

KEYWORD: Foreign Influence

DIGEST: Applicant has mitigated the allegations of foreign influence. Although he has relatives who are citizens of Republic of China (Taiwan) and reside there, I conclude there is no evidence that he could be exploited by a foreign power in a way that would force him to choose between his ties to them and to the United States (U.S.). While he visits Taiwan and provides some economic support to his elderly mother, those contacts are minimal considering his long history of ties to the U.S. where he has been a naturalized citizen since 1986. While his brothers have ties to the government, they work in public utilities, not defense-related agencies. Given his long-term access to classified information since 1995 and his long history of reliable conduct, Applicant has established his trustworthiness and reliability. Clearance is granted.

CASENO: 02-24267.h1

DATE: 08/30/2004

DATE: August 30, 2004

---

In Re:

-----

SSN: -----

Applicant for Security Clearance

---

ISCR Case No. 02-24267

**DECISION OF ADMINISTRATIVE JUDGE**

**KATHRYN MOEN BRAEMAN**

**APPEARANCES**

**FOR GOVERNMENT**

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Applicant has mitigated the allegations of foreign influence. Although he has relatives who are citizens of Republic of China (Taiwan) and reside there, I conclude there is no evidence that he could be exploited by a foreign power in a way that would force him to choose between his ties to them and to the United States (U.S.). While he visits Taiwan and provides some economic support to his elderly mother, those contacts are minimal considering his long history of ties to the U.S. where he has been a naturalized citizen since 1986. While his brothers have ties to the government, they work in public utilities, not defense-related agencies. Given his long-term access to classified information since 1995 and his long history of reliable conduct, Applicant has established his trustworthiness and reliability. Clearance is granted.

**STATEMENT OF THE CASE**

The Government could not reach the preliminary positive finding that it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant, <sup>(1)</sup> so the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to the Applicant on August 27, 2003. The SOR detailed security concerns in paragraph 1 over foreign influence (Guideline B). Applicant received the SOR and replied in an Answer of September 11, 2003, and admitted all allegations with explanation and requested a hearing. The case was assigned to Department Counsel who attested the case was ready to proceed.

On February 18, 2004, the case was assigned to me. Subsequently, a mutually convenient date for hearing was agreed to and a Notice of Hearing issued on February 18, 2004, set the matter for March 8, 2004, at a location near where Applicant works and lives. At the hearing the Government introduced a Stipulation on three documents. Two were admitted into evidence (Exhibits 1-2) and one was accepted for Official Notice (ONI). Applicant testified, offered two exhibits (Exhibits A & B), and called three witnesses. The transcript (TR) was received on March 16, 2004.

**FINDINGS OF FACT**

After a complete and thorough review of the evidence in the record, and upon due consideration of that evidence, I make the following findings of fact:

Applicant, 54 years old, went to work for a defense contractor State #1 in October 1987. He was granted a Defense Department Secret clearance in December 1995. In June 2000 he completed an Office of Personnel Management (OPM) Security Clearance Application (Standard Form 86) (SF 86). (Exhibit 1; TR 37-38)

Applicant did his undergraduate studies in Taiwan. (TR 22-23) He first studied in State #2 and earned his master's degree in 1977; and in 1981 he received a Ph.D. from a university in State #3. (Exhibits 1, 2; TR 22-23)

Applicant was married in 1976 in Taiwan and has two children, one age 26 who was born in Taiwan and another age 22 who was born in the U.S. (Exhibit 1; TR 24-25)

### **Foreign Influence**

Applicant was born in Republic of China (Taiwan) as his parents were citizens of Taiwan and living there in 1949 when he was born. Applicant was required to serve in the military in Taiwan and performed an administrative job. He came to the U.S. to study when he was 24. He had an aunt living in State #4 in the U.S. (Exhibit 1; TR 22-24) Applicant has no relationship with any military people or government agency in Taiwan. (Exhibit 2; TR 21)

Applicant became a naturalized U.S. citizen in July 1986. (Exhibit 1; TR 24) His wife also became a naturalized U.S. citizen in 1986. (Exhibit 2) His sister lives in the U.S. and is a teacher's aid. She has been a U.S. citizen for over five years. (Exhibit 2; TR 33)

Applicant continues to visit his mother every one to two years and visited there again in April 2004. His mother was born in Taiwan and was a housewife; she continues to live in the family home as she is elderly and in poor health. He speaks to her once a month and sends her money --about \$1,000 a year as he shares her living expenses with his brothers after his father died fifteen years ago. (Answer; Exhibits 1, 2; Exhibit B; TR 20-21, 26-29, 36)

His brothers live in Taiwan, but he has limited contact with them. They have remained there as they have a limited ability to speak and read English. When younger, they served in the military and completed their service. They work for public utilities in Taiwan which are run by the government, but which are being privatized. They work in technical areas and have never worked in a military or defense program. (Answer; Exhibits 1, 2; TR 20, -21, 30, 36) Most of the industry in Taiwan is state owned. (TR 65-66)

His mother-in-law and sisters-in-law are citizens of Taiwan, but have immigrated to the U.S. and have permanent resident status. One sister-in-law lives in Taiwan and works as a teacher. (Answer, Exhibit 1; TR 25, 66)

Applicant declared that when he visits Taiwan he reports those visits to his security manger. Should anyone attempt to obtain classified information from him he would follow security procedures and report them to his company's security representative. (Exhibit 2; TR 34, 37)

### References

Applicant's department manager testified that she has known Applicant for 17 years as they joined the company in 1987 and worked together for many years. She has a top secret clearance and is aware of the importance of security matters. Applicant is one of 70 employees who report to her, and she considers him a "Salt of the Earth" kind of person based on his excellent performance at work. He works on multiple projects and people trust him and his data. (TR 39-44)

The program manager and the contractor program security officer both provided a reference letter that Applicant is a "highly valued and strong contributor" to classified programs whose contributions have been high praised. He has had a security clearance since 1995, almost a decade, without a security violation or infraction. Applicant consistently follows security procedures and has always notified management and security of visits to Taiwan. (Exhibit A)

The security officer testified he has known Applicant for eighteen months since December 2002. He checked the records and found no security infractions. He testified that Applicant complies with security travel reporting requirements in a timely manner. The government customer has approved his trips and has never raised any objections to Applicant's trips to Taiwan. The security officer has been trained in indicators of espionage: Applicant has never exhibited any of those traits. (TR 46-50)

Applicant's program manager has known Applicant for twelve years and directly supervises him. He stated that the government customer has specifically requested Applicant to work on their programs as he is well respected in his field of expertise and they have confidence in him. The customer has never objected to Applicant's trips to Taiwan. The manager reported that Applicant is conscientious about meeting security requirements and has never had any security violations. This manager would have a duty to immediately debrief Applicant from programs if he had any suspicions about his reliability. He considers Applicant a "very trustworthy person." (TR 51-61)

## POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines to consider in evaluating an individual's security eligibility divided into conditions that could raise a security concern and may be disqualifying and conditions that could mitigate security concerns in deciding whether to grant or continue an individual's access to classified information. The mere presence or absence of any given adjudication policy condition is not decisive. Based on a consideration of the evidence as a whole in evaluating this case, I weighed the following relevant Adjudication Guidelines:

### **Guideline B - Foreign Influence**

**The concern: A security risk may exist when an individual's immediate family, including cohabitants, and other persons to whom he or she may be bound by affection, influence, or obligation are: (1) not citizens of the United States or (2) may be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information. Contacts with citizens of other countries or financial interests in other countries are also relevant to security determinations if they make an individual potentially vulnerable to coercion, exploitation, or pressure.**

#### **Conditions that could raise a security concern and may be disqualifying include:**

- (1) An immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country
- (3) Relatives, cohabitants, or associates who are connected with any foreign government;

#### **Conditions that could mitigate security concerns include:**

- (1) a determination that the immediate family member(s), (spouse, father, mother, sons, daughters, brothers, sisters), cohabitant, or associate(s) in question are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person(s) involved and the United States;
- (3) contact and correspondence with foreign citizens are casual and infrequent;

The responsibility for producing evidence initially falls on the Government to demonstrate that it is not clearly consistent with the national interest to grant or continue access to classified information. Then the Applicant presents evidence to refute, explain, extenuate, or mitigate in order

to overcome the doubts raised by the Government, and to demonstrate persuasively that it is clearly consistent with the national interest to grant or continue the clearance. Under the provisions of Executive Order 10865, as amended, and the Directive, a decision to grant or continue an applicant's security clearance may be made only after an affirmative finding that to do so is clearly consistent with the national interest. In reaching the fair and impartial overall common sense determination, the Administrative Judge may only draw those inferences and conclusions that have a reasonable and logical basis in the evidence of record.

## CONCLUSIONS

### **Guideline B - Foreign Influence**

Applicant mitigated the Government's security concerns over Applicant's possible foreign influence raised by his close ties of affection to citizens of a foreign country under MC (1), a determination that the immediate family member(s), (spouse, father, mother, sons, daughters, brothers, sisters), cohabitant, or associate(s) in question are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person(s) involved and the United States; and MC (3), contact and correspondence with foreign citizens are casual and infrequent. Even though Applicant has contact with his family, he infrequently visits his relatives who are citizens of Taiwan and reside there. Security concerns are mitigated by the fact that Applicant has limited and infrequent contact with his mother, brothers, and wife's family members. There is no evidence that his relatives are agents of Taiwan or that Applicant could be influenced by such agents because of these family ties. His mother is ill, elderly, and has never worked; his economic support of her is minimal. While his brothers work in a technical capacity for agencies of their foreign government, they work for public utilities and do not work in any defense-related agency.

Given his long history of responsible conduct, here is no substantial likelihood that his relatives would exercise foreign influence over Applicant. Applicant has established a history of being conscientious in complying with security requirements since he was granted his security clearance and access in 1995. Several officials testified that Applicant is not vulnerable to duress merely because of these family ties in Taiwan. The government contractor management officials report that Applicant is highly regarded. Indeed, the government customer is advised of his trips to Taiwan and has never raised an objection because of their confidence in his trustworthiness and technical expertise. It is improbable that his family would create a situation that could result in the compromise of classified information. Contacts with citizens of other countries are relevant to security determinations only if they make an individual potentially vulnerable to coercion, exploitation, or pressure through threats against those foreign relatives. While acts indicative of foreign influence warrant careful scrutiny, after considering the Enclosure 2 Adjudicative Process factors and the Adjudicative Guidelines, I conclude these ties do not raise such concerns with respect to Applicant. Thus, I resolve SOR paragraph 1 and subparagraphs 1.a. through 1.h. in Applicant's favor.

## **FORMAL FINDINGS**

After reviewing the allegations of the SOR in the context of the Adjudicative Guidelines in Enclosure 2 and the factors set forth under the Adjudicative Process section, I make the following formal findings:

Paragraph 1. Guideline B: FOR APPLICANT

Subparagraph 1.a.: For Applicant

Subparagraph 1.b.: For Applicant

Subparagraph 1.c.: For Applicant

Subparagraph 1.d.: For Applicant

Subparagraph 1.e.: For Applicant

Subparagraph 1.f.: For Applicant

Subparagraph 1.g.: For Applicant

Subparagraph 1.h.: 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 the Applicant. Clearance is granted.

Kathryn Moen Braeman

Administrative Judge

1. This procedure is required by Executive Order 10865, as amended, and Department of Defense Directive 5220.6, dated January 2, 1992 (Directive), as amended by Change 4, April 20, 1999.