

KEYWORD: Foreign Influence; Personal Conduct

DIGEST: Applicant, a native of the People's Republic of China (PRC), came to the United States (U.S.) For college in 1987, and became a U.S. naturalized citizen in December 1999. He has close relationships with his parents and siblings in the PRC, and sends his parents \$500 to \$1,000 annually. In February 2003, he sent his brother \$56,000, the equity in his home taken out in a refinance of his mortgage, to cover his mother's medical costs in the PRC. He failed to disclose this transfer of funds during a Defense Security Service (DSS) interview, creating doubts for his personal conduct. The PRC residency and citizenship of his family members raises significant foreign influence concerns that are not mitigated. Clearance is denied.

CASENO: 03-13109.h1

DATE: 04/06/2005

DATE: April 6, 2005

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-13109

DECISION OF ADMINISTRATIVE JUDGE

ELIZABETH M. MATCHINSKI

APPEARANCES

FOR GOVERNMENT

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant, a native of the People's Republic of China (PRC), came to the United States (U.S.) for college in 1987, and became a U.S. naturalized citizen in December 1999. He has close relationships with his parents and siblings in the PRC, and sends his parents \$500 to \$1,000 annually. In February 2003, he sent his brother \$56,000, the equity in his home taken out in a refinance of his mortgage, to cover his mother's medical costs in the PRC. He failed to disclose this transfer of funds during a Defense Security Service (DSS) interview, creating doubts for his personal conduct. The PRC residency and citizenship of his family members raises significant foreign influence concerns that are not mitigated. Clearance is denied.

STATEMENT OF THE CASE

On March 2, 2004, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to the Applicant. 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 the Applicant. (1) DOHA recommended referral to an administrative judge to determine whether his clearance should be granted, continued, denied, or revoked. The SOR was based on foreign influence (Guideline B).

Applicant filed his response to the SOR on March 18, 2004, and requested a hearing before a DOHA administrative judge. On July 21, 2004, the government moved to amend the SOR to add Guideline E, personal conduct, alleging Applicant falsified material facts on or about May 13, 2003, when during an interview with a DSS agent he stated he sends approximately \$500 to \$1,000 annually to his parents in the PRC, and sent them \$5,000 in 1996, whereas he also sent them \$56,000 in 2003. The case was assigned to me on July 29, 2004, with the motion pending, and Applicant was granted 20 days to object to the proposed amendment, or in the alternative to respond to the allegation. Applicant was notified that a failure to respond would be taken as an admission to the new allegation.

On August 1, 2004, Applicant objected to the motion, citing his voluntary disclosure to the DSS in his initial interview of the amount sent regularly to family members in the PRC, his disclosure of the \$56,000 lump sum on financial documents forwarded to him by DOHA, and his subsequent detailed statement to the DSS special agent of the lump sum transfer. (2) On August 5, 2004, I granted the motion, and notified the parties the burden was on the government to prove deliberate falsification in light of Applicant's denial.

Pursuant to formal notice dated August 13, 2004, a hearing was held on September 21, 2004. Three government exhibits and four Applicant exhibits were admitted into the record and Applicant testified, as reflected in a transcript received on October 4, 2004. At the government's request, administrative notice was taken of several publications: extracts from the Office of the National Counterintelligence Executive's *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage 2001*; extracts from the National Counterintelligence Center's *1999 Annual Report to Congress on Foreign Economic Collection and Industrial Espionage*; the U.S. State Department's Consular Information Sheet on China, dated July 20, 2004; the Congressional Research Service's Issue Brief for Congress *China-U.S. Relations*, dated January 31, 2003; Section 3 of the Operations Security Intelligence Threat Handbook; the January 3, 1999, report of the U.S. House of Representatives' Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China; and the U.S. State Department's *Country Reports on Human Rights Practices-2003* for China (including Tibet, Hong Kong, and acau).

FINDINGS OF FACT

The SOR as amended alleges foreign influence concerns because of close family members (parents and siblings) and his parents-in-law being PRC resident citizens; Applicant sending his family in the PRC between \$500 and \$1,000 annually and \$56,000 in a lump sum in February 2003; and Applicant traveling to the PRC at least five times since 1994. Under personal conduct, Applicant is alleged to have deliberately concealed from the DSS that he sent the \$56,000 to his parents in February 2003. Applicant admits the foreign influence allegations, but denies any intentional falsification or omission, as the \$56,000 in support was a "one-time effort on [his] part to help [his] family and not really a 'regular basis' effort." Applicant's admissions are accepted and incorporated as findings of fact. After a thorough review and consideration of the evidence of record, I make the following additional findings of fact:

Applicant is a 41-year-old senior software engineer who has been employed by a defense contractor since July 2000. He seeks a secret-level security clearance for his duties, having held an interim clearance without adverse incident until the SOR was issued.

Applicant is the youngest of five children born into a family that suffered political persecution after the Communist takeover of the PRC in 1949. Before Applicant's birth, his father had been an electrical engineer at an electric power company in a major city; his mother was a homemaker. In about 1957, his father was sent to correction camp for "mind washing" after he criticized the policies of the PRC's Communist government. Later targeted during the Cultural Revolution, Applicant's father was taken from the family home by Red Guards in 1965 and sent to a suburban factory where he was beaten and forced to work long hours. Over the next three years, his father was not allowed to leave the factory, but he was permitted visitation by family members once a month. Due to financial struggles, one sibling rather than the entire family went to the factory each month to retrieve their father's paycheck. In 1968, Applicant's father returned home but was still required to work in the factory. In about 1979, Applicant's father was "redressed" and he returned to his position as an engineer at age 60. As a result of his mistreatment, he advised his children to pursue higher education outside the PRC. Applicant's father retired 12 years later.

Applicant and his siblings were denied competitive educations in the PRC because of their father being targeted. On graduating from high school in the PRC, Applicant worked in an electric plating factory for a year. From 1983 to 1987, Applicant continued his education in a light industry college in the PRC. On his graduation from the automated control department, Applicant worked in the automated control laboratory of a textile university in the PRC.

In September 1987, Applicant came to the U.S. on a student visa to pursue college studies in computer information, joining a sister who was living in the U.S. Applicant participated in at least one protest in the U.S. of the PRC's military assault on pro-democracy demonstrators in and around Tiananmen Square in Beijing in 1989. (3) In July 1990, Applicant married his spouse, who two months before entered the U.S. from the PRC as his fiancée. In April 1991, Applicant was awarded his undergraduate degree.

In August 1991, Applicant and his spouse moved to another locale in the U.S. where he pursued graduate studies in engineering at a state university. In June 1993, Applicant earned his master's degree. He and his spouse returned to the state where he had received his undergraduate education, as his spouse had secured a position as a research technician in the laboratory of a university medical school.

From September 1993 to July 2000, Applicant was employed as a software engineer for a succession of manufacturing companies in his local area. Raised within a culture where children are to support their parents when they become elderly, Applicant began sending his parents \$100 to \$500 annually to assist them with their expenses. Since he was not physically available to care for them, he felt it was his responsibility to financially contribute to their healthcare needs.

Applicant traveled to the PRC in December 1994 for three weeks to see his family members. He entered the PRC on a valid PRC passport issued August 1987. In August 1995, he and his spouse had their first child, a son, and they bought their first home in the U.S. in 1996. He sent his parents \$5,000 in financial support around that time. In November 1996, he and his spouse traveled to the PRC for one month to introduce their parents to their grandson. Applicant's mother was hospitalized through at least mid-November 1997, when Applicant and his family returned to the PRC to visit her. In February 1999, Applicant and his spouse had a daughter, and they took her to the PRC that September to meet her grandparents. In 1999 or 2000, as his income increased, Applicant began to increase his financial support to his parents, sending them from \$500 to \$1,000 annually.

In December 1999, Applicant and his spouse became U.S. naturalized citizens, taking the oath to renounce all foreign allegiances, to support and defend the U.S. Constitution and its laws, and to bear arms or noncombatant service or civilian service on behalf of the U.S. if required. Applicant also anglicized his name by taking on a new first name consistent with his new nationality. By acquiring their U.S. citizenship, they automatically lost their PRC citizenship. They obtained their U.S. passports in January 2000.

In July 2000, the family relocated in conjunction with Applicant's employment as a software engineer with a defense contractor. Needing a security clearance for his duties, Applicant executed a security clearance application (SF 86) on July 20, 2000, disclosing his and his spouse's births in the PRC, their recent naturalization in the U.S., and travels to the PRC for pleasure in December 1994, November 1996, and September 1999. Applicant also reported the PRC citizenship and residency of his parents and two siblings (his eldest sister and his only brother). Applicant's other sisters were residing in Canada and the U.S., respectively. His sister in the U.S. became a U.S. naturalized citizen in 1996.

With his mother suffering from late stage emphysema and emergency room treatment in the PRC requiring a cash deposit before admission, Applicant refinanced the mortgage on his home in October 2002, taking out almost \$50,000 in equity. In mid-February 2003, he wired \$56,000 to his brother in the PRC to be used for his parents' medical expenses as his mother had been admitted to the hospital that January. Concerned that the U.S. was going to pressure the PRC to inflate the value of its currency in relation to the dollar⁽⁴⁾ with the consequence that his parents would receive only five yuan per one dollar rather than 8.3 yuan per one dollar, Applicant decided to send the large amount to his parents rather than spend the money on home improvements to ensure that his parents would have the funds for their needs, including the cost of someone to help care for his mother.

On May 13, 2003, Applicant was interviewed by a special agent of the Defense Security Service (DSS) about his foreign connections. Applicant told the agent about providing financial support to his parents in the PRC in approximate amount of \$500 to \$1,000 annually, and about sending \$5,000 to them in approximately 1996. He did not mention the recent wire transfer of the \$56,000 out of concern that the disclosure of such a substantial sum would negatively affect his clearance.⁽⁵⁾

On December 10, 2003, Applicant responded to DOHA inquiries into his contacts with non-U.S. citizen relatives and friends. Applicant volunteered that he had wired \$56,000 to his brother in the PRC on February 19, 2003, for his parents' hospital and future medical expenses. He also documented the citizenship, addresses, employers, occupations, and frequency of contact with his parents, sister and her spouse, brother and his spouse, and his parents-in-law in the PRC and with his sisters living in Canada and the U.S.

On May 7, 2004, Applicant was interviewed by a different DSS agent, this time to provide the details about his financial support to his parents in the PRC and the source of those funds. Applicant indicated that after graduating from college, he began sending small amounts of approximately \$100 to \$500 annually to his parents. As his income increased, his support increased to "normally \$500 to \$1000 annually." As he had told DOHA, Applicant sent a lump sum of \$56,000 to his parents in about February 2003. Asked why he had not disclosed his wire transfer of such a sum during his initial subject interview, Applicant responded:

I cannot explain why I did not disclose this information during my initial interview with DSS in May 2003. I admit that it is possible that I felt that disclosing that I sent such a large amount may negatively impact my chances of getting a

security clearance. I realize I should have disclosed that information during the interview, and was forthcoming about it in my response to DOHA.

Applicant denied sending any additional funds to his parents since February 2003. He attributed his repeated travels to see them (approximately five times in the preceding five years) to his fear each time that it would be the last time he would see them alive. Applicant maintained his loyalty and allegiance is with the U.S. and he would not take any action harmful to the U.S.

Applicant's parents, his oldest sister and her husband, his only brother and brother's wife, his parents-in-law, and his sister's brother, are resident citizens of the PRC. Applicant has telephone contact with his parents twice a month. Applicant's sister, aged 58, is retired from her job as an accountant for an automobile plant. Her spouse had been an engineering manager for a U.S. automaker before his retirement. Applicant contacts them by telephone once every three months or so. Applicant's brother is a 51-year-old retired engineer who made his money working for a Japanese electronics manufacturer in a special economic zone in the PRC. When his parents became ill, he quit that position and went back home. He is married to a homemaker. Applicant speaks to them by telephone on average once monthly. Applicant's father-in-law (aged 68) and mother-in-law (aged 64) are retired physicians. Applicant's spouse calls her parents monthly. Applicant speaks to them on special occasions. To Applicant's knowledge, none of his or his spouse's family members in the PRC are politically affiliated with, receive any financial support from, or have ever been employed by, the PRC government.

During his annual or at times biannual trips to the PRC, primarily to see his parents, Applicant visited with his siblings and in-laws as well, spending a few days with his in-laws. Before each trip to the PRC, he notified his employer's security office of his travel plans and received a travel/security briefing.

Applicant does not regularly visit his sister in Canada, who is 57-years-old and married to a retired businessman. He speaks with her by telephone about once a month. The sister who is a U.S. resident citizen works as a research associate at a state university. Her spouse is a senior research scientist for a major pharmaceutical company in the U.S. Applicant has contact with them twice monthly by telephone.

Applicant and his spouse do not have any financial assets abroad. They own their home in the U.S. on which they owe about \$290,000. He has 401K assets of about \$110,000. Their children attend public schools in the U.S. Applicant is not involved in any Asian political or cultural organizations in the U.S. Having chosen to relinquish their PRC citizenship to embrace life as Americans, they intend to remain in the U.S. permanently.

Applicant has proven to be a hard worker for the defense contractor. While he held an interim clearance, he had access to a secure area containing classified hardware and software. An electrical engineer who worked with Applicant in that restricted environment observed no behavior on Applicant's part that would lead him to question Applicant's loyalty.

Applicant's supervising engineer has found Applicant to be well-organized, responsible and honest, a team player.

POLICIES

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has "the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960). Eligibility for a security clearance is predicated upon the applicant meeting the security guidelines contained in the Directive. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3.

Enclosure 2 of the Directive sets forth personnel security guidelines, as well as the disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. In evaluating the security worthiness of an applicant, the administrative judge must also assess the adjudicative process factors listed in ¶ 6.3 of the Directive. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant. *See* Exec. Or. 10865 § 7. It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

CONCLUSIONS

Having considered the evidence in light of the appropriate legal precepts and factors, and having assessed the credibility of the Applicant, I conclude the following with respect to Guidelines B and E:

Foreign Influence. 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 not citizens of the United States or 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. (Directive ¶ E2.A2.1.1.) Although Applicant's spouse and two children, the persons to whom he is closest, are resident citizens of the U.S., his parents, two of his four siblings, and his in-laws are resident citizens of the PRC. Applicant has feelings of affection and obligation for his parents especially. He telephones them twice monthly to check on their well-being, and has provided financial support for them since he graduated from college. As recently as February 2003, he wired them \$56,000 for their current and future medical needs.

Furthermore, while the extent of his contacts with his in-laws (visit for a few days when in the PRC and telephone conversation on special occasions) does not suggest a particularly close relationship between Applicant and his in-laws, the DOHA Appeal Board has held it reasonable for the administrative judge to consider the significance not only of an Applicant's ties but also of his spouse's ties to a foreign country and the possible effect they may have on Applicant's contacts under Guideline B (*see* ISCR Case No. 01-02452, November 21, 2002). In determining Applicant's suitability for continued access, disqualifying condition E2.A2.1.2.1., *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* must be considered.

Foreign influence concerns raised by the foreign citizenship and/or foreign residency of close family members may be mitigated where it can be determined that the relatives 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 (*see* MC E2.A2.1.3.1.). Applicant's relations have never been agents of a foreign power. To the contrary, Applicant's family fell into disfavor with the PRC government almost 50 years ago, after his father criticized its policies. In 1965, his father was taken from the home by Red Guards and forced to work in a suburban factory. In about 1979, he was "redressed" and allowed to return at age 60 to his career as an engineer from which he retired 12 years later. Applicant's mother was a homemaker. For the majority of his career, Applicant's brother worked as an engineer for a Japanese electronics company in a special economic zone where he apparently earned enough to enable him to retire at a relatively young age. Applicant's eldest sister worked as an accountant in an automobile factory. It is not clear whether the company was privately owned, but there is nothing in the record to suggest she was a government agent. Applicant's in-laws were physicians before their retirements. There is no indication either of his in-laws ever held a position of influence or authority in the PRC government, military, or intelligence services.

The inquiry in a foreign influence case is not limited to consideration of whether the foreign contacts or connections are agents of a foreign power. Rather, the foreign contacts or connections must also be evaluated in terms of whether they place an applicant in a position of vulnerability to be influenced by coercive or non-coercive means, even if there is no evidence that a foreign country has sought to exploit that vulnerability. (*See* ISCR Case No. 00-0628, February 24, 2003) The likelihood of pressure or coercion being placed on the foreign relatives depends, in large part, on the nature of the country involved (whether it respects democratic principles and human rights, has friendly relations with the US, etc.). The PRC has significant intelligence collection capability of which the U.S. is a primary target.⁽⁶⁾ The PRC has been extremely aggressive in using human intelligence in the U.S., even tasking some of its students studying in the U.S. with obtaining information about high and mid-level technologies not available for export to the PRC. Moreover, the PRC continues to have a poor human rights record.⁽⁷⁾ Applicant's family has been mistreated by PRC officials in the

past because of his father's expressed disapproval of PRC government policies. Branded as counterrevolutionary, Applicant's father was sent to correction camp in 1957, and he was forcibly removed from the family for three years in 1965. Applicant and his siblings were denied educational opportunities in the PRC. With his family targeted for political suppression in the past, Applicant bears an especially heavy burden to overcome the foreign influence concerns presented by the PRC residency and citizenship of close relations, especially his parents, for whom he has strong feelings of affection and obligation.

Applicant's respective ties and attitudes toward the U.S. are relevant in assessing whether he is in a position where he could be forced to choose between his close family members and his obligations to the United States. Applicant elected to remain in the U.S. when given the opportunity after the PRC's suppression of the student pro-democracy demonstrations in Tiananmen Square. His fiancée joined him in the U.S., where they pursued their careers, had children, and acquired U.S. citizenship. Having embraced life as an American, Applicant is not involved in any Asian organizations in the U.S., he and his spouse own their home, and their children attend public school.

Applicant submits that should any of his family members be threatened, he would work with security officials in the U.S. and not betray his adopted country that has given him a better way of life. The DOHA Appeal Board has consistently held that a statement of intention about what an applicant will do in the future under some hypothetical set of circumstances is not entitled to much weight, unless there is record evidence that the applicant has acted in an identical or similar manner in the past under identical or similar circumstances. (*See* ISCR Case No. 99-0501, December 19, 2000; ISCR Case No. 01-26893, October 16, 2002). It would be naive to assume Applicant's gift of \$56,000 to his parents--a currency transfer that was kept from the Department of Defense initially (*see* Guideline E)--was not noted by at least some banking official in the PRC. It is reasonable to assume that Applicant's visits to see his parents and siblings will continue, given the frequency of his recent trips there and concern over his parents' declining health.

Those who have had the opportunity to observe and assess Applicant on the job attest to his good character and ethics. While his concern for his parents is certainly understandable, that same concern leaves him vulnerable to undue foreign influence from a totalitarian government that is actively engaged in espionage against U.S. interests. SOR ¶¶ 1.a., 1.c., 1.d., 1.e., 1.f., and 1.g. are resolved against him.

Applicant does not share the same bond of affection with his in-laws. His personal contact with them has been casual and infrequent (*see* E2.A2.1.3.3). What little is known of his spouse's relationship with her parents is that she speaks with them about once a month. Applicant's spouse is in a position to influence him concerning her relatives, so even if he does not have a close personal tie, the relationship with his in-laws through his spouse is not so casual that it can be mitigated under E2.A2.1.3.3. With the record silent as to his in-laws' activities and associations, I am unable to conclude that their presence in the PRC presents an acceptable risk. In light of their former careers as medical physicians, they may well have held positions of some influence in their community. SOR ¶ 1.b. is found against Applicant.

Personal Conduct. Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor,

dishonesty, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information. (Directive E2.A5.1.1.) When interviewed initially by the DSS in May 2003, Applicant did not disclose that he had wired to his brother for his parents in the PRC the sizable lump sum of \$56,000. His omission is determined to have been intentional, prompted by fear that the information could negatively affect his clearance. E2.A5.1.2.3. *Deliberately providing false or misleading information concerning relevant and material matters to an investigator, security official, competent medical authority, or other official representative in connection with a personnel security or trustworthiness determination* must be considered in assessing his security suitability.

When asked by DOHA to list to whom, amounts, dates, and reasons for monetary support to any person residing in a foreign country, Applicant on December 10, 2003, voluntarily disclosed that he had wired that past February \$56,000 to his brother in the PRC for his parents' hospital expenses and their future medical expenses. Mitigating condition E2.A5.1.3.3. applies where *the individual made prompt, good-faith efforts to correct the falsification before being confronted with the facts*. While the rectification came about six months after his interview, it was relatively prompt under the circumstances. There is no evidence Applicant had any contact with DSS or DOHA in the interim or that confrontation led to the disclosure. While this disclosure weighs heavily in his favor, his failure to provide a rational, consistent excuse for the omission leaves me unable to conclude SOR ¶ 2.a. in his favor.

FORMAL FINDINGS

Formal Findings as required by Section 3. Paragraph 7 of Enclosure 1 to the Directive are hereby rendered as follows:

Paragraph 1. Guideline B: AGAINST THE APPLICANT

Subparagraph 1.a.: Against the Applicant

Subparagraph 1.b.: Against the Applicant

Subparagraph 1.c.: Against the Applicant

Subparagraph 1.d.: Against the Applicant

Subparagraph 1.e.: Against the Applicant

Subparagraph 1.f.: Against the Applicant

Subparagraph 1.g.: Against the Applicant

Paragraph 2. Guideline E: AGAINST THE APPLICANT

Subparagraph 2.a.: Against the Applicant

DECISION

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant.

Elizabeth M. Matchinski
Administrative Judge

- 1.
2. Applicant's response to the government's motion, and attached documentation consisting of family pictures and information about the undervaluation of the PRC's currency, was marked and admitted at the hearing as Applicant exhibit D.
3. As a result of the pro-democracy demonstrations, President Bush allowed Chinese students studying in the U.S. to remain in the U.S. (Tr. 98-99) Hence, his fiancée was allowed to join him in the U.S., even though he had not acquired permanent residency.
4. As of 2003, the PRC had an artificially low fixed exchange rate to boost its manufactured exports and retard imports. (Ex. D)
5. Applicant continues to deny any intentional omission. In response to the government's motion to amend the SOR (Ex. D), Applicant indicated he had provided information to the first agent [agent #1] as to the amount of funds sent on a regular basis to his parents; suggesting that it was omitted because it was a "one-time effort" rather than a "regular basis" effort to assist his parents. At his hearing, he testified he must have forgotten about the funds transfer when he was initially interviewed by the DSS:

I don't know. I just forgot it, You know, just like the aging center, I just don't have explanation for that. You know, I just totally dropped the ball, you know. I guess maybe I'm under pressure, you know, because of the work and the family, those things. I even don't know I didn't say that until I, I got to make sure I didn't say that is up during the interview, during the second interview. (Tr. 65-66)

Asked later why his May 2004 statement contains an admission that "it is possible that [he] felt that disclosing that [he] sent such a large amount may negatively impact [his] chances of getting a clearance" (*see* Ex. 3), Applicant responded:

I said is it possible, you know, that I told her and she forgot it, she missed it, she did not write down. [Agent #2] said that's impossible, you know. [Agent #1] would write it down if I told her. . . So then he said okay, that's all he said, okay. Then I said that's very possible that I didn't tell her, you know. I say that. It's very possible I didn't tell her because he said it's impossible, he said she's impossible to miss that information. I said in that case it must be I didn't tell her. Then he asked me question, why you didn't tell her at that time, okay. And he said you better give me a better explanation. So I sit there for a couple of minutes, I just can't come up with the answer, okay. Then finally he asked me is it possible you failed to disclose that such amount of money would negatively . . . impact my clearance application; I said maybe.(Tr. 94-95)

While I am persuaded it was DSS agent #2 rather than the Applicant who raised as a possible explanation that the non-disclosure was due to concern for his clearance, Applicant could have denied it and did not do so. Especially where the wire transfer occurred only a few months before his May 2003 interview, it is difficult to believe it was not on his mind when he was asked by agent #1 about providing financial support for his parents. To Applicant's credit, the subsequent disclosure of the transfer of funds in his response to DOHA interrogatories was voluntary on his part without confrontation.

6. *See* Operations Security Intelligence Threat Handbook, Section 3.

7. *See* the U.S. State Department's Country Reports on Human Rights Practices-2003 pertaining to China (PRC) including Tibet, Hong Kong, and Macau, released February 25, 2004, by the Bureau of Democracy, Human Rights, and Labor.