and willingness to protect and safeguard classified information).

<sup>31</sup> See also, ISCR Case No. 11-13626 at 4 (App. Bd. July 25, 2014) (“an adverse decision under the Directive is not a determination that the applicant is disloyal.”).

<sup>32</sup> ISCR Case No. 09-07565 at 3 (App. Bd. July 12, 2012) (“As the Supreme Court stated in *Egan*, a clearance adjudication may be based not only upon conduct but also upon circumstances unrelated to conduct, *such as the foreign residence of an applicant’s close relatives.*”) (emphasis added) (internal citation omitted).



An individual is not automatically disqualified from holding a security clearance because they have familial ties to a foreign country. Instead, in assessing an individual's vulnerability to adverse foreign influence, an administrative judge must take into account the foreign government or entity involved; the intelligence gathering history of that government or entity; the country's human rights record; and other pertinent factors.<sup>33</sup>

In light of the nature of the Chinese government and its espionage efforts targeting the United States, the totality of Applicant's familial ties, contacts, and connections to the PRC raise a *significant* security concern. This evidence also establishes the following disqualifying conditions:

AG ¶ 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;

AG ¶ 7(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; and

AG ¶ 7(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.

A finding that an individual's foreign connections raise a "heightened risk of foreign exploitation" does not end the Guideline B analysis, even in cases, such as the present one, where the foreign country involved is hostile to the national security interests of the United States. Instead, an individual with foreign family members in a country that is hostile to the United States bears a "very heavy burden" in demonstrating that they cannot be influenced or coerced through their foreign family members.<sup>34</sup>

In meeting this higher standard of proof and persuasion, an individual is not required "to sever all ties with a foreign country before he or she can be granted access

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<sup>33</sup> ISCR Case No. 05-03250 at 4 (App. Bd. Apr. 6, 2007) (setting forth some of the factors an administrative judge must consider in Guideline B cases under former adjudicative guidelines); ISCR Case No. 07-00029 at 3 (Dec. 7, 2007) (reasserting the continued validity of prior Guideline B case law and noting the requirement of a judge to consider and discuss the nature of the foreign government or entity involved, especially when the country or entity is deemed hostile to the United States).

<sup>34</sup> ISCR Case No. 10-09986 at 3 (App. Bd. Dec. 15, 2011) ("an applicant with family members in a country that is hostile to the U.S. bears a 'very heavy burden' to show that the family members are not a means of coercion or exploitation."). Although the Appeal Board recently held that this heightened standard is generally only applicable in security violation cases, the Board specifically reaffirmed its prior precedent extending the heightened scrutiny analysis to Guideline B cases involving hostile foreign countries. See ISCR Case No. 11-12202, n. 5 (App. Bd. June 23, 2014).

to classified information.”<sup>35</sup> However, what factor or combination of factors will mitigate the security concerns raised by an applicant with family members in a foreign country, especially a hostile one, is not easily identifiable or quantifiable, as each case must be decided on its own merits.<sup>36</sup> What is certain is that an administrative judge’s predictive judgment is to be guided by a commonsense assessment of the evidence and consideration of the adjudicative guidelines and whole-person factors set forth in the Directive.<sup>37</sup> A judge’s ultimate determination must also take into account the overarching standard in all security clearance cases, namely, that any doubt raised by an applicant’s conduct or circumstances must be resolved in favor of national security.<sup>38</sup>

In addition to disqualifying conditions, the adjudicative guidelines also set forth a number of potential conditions that may mitigate the foreign influence security concerns. After a thorough review of all the mitigating conditions, the only one that warrants discussion is:

AG ¶ 8(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.

Applicant established that he would utterly repel any attempt to influence, manipulate, or coerce him through his foreign familial connections, because the relationships that *truly* matter most to him are squarely in the United States. Applicant came to the United States nearly 30 years ago looking to further his education. He decided to stay and make the United States his home. From very humble beginnings, Applicant has worked exceedingly hard to carve out a successful career and has amassed a substantial net worth that is directly tied to his U.S. property and U.S. held investments. More importantly, Applicant has provided a home and a future for the individual that is his entire *raison d’être*, his daughter – a daughter who was born and has been exclusively raised in the United States.

Additionally, the only other family members that Applicant is especially close to are his mother and sister. Both live close to him and have created their own lives in the United States. Although Applicant did not rebut the legal presumption that he has bonds of affection and obligation to his in-laws through his wife, he did establish that the extent of those bonds pales in comparison to the bonds he holds for his family in the United States and the relationships that he has painstakingly built in the United States over the past 30 years. In light of Applicant’s significant financial and personal ties to the United

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<sup>35</sup> ISCR Case No. 07-13739 at 4 (App. Bd. Nov. 12, 2008).

<sup>36</sup> ISCR Case No. 11-12202 at 5 (App. Bd. June 23, 2014).

<sup>37</sup> Directive, ¶ 6.3.

<sup>38</sup> AG ¶ 2(b); ISCR Case No. at 5 (App. Bd. Aug. 4, 2014).

States, an attempt by a foreign power to influence him through his foreign contacts and connections would be futile.

Furthermore, the overwhelming weight of the evidence established that Applicant fully understands and appreciates the great responsibility and trust this nation places in those granted access to classified information. Applicant has for more than 20 years worked on contracts in support of the United States, the last 15 of those years in support of sensitive, classified U.S. projects. Applicant takes his security obligations and responsibilities seriously, as evidenced by his annual attendance at and completion of employer-sponsored security training that is not even mandated. He employs the lessons learned in these security-related trainings in his daily routine and in his relationships with others. Of particular note in this respect is the testimony of his longtime friend and colleague, who is a cleared employee and works for the same employer. Although they have a social relationship outside the workplace, Applicant has never once discussed his classified work with this individual. Consequently, through his words and conduct, Applicant has demonstrated that he is unapologetically loyal to the United States and stridently protects the secrets this nation has entrusted to his care.

After carefully weighing the evidence, both favorable and unfavorable, and considering the heightened risk of foreign influence posed by Applicant's foreign contacts and connections in the PRC, I find that he met the very heavy burden standard. Specifically, Applicant established that he would resolve any potential conflict of interest in favor of the United States. AG ¶ 8(b) applies.

### **Whole-Person Concept**

Under the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of an applicant's conduct and all the relevant circumstances. An administrative judge should consider the nine factors listed at AG ¶ 2(a).<sup>39</sup>

Applicant's personal character and integrity, which are vital matters to be considered in assessing an individual's suitability for a security clearance, are unassailable. He has been candid about his foreign connections and travel from his very first security clearance application in 1999. Furthermore, I had an opportunity to observe Applicant's demeanor while he testified. I found him forthcoming regarding his foreign connections and resolute in his ability to resolve any potential conflict of interest in favor of the United States. Accordingly, if any foreign state or entity were to attempt to influence Applicant through his foreign familial connections and contacts, this history of

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<sup>39</sup> The non-exhaustive list of adjudicative factors are: (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.

