

KEYWORD: Foreign Influence

DIGEST: Applicant's parents are citizens and residents of the People's Republic of China (PRC). They are retired former professors at a government-run university in the PRC. They spend every other year in the U.S., are not politically active or connected with the government, and have no loyalty to the PRC. Applicant's father-in-law and mother-in-law are citizens and residents of Taiwan, but they are also permanent residents of the U.S. He has virtually no contact with them. Security concerns based on foreign influence are mitigated. Clearance is granted.

CASE NO: 04-00119.h1

DATE: 05/17/2006

DATE: May 17, 2006

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 04-00119

DECISION OF ADMINISTRATIVE JUDGE

LEROY F. FOREMAN

APPEARANCES

FOR GOVERNMENT

Stephanie C. Hess, Esq., Department Counsel

FOR APPLICANT

Daniel C. Schwartz, Esq.

Anna C. Ursano, Esq.

SYNOPSIS

Applicant's parents are citizens and residents of the People's Republic of China (PRC). They are retired former professors at a government-run university in the PRC. They spend every other year in the U.S., are not politically active or connected with the government, and have no loyalty to the PRC. Applicant's father-in-law and mother-in-law are citizens and residents of Taiwan, but they are also permanent residents of the U.S. He has virtually no contact with them. Security concerns based on foreign influence are mitigated. Clearance is granted.

STATEMENT OF THE CASE

On April 4, 2005, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the basis for its preliminary decision to deny Applicant a security clearance. The SOR alleges security concerns under Guideline B (Foreign Influence). It alleges Applicant's mother and father are citizens and residents of the PRC (§ 1.a), his mother-in-law and father-in-law are citizens and residents of Taiwan (§ 1.b), and he traveled to the PRC and Taiwan in 2001 and 2002 (§§ 1.c, 1.d).

Applicant answered the SOR in writing on May 19, 2005, admitted the allegations in part, offered explanations, and requested a hearing. The case was assigned to me on December 7, 2005. On February 17, 2006, DOHA issued a notice of hearing setting the case for March 21, 2006. The case was heard as scheduled.

During the hearing, I granted a joint request by Department Counsel and Applicant's counsel to permit post-hearing motions to take administrative notice of adjudicative facts about the PRC and Taiwan. Both motions were timely filed on April 3, 2006, granted, and incorporated in the record as Hearing Exhibits (HX) I and II.

DOHA received the transcript (Tr.) on March 29, 2006. Applicant's counsel submitted proposed corrections to the transcript on April 18, 2006, and Department Counsel responded to the proposed corrections on April 30, 2006. I issued an order correcting the transcript on May 3, 2006. The proposed corrections, Department Counsel's response, and my order are incorporated in the record as HX III, IV, and V.

FINDINGS OF FACT

Applicant's admissions in his answer to the SOR and at the hearing are incorporated into my findings of fact. I have granted the motions of both sides to take administrative notice of adjudicative facts about the PRC and Taiwan, and the relevant adjudicative facts set out in those motions are incorporated in my findings of fact. I make the following findings:

Applicant is a 37-year-old senior communications engineer for a defense contractor. His specialty is wireless and satellite communications. He has worked for his current employer since August 2003. He has never held a security clearance.

Applicant's department manager regards him as responsible, trustworthy, and hard-working.⁽¹⁾ He has received two "spot" awards and a "director's award" for extraordinary performance on specific projects.⁽²⁾ "Spot" awards are department-level awards. A "director's award" is recognition at the next higher level.⁽³⁾ Applicant's department manager testified he is one of the company's best engineers, frequently sought out by project managers. He testified Applicant "excels at everything."⁽⁴⁾ His department manager was aware of Applicant's family ties to Taiwan and the PRC but decided to sponsor him for a security clearance because of his personal qualities and technical skills.⁽⁵⁾

Applicant's immediate supervisor has known him since August 2003. Although Applicant does not handle classified information, he routinely deals with sensitive proprietary information, and he treats it very carefully. His supervisor regards him as very dedicated and very trustworthy.⁽⁶⁾

Applicant was born in Beijing, PRC, in March 1969. His parents were both professors at the same university in the PRC. His mother taught mechanical engineering and his father taught hydraulic and hydro power engineering. His parents were not members of the Communist Party.

During the Cultural Revolution, Applicant's mother was sent to a remote province of the PRC to perform manual labor on a farm, and his father was sent away to participate in the design of an electro-hydraulic dam. His mother's health was seriously damaged by the working and living conditions.⁽⁷⁾ Applicant was about three months old, and he was sent to live with his maternal grandparents in Shanghai while his parents were away. His older sister lived with an aunt in Beijing. When the Cultural Revolution ended, his parents returned to their teaching positions. His mother retired in 1989 and his father retired in 1995.

Applicant completed elementary, middle, and high school in the PRC, and then enrolled in a university in Shanghai to study electrical engineering. While he was at the university in Shanghai, his father was appointed as a visiting professor at a private university in the U.S. from April 1988 to July 1989. While in the U.S., his parents watched television coverage of the Tiananmen Square protests. Disturbed by what they saw and concerned about Applicant's safety and future, they encouraged him to finish his education in the U.S.

Applicant came to the U.S. in 1991, and he enrolled in the private university where his father had taught. At about the same time, his older sister went to Canada, completed her graduate education, and became a citizen of Canada. His sister has since moved to the U.S., and she became a U.S. citizen in December 2005.⁽⁸⁾

Shortly after starting his education in the U.S., Applicant met his future wife, a student from Taiwan. After one semester, he transferred to a state university where tuition was less expensive, and his future wife joined him. They were married in January 1993. In May 1993, Applicant graduated with a bachelor's degree in electrical engineering. He obtained a master's degree in electrical engineering with honors in 1996, and is now a Ph.D. candidate.⁽⁹⁾

In July 2001, Applicant and his wife both became U.S. citizens. When they became U.S. citizens, they automatically lost their PRC citizenship.⁽¹⁰⁾ Both Applicant and his wife adopted American first names.⁽¹¹⁾ In February 2004, acting on the advice of a security investigator, Applicant surrendered his PRC passport to the PRC embassy.⁽¹²⁾

Applicant's wife is a certified public accountant, and until recently she was employed as a manager in the accounting division of a major hotel chain. She resigned recently in order to begin having a family.⁽¹³⁾

Applicant's parents are now both 72 years old. His mother suffers from chronic diabetes and high blood pressure, and his father has heart problems. His mother suffered a minor stroke in 1995. They receive a government pension and reside in a small apartment owned by the university where they taught.⁽¹⁴⁾ Their interest in the apartment will revert to

the university when they no longer occupy it. In affidavits, both his parents have declared they have no loyalty to the Communist Party or the PRC government. [\(15\)](#)

Applicant has telephonic contact with his parents about every two weeks. His parents have visited the U.S. four times between 1995 and 2005. Generally, they travel every other year, spending a year in the PRC and a year in the U.S. [\(16\)](#) They enjoy being in the U.S. with their children, especially their granddaughter (Applicant's sister's daughter). At the time of the hearing they were in the U.S., visiting Applicant's sister. [\(17\)](#) His parents have considered living permanently in the U.S., but they are reluctant because they are very independent and do not want to be a burden to their children. [\(18\)](#)

According to Applicant's wife, he loves his parents but is not emotionally close to them. [\(19\)](#) Applicant testified he grew up feeling very independent of his parents because he was raised by his grandmother in Shanghai and later went to college in Shanghai. Regarding his parents' expectations for him, he testified they "kind of lived their dream in [him] and [his] sister." [\(20\)](#) He believes that if his parents were subjected to governmental pressure, "they will go to extra distance" to protect him. [\(21\)](#) His parents' are old and in poor health, and their only goal is to see their daughter and son "live their [lives] to achieve their own full potential." [\(22\)](#) His parents are very strong and not easily intimidated. [\(23\)](#) They have a strong sense of right and wrong, and they regard espionage as wrong. [\(24\)](#) Applicant shares those values, and regards espionage as tantamount to stealing. [\(25\)](#)

Applicant discussed his security clearance application with his parents. They are aware that they might be targets of espionage, coercion or duress if Applicant has access to classified information, but they nonetheless agreed to submit affidavits supporting his application. [\(26\)](#)

Applicant's mother-in-law and father-in-law are citizens and residents of Taiwan. His mother-in-law is retired from a low-level clerical position for the city of Taipei. His father-in-law is the head of an open university that focuses on adult education. Neither parent is politically active. They visit the U.S. about once a year, staying for one week to ten days. Applicant's wife talks to her parents about once a week, but Applicant has virtually no communications with them. [\(27\)](#) Applicant's wife has not visited her parents in Taiwan for five years. Both of her parents have held U.S. green cards since September 2002, and they hope to move to the U.S., but they have delayed moving because of the high cost of real estate in the U.S. [\(28\)](#) Applicant's father-in-law wants to retire in the U.S. [\(29\)](#)

According to Applicant's wife, Applicant does not have a good relationship with her parents. They disapproved of him from the beginning because he was not from Taiwan and not from a sufficiently wealthy family. Because Applicant is strong-willed, his in-laws believe he will not comply with their wishes. [\(30\)](#) Although Applicant's in-laws own substantial properties in Taiwan, his wife will inherit nothing. Because of her marriage, all property will pass to her brother. [\(31\)](#)

Applicant made a two-week business trip to the PRC in 2001 and again in 2002. At the time, he did technical marketing and business development for a private technology company in the U.S. Applicant and his wife traveled to Taiwan in 2001 for a three-week vacation, during which they visited his wife's parents and explored the country. Applicant made a three-day business trip to Taiwan in 2002, to make a sales presentation for his employer. [\(32\)](#)

Applicant and his wife have no financial interests in the PRC or Taiwan. However, they have assets of about \$748,850 in the U.S., including a home worth about \$540,000, in which they have equity of about \$300,000. [\(33\)](#)

Applicant testified enthusiastically about his life in the U.S. He enjoys the freedom, stability, and opportunities. He has found it a "very liberating environment" that encourages innovation and allows dissent. He applied for citizenship as soon as he was eligible, because he wanted to be an "active participant in this country, not just an observer." He enjoys his work, and is very proud of being able to help soldiers with new technology. [\(34\)](#)

The PRC is a Communist state. The Chinese Communist Party is authoritarian in structure and ideology and dominates the government. Party committees work in all important government, economic, and cultural institutions to ensure party policy guidance is followed and nonparty members do not create organizations that could challenge party rule. The U.S. State Department has documented numerous instances of human rights abuses stemming from the government's intolerance of dissent and the inadequacy of legal safeguards for basic freedoms. [\(35\)](#)

The PRC and the U.S. have a complex evolving relationship, and there is now significant cooperation between them in a variety of areas. [\(36\)](#) The PRC is the third-largest U.S. trading partner. [\(37\)](#) After the terrorist attacks of September 11, 2001, the PRC became an important partner in U.S. counter-terrorism efforts.

The PRC is becoming more active in global issues and is no longer an isolated pariah country. [\(38\)](#) The PRC and the U.S. have worked closely on regional issues, especially those involving North Korea. However, U.S.-PRC relations continue to be sometimes complicated by events in Taiwan and Hong Kong. [\(39\)](#) Because the PRC is North Korea's only military ally and its principal trade partner, U.S.-PRC relations also complicate U.S. policy regarding the Korean Peninsula. [\(40\)](#)

Taiwan is a stable multiparty democracy, a U.S. ally, and a major U.S. trading partner. [\(41\)](#) It has a good human rights record. Taiwan maintains a large military establishment, and its primary mission is the defense of Taiwan against the Peoples Republic of China (PRC). With the encouragement of the U.S., contact between Taiwan and the PRC has

grown significantly over the last decade, with increases in direct trade, travel, and postal links. The Taiwan Relations Act, 22 U.S.C. §§ 3301-3316, is the legal basis for the unofficial relationship between the U.S. and Taiwan and the U.S. commitment to ensuring Taiwan's defensive capability. ⁽⁴²⁾

The PRC and Taiwan are both active collectors of U.S. defense information and technology. ⁽⁴³⁾ For many years, the PRC has sought to acquire dual use technology and equipment from the U.S. that can be used in the PRC's military and industrial facilities. ⁽⁴⁴⁾

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), as amended and modified. 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 (App. Bd. Dec. 19, 2002).

The Directive sets forth adjudicative guidelines for determining eligibility for access to classified information, and it lists the disqualifying conditions (DC) and mitigating conditions (MC) for each guideline. Each clearance decision must be a fair, impartial, and commonsense decision based on the relevant and material facts and circumstances, the whole person concept, and the factors listed in the Directive ¶¶ 6.3.1. through 6.3.6.

In evaluating an applicant's conduct, an administrative judge should consider: (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 applicant's age and maturity at the time of the conduct; (5) the voluntariness of participation; (6) the presence or absence of rehabilitation and other pertinent 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. Directive ¶¶ E2.2.1.1. through E2.2.1.9.

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 the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the government must establish, by substantial evidence, conditions in the personal or professional history of the applicant which disqualify, or may disqualify, the applicant from being eligible for access to classified information. *See Egan*, 484 U.S. at 531. "[T]he Directive presumes there is a nexus or rational connection between proven conduct under any of the Criteria listed therein and an applicant's security suitability." ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996) (quoting DISCR Case No. 92-1106 (App. Bd. Oct. 7, 1993)).

Once the government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. ISCR Case No. 01-20700 at 3; *see* Directive ¶ E3.1.15. 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 (App. Bd. Dec. 19, 2002). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; *see* Directive ¶ E2.2.2.

CONCLUSIONS

A security risk may exist when an applicant's immediate family, or other persons to whom he or she may be bound by affection, influence, or obligation, are not citizens of the U.S. or may be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information. Directive ¶ E2.A2.1.1. A disqualifying condition (DC 1) may arise when "[a]n immediate family member [spouse, father, mother, sons, daughters, brothers, sisters], 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." Directive ¶ E2.A2.1.2.1. I conclude DC 1 is established because Applicant's parents are citizens and residents of the PRC.

"[T]here is a rebuttable presumption that a person has ties of affection for, or obligation to, the immediate family members of the person's spouse." ISCR Case No. 01-03120, 2002 DOHA LEXIS 94 at * 8 (App. Bd. Feb. 20, 2002). The presumption is rebutted in this case. The evidence shows Applicant is civil to his in-laws but has no ties of affection or obligation to them. They disapprove of him; he has nothing in common with them.

A disqualifying condition (DC 3) may arise if an individual has relatives "who are connected with any foreign government." Directive ¶ E2.A2.1.2.3. I conclude DC 3 is not established. Applicant's parents are retired. They draw a government pension and reside in university-owned housing, but these benefits are part of their retirement package and not indicia of current employment by the government.

Mere possession of family ties with persons in a foreign country is not, as a matter of law, automatically disqualifying under Guideline B. However, such ties do raise a prima facie security concern. ISCR Case No. 99-0424, 2001 DOHA LEXIS 59 (App. Bd. Feb. 8, 2001) at **33-34. Since the government produced substantial evidence to establish DC 1 and DC 3, the burden shifted to Applicant to produce evidence to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it is never shifted to the government. *See* ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

In cases where an applicant has immediate family members who are citizens or residents of a foreign country or who are connected with a foreign government, a mitigating condition (MC 1) may apply if "the immediate family members, 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." Directive ¶ E2.A2.1.3.1.

Notwithstanding the facially disjunctive language of MC 1 ("agents of a foreign power **or** in a position to be exploited"), it requires proof "that an applicant's family members, cohabitant, or associates in question are (a) not agents of a foreign power, **and** (b) not in a position to be exploited by a foreign power in a way that could force the applicant to choose between the person(s) involved and the United States." ISCR Case No. 02-14995 at 5 (App. Bd. Jul. 26, 2004); *see* 50 U.S.C. § 1801(b) (defining "agent of a foreign power") and § 438(6) (applying definition of "agent of a foreign power" from § 1801(b) to criteria for granting access to classified information).

Guideline B is not limited to countries hostile to the United States. "The United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States." ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004). The distinctions between friendly and unfriendly governments must be made with caution. Relations between nations can shift, sometimes dramatically and unexpectedly.

Furthermore, friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security. Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. *See* ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at **15-16 (App. Bd. Mar. 29, 2002). Nevertheless, the nature of a nation's government, its relationship with the U.S., and its human rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, or the country is known to conduct intelligence operations against the U.S.

The PRC is an authoritarian Communist state with a poor human rights record. Its relations with the U.S. are evolving

and have improved in many aspects. Its economic interests can be significantly affected by the U.S. While these factors are not determinative, they are relevant in determining whether the PRC would risk a confrontation with the U.S. by exploiting or threatening Applicant's parents.

Applicant's parents are not agents of a foreign power, either under the statutory definition or the broader definition adopted by the Appeal Board. Thus, I conclude the first prong of MC 1 is established. However, Applicant's parents are known to PRC authorities, having been singled out for mistreatment during the Cultural Revolution because of their status. Even though the U.S.-PRC relationships are evolving and improving in many respects, the PRC remains a repressive, authoritarian country, and Applicant's parents are vulnerable. I conclude the second prong of MC 1 is not established for Applicant's parents.

However, the failure to establish MC 1 is not necessarily determinative. "The mere presence or absence of any Adjudicative Guidelines disqualifying or mitigating condition is not solely dispositive of a case. Rather, a Judge must apply pertinent provisions of the Adjudicative Guidelines in light of various considerations, including: the plain meaning of pertinent provisions of the Adjudicative Guidelines; the applicability of pertinent provisions of the Adjudicative Guidelines in terms of other relevant provisions of the Directive; the record evidence as a whole; application of the whole person concept; and the clearly consistent with the national interest standard." ISCR Case No. 01-08565 at 5 (App. Bd. Mar. 7, 2003). *See also* ISCR Case No. 03-11448 at 4-5 (App. Bd. Aug 10, 2004) (An administrative judge is not required to apply disqualifying and mitigating conditions in a rigid, mechanical manner.) Even when MC 1 is not established, "the totality of an applicant's conduct and circumstances (including the realistic potential for exploitation) may still warrant a favorable application of the relevant general factors." ISCR Case No. 03-17620 at 4 (App. Bd. Apr. 17, 2006). In considering the whole person, the "potential for pressure, coercion, exploitation, or duress" applied to an applicant is a relevant factor under Directive ¶ E2.2.1.8. *See* ISCR Case No. 03-23259 at 3 (App. Bd. ay 10, 2006). Security clearance decisions are not an exact science, but rather are predictive judgments about a person's security suitability in light of that person's past conduct and present circumstances. *Department of Navy v. Egan*, 484 U.S. 518, 528-29 (1988).

Of particular significance in this case are the character and personal values of Applicant and his parents, their attitudes toward the PRC and the U.S., and their goals and motivation. Applicant's parents are strong-willed and independent. They have been subjected to repression and abuse, and they survived it with their personal values intact. They have no loyalty to the PRC or the Communists. They supported Applicant's security clearance application even though they know it might subject them to repressive or coercive measures. They have a strong affinity for the U.S. that began when Applicant's father came to the U.S. as a visiting scholar, and it has continued with their visits to the U.S. every other year. Their lifelong goal was to enable Applicant and his sister to have a better life than they experienced. Their children and grandchild are the primary source of their happiness. As Applicant compellingly testified, his parents are living their dream through their children. If his parents betrayed that dream in their twilight years, it would make their sacrifices in vain. Although they are vulnerable to coercion and repression, the evidence of record establishes they would resist to the utmost.

Even in the unlikely event Applicant's parents succumbed to coercion, I am satisfied Applicant would vigorously resist any indirect coercion through his parents. He is a person of strong character and moral values. He regards any form of espionage as stealing. His ties to the U.S. are very strong. He knows he would betray his parents' dream if he gave in to indirect coercion. He was sincere, direct, and credible during his testimony. When I apply the whole person concept to

Applicant and his parents, I am satisfied Applicant has mitigated the security concern based on his parents' citizenship and place of residence.

Taiwan is a close ally, friend, and trading partner of the U.S., and is dependent on the U.S. for its defense. The nature of Taiwan's government, its human rights record, and its relationship with the U.S. also are clearly not determinative. Nevertheless, they are all relevant factors in determining whether Taiwan would risk damaging its relationship with the U.S. by exploiting or threatening Applicant's mother-in-law and father-in-law.

I conclude MC 1 is established for Applicant's mother-in-law and father-in-law. Taiwan does not have a history of using coercive or abusive measures against its citizens to obtain military or industrial information. Applicant's evidence showing his in-laws' absence of governmental connections or political activity, financial dependence on the government, or business connections susceptible to industrial espionage is relevant and persuasive. They, like Applicant's parents, have a strong affinity for the U.S. They have held permanent resident status since September 2002, and they are seriously considering retirement in the U.S.

A mitigating condition (MC 3) may apply if "[c]ontact and correspondence with foreign citizens are casual and infrequent." Directive ¶ E2.A2.1.3.3. Applicant has virtually no contact with his father-in-law and mother-in-law, and there is no affection or feeling of obligation between them. I conclude MC 3 is established for Applicant's father-in-law and mother-in-law.

Applicant is strong-willed, independent, and not likely to succumb to direct pressure from his in-laws or indirect pressure through his wife. His in-laws' disapproval of him is based in part on his independence and lack of deference to their wishes. His wife has grown very independent of her parents. She first demonstrated her independence when she married Applicant over her parents' objections. She has not visited her parents in Taiwan for five years. She presented herself at the hearing as a confident, self-assured, professional woman. After weighing the disqualifying and mitigating conditions and applying the whole person concept, I conclude Applicant has mitigated the security concern based on the citizenship and residency of his in-laws.

The totality of an applicant's family ties to a foreign country as well as each individual family tie must be considered. ISCR Case No. 01-22693 at 7 (App. Bd. Sep. 22, 2003). After considering the totality of Applicant's family ties to the PRC and Taiwan as well as his individual family ties, I conclude he has mitigated the security concerns based on those ties.

Applicant's travel to the PRC and Taiwan has no independent security significance. Most of it was business-related, and his family visits were incidental. To the extent that his travel indicates family attachments, the security concerns based on those attachments have been mitigated.

After weighing the disqualifying and mitigating conditions and evaluating the all evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns based on foreign influence.

FORMAL FINDINGS

The following are my findings as to each allegation in the SOR:

Paragraph 1. Guideline B (Foreign Influence): FOR APPLICANT

Subparagraph 1.a: For Applicant

Subparagraph 1.b: For Applicant

Subparagraph 1.c: For Applicant

Subparagraph 1.d: For Applicant

DECISION

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

LeRoy F. Foreman

Administrative Judge

1. Applicant's Exhibit (AX) A.
2. AX B, C, D.
3. Tr. 49.
4. Tr. 42-43.
5. Tr. 35, 38.
6. AX E; Tr. 70-74.
7. Tr.151.
8. AX P, Q; Tr. 167-69.
9. AX J at 3; Tr. 133.
10. Ministry of Foreign Affairs of the People's Republic of China, *Nationality Law of the People's Republic of China* (Mar. 18, 2004), admitted as AX I.
11. AX F.
12. Tr. 149
13. Tr. 78-79.
14. Tr. 154-55.
15. AX N, O.
16. Tr. 158, 186.
17. Tr. 154.
18. Tr. 159.
19. Tr. 105.
20. Tr. 160.
21. Tr. 163.
22. Tr. 183.
23. Tr. 191-92.
24. Tr. 184.
25. Tr. 181.
26. Tr. 163.

27. AX F.
28. AX G, H; Tr. 92-93.
29. Tr. 122-23.
30. Tr. 94-95.
31. Tr. 99.
32. AX K, L; Tr. 137-48.
33. AX R; Tr. 178-79.
34. Tr. 170-72.
35. U.S. Dept. of State, *Background Note, China* 1, 7-9 (Mar. 2005); U.S. Dept. of State, *Country Reports on Human Rights Practices: China* 1-3, 7, 11, 16, 26 (Feb. 28, 2005).
36. Hearing Exhibit (HX) I at 2.
37. Congressional Research Service (CRS), *China-U.S. Relations: Current Issues and Implications for U.S. Policy* 13 (Mar. 24, 2005). *Background Note, China* at 13.
38. HX I at 3.
39. U.S. Dept. of State, *Background Note, China* at 19-20.
40. CRS, *China-U.S. Relations* 14-15.
41. HX I at 3.
42. U.S. Dept. of State *Background Note: Taiwan*, September 2005; *Background Note: China*.
43. National Counterintelligence Center (NACIC), *Annual Report to Congress 15* (2000), included in the FORM as Item 6, identified the PRC and Taiwan as among the seven "most active" practitioners of industrial espionage. The NACIC Annual Reports for 2001, 2002, 2003 and 2004 did not identify the most active practitioners of industrial espionage by name.
44. House Report No. 105-841 at 13 (Jan. 3, 1999)