



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
 )  
----- ) ISCR Case No. 07-14829  
SSN: ----- )  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Alison O’Connell, Esquire, Department Counsel  
For Applicant: *Pro Se*

May 8, 2008

**Decision**

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) on November 14, 2006. On November 28, 2007, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant a Statement of Reasons (SOR) detailing the security concerns under Guideline B and Guideline E. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant acknowledged receipt of the SOR on December 5, 2007. She answered the SOR in writing on December 10, 2007, before being given a copy of the Directive, and indicated she did not want a hearing. On January 3, 2008, the government notified Applicant of its request for a hearing before an administrative judge under ¶ E3.1.7 of the Directive. On January 30, 2008, Department Counsel indicated

the government was prepared to proceed. At the same time, she requested administrative notice be taken of certain facts pertaining to the Republic of China (Taiwan). The case was assigned to me on January 31, 2008. On February 22, 2008, I scheduled a hearing for March 26, 2008.

The parties appeared as scheduled. Before the introduction of any evidence, Applicant submitted an answer prepared on February 15, 2008, after she had an opportunity to review the Directive.<sup>1</sup> Her response of February 15, 2008, was accepted in substitution for the initial answer filed without benefit of the Directive. Three government exhibits (Ex. 1-3) were admitted, including as Exhibit 3 Applicant's initial responses to the SOR allegations.<sup>2</sup> Applicant submitted six exhibits (Ex. A-F) that were entered into evidence without any objections, and she and three witnesses testified on her behalf, as reflected in a transcript received on April 7, 2008. Based upon a review of the case file, pleadings, exhibits, and testimony, eligibility for access to classified information is granted.

## **Procedural and Evidentiary Rulings**

### **Request for Administrative Notice**

On January 30, 2008, Department Counsel requested administrative notice be taken of certain facts relating to Taiwan and to its relationship to the People's Republic of China (PRC). The request was based on publications from the U.S. State Department, the Congressional Research Service, the Centre for Counterintelligence and Security Studies, the National Counterintelligence Center, two press releases from the U.S. Department of Justice, and a record of the U.S. District Court for the Eastern District of Virginia. The government's formal request and the attached documents were not admitted into evidence but were included in the record.

On February 11, 2008, I notified the parties of my intention to take administrative notice of specific facts, subject to revision based on the evidence admitted at the hearing and any valid objections. The parties were given until February 25, 2008, to file any objections, and Applicant to also present alternative facts for notice. No responses were received by the due date. At the hearing, Applicant indicated she did not object to the proposed facts although she questioned their relevance to her case. I agreed to take administrative notice of particular facts pertaining to Taiwan, and its relationships with the PRC and the U.S., as set forth in the Findings of Fact.

---

<sup>1</sup>In her answer, Applicant indicated that she did not receive the enclosures (Privacy Act Notification and Directive 5220.6) that should have been included with the SOR. She printed the Directive from the web on January 10, 2008, after she had received the letter from the government notifying her of its request for a hearing in her case.

<sup>2</sup>The document was accepted as it is a notarized statement of the Applicant, although in evaluating its weight, I took note of the fact that it was prepared without benefit of having reviewed the Directive.

## Findings of Fact

DOHA alleged under Guideline B, foreign influence, that Applicant's spouse is a dual citizen of Taiwan and the U.S. residing in the U.S. (SOR ¶ 1.a), that her parents-in-law (SOR ¶¶ 1.b, 1.c) and two brothers-in-law (SOR ¶ 1.d) are resident citizens of Taiwan, and that she failed to disclose her association with these foreign relatives on a November 14, 2006, Questionnaire for National Security Positions (SF 86)<sup>3</sup> (SOR ¶ 1.e). The failure to list her spouse's foreign family members was also alleged under Guideline E, personal conduct (SOR ¶ 2.a). In addition, under Guideline E, Applicant was alleged to have falsified her November 2006 SF 86 by not disclosing her travel to Taiwan to visit her in-laws in about February 2005 (SOR ¶ 2.b).

In her answer of February 15, 2008, Applicant admitted that her spouse has dual citizenship since becoming a U.S. citizen in August 2001, but that both she and her spouse had submitted their applications to formally renounce Taiwanese citizenship in January 2008. She admitted that her parents-in-law are resident citizens of Taiwan who have been long retired from their previous positions with the Taiwanese government. Applicant indicated that the elder of her two brothers-in-law is a professor at a Taiwanese university, and the younger works as an engineer in the private sector in Taiwan. Applicant denied any deliberate falsification and explained she did not think of her spouse's family members as those to whom she was bound by affection and/or obligation, and believed she did not have to list under section 18 (foreign countries visited working back 7 years) a country listed in section 9 (places where you have lived in the last 7 years). After consideration of the evidence of record, I make the following findings of fact.

Applicant is a 43-year-old systems engineer who has been employed by a U.S. defense contractor since December 1999. She had previously worked for a different defense contractor from 1988 to February 1994 and again from October 1997 to August 1998, and was granted her secret-level clearance in about August 1989 (Ex. 1, Tr. 57). Applicant held a secret clearance for her duties with her present employer until October 2007 when it was withdrawn on issuance of the SOR (Tr. 56-57).

Applicant was born in Taiwan to resident citizens in September 1964 (Ex. 1, Tr. 51). They already had a son and daughter, who were born in Taiwan in October 1961 and April 1964, respectively (Ex. 1). Applicant's parents had emigrated from the PRC to Taiwan (Ex. 1). In Taiwan, her father worked for the railroad and her mother was a nurse in a major municipality's department of public transportation (Ex. 2).

---

<sup>3</sup>The government entered as Exhibit 1 an e-QIP dated November 14, 2006. The security clearance application (pages 2-34 submitted in conjunction with the Electronic Questionnaires for Investigations Processing (e-QIP) Investigation Request) is in the format of the Questionnaire for National Security Positions (SF86). There is no dispute that the e-QIP entered by the government is the same document alleged in SOR ¶¶ 1.e, 2.a, and 2.b.

In October 1976, Applicant immigrated to the U.S. with her parents and her two siblings (Tr. 44, 48-49). Her mother had successfully applied for a nursing job in the U.S. (Tr. 51). In November 1982, Applicant's parents and siblings became naturalized U.S. citizens. Applicant acquired her U.S. citizenship in October 1983, during her first semester of college (Ex. 1, Tr. 53). She took an oath to renounce all foreign allegiances, to support and defend the U.S. Constitution and its laws, and to bear arms or perform noncombatant service or civilian service on behalf of the U.S. if required. Applicant thereafter considered herself solely a citizen of the U.S. (Tr. 48) and she took no action to relinquish her Taiwanese citizenship. She had been led to understand that by failing to renew her Taiwanese passport, her foreign citizenship had been automatically revoked (Tr. 47).

In 1988, Applicant earned her undergraduate degree in electrical engineering from her state university (Tr. 52). As a graduation gift, her parents paid for her to vacation in Taiwan. During her seven-week stay in Taiwan, Applicant stayed with her grandparents. She also saw an uncle and his family (spouse and two children), who lived with her grandparents, as well as her eldest uncle. Applicant met her spouse on this trip. They were introduced through her eldest uncle, who worked with her future father-in-law (Tr. 54).

In winter 1988, Applicant's spouse came to the U.S. to pursue his master's degree in chemical engineering. He contacted her, and they eventually married in the U.S. in December 1990. Applicant's father-in-law came from Taiwan for their wedding while her mother-in-law stayed behind (Tr. 55, 77). In 1992, her spouse earned his master's degree in chemical engineering (Tr. 62). In late 1992 or early 1993, Applicant's spouse moved back to Taiwan for work as he had no success in finding employment in the U.S. Applicant, who was employed by a defense contractor and pregnant with their first child, stayed in the U.S. until after their eldest daughter's birth. In about February 1994, when their daughter was five months old, Applicant quit her job and moved with their newborn to Taiwan (Tr. 57-58).

So that she would not have to return to the U.S. periodically, Applicant reacquired a Taiwanese passport, which she understood was all that was necessary to reestablish her Taiwanese citizenship if it had in fact been revoked (Tr. 59). Applicant was also required to register her address with the Taiwanese authorities, and in March 1994, her name was entered on the household register with her spouse listed as head of household (Ex. D, Tr. 60). They resided with her parents-in-law, who were already retired (Tr. 64). Applicant's mother-in-law had worked for the Taiwanese government while her father-in-law had retired from the Taiwanese navy (Answer). Within six months of Applicant's return to Taiwan, the younger of her brothers-in-law and his wife left for the U.S. to pursue their master's degrees (Tr. 64-65). Applicant saw her older brother-in-law about once a month when he came to visit his parents (Tr. 65-66). He is a professor at a Taiwanese university (Answer, Tr. 64-65).

Applicant's spouse worked for five years in Taiwan as a research and development engineer for a private chemical company engaged in the production of non-woven fabric (Tr. 62-63). Applicant worked for less than two years in Taiwan. She traveled to Europe on a couple of occasions for her job as a sourcing engineer for a European cellular phone manufacturer (Tr. 63). This travel was on her U.S. passport (Tr. 64). She also came back to the U.S. twice to see her family members (Tr. 66).

In September 1996, Applicant and her daughter moved back to the U.S. while her spouse remained in Taiwan. She was rehired by her former employer (Ex. 1, Tr. 66-67). Applicant rejoined her husband in Taiwan in March 1997 because she had to reapply for her spouse's U.S. permanent residency, which had expired (Tr. 67-70). He had been living with his parents, but on her arrival, they resided in a rented apartment in Taiwan at her request (Tr. 71-72).

In October 1997, Applicant and her spouse returned permanently to the U.S. He was without a job in the U.S. but was concerned about an economic slowdown in Taiwan. Applicant, who had been granted a leave of absence by her employer, resumed her old job with her security clearance (Tr. 70-71). She renewed her U.S. passport in April 1998 (Ex. 1).

In September 1998, Applicant and her spouse moved to their present locale. Unemployed until December 1999, Applicant spent her time caring for her daughter and in Fall 1999, taking college classes (Ex. 1). She and her spouse purchased their present residence in or about September 1999 (Answer). That December, she began working for her current employer (Ex. 1).

In June 2000, Applicant and her spouse had their second child. Applicant's mother-in-law came from Taiwan and stayed with them for four or five weeks on the birth of her granddaughter (Tr. 80-81). Applicant's spouse became a naturalized U.S. citizen in August 2001 (Ex. 1, Tr. 72-73). From January 2002 to June 2002, Applicant pursued further education at the university she had attended in 1999 (Ex. 1).

Applicant traveled to Taiwan with her spouse and daughters from February 17, 2005 to February 28, 2005. She traveled on her U.S. passport (Tr. 92). It was their youngest daughter's first time in Taiwan. They stayed with her parents-in-law (Tr. 46-47, 91), and also visited with other relatives (Tr. 89-91). Applicant filed a foreign travel request with her employer's security office on February 15, 2005, and received the necessary briefing (Ex. A). On her return to work on March 1, 2005, Applicant completed a post-travel report for her employer (Ex. B).

In April 2006, Applicant's spouse went to Taiwan when his mother needed an operation. Applicant did not accompany him (Tr. 94).

In renewal for her secret-clearance, Applicant completed an e-QIP on November 14, 2006. She disclosed that she and her spouse were dual citizens of the U.S. and Taiwan. In response to section 9 concerning her residences for the past seven years,

Applicant provided her address in Taiwan from March 1997 to October 1997. Concerning her relatives and associates, Applicant listed in response to section 14/15 only her parents and siblings, who had all been naturalized in the U.S. and did not include her parents-in-law or her spouse's siblings in Taiwan. She needed information about her parents-in-law and was too angry at her spouse at the time to ask him for the information (Tr. 104). She was under stress due to competing work and family demands and was not able to count on assistance from her spouse, who began working an hour away (Tr. 131). As for her failure to list her spouse's siblings, she was thinking only of those persons to whom she was bound by affection (Answer, Ex. 3, Tr. 43, 106). Applicant did not list their travel to Taiwan in February 2005 in response to section 18 ("List foreign countries you have visited, except on travel under official Government orders, working back 7 years. (Travel as a dependent or contractor must be listed.) Include short trips to Canada or Mexico . . . Do not repeat travel covered in sections 9, 10, or 11."). Applicant believed she did not have to list her trip to Taiwan because she had indicated in response to section 9 that she had lived in Taiwan ("I thought I do not have to list visits to the countries I've already listed in Section 9.") (Answer, Ex. 3, Tr. 107-09).

In May 2007, Applicant was interviewed by a government investigator. She told him that her in-laws are aware that she needs a security clearance for her job and that she is up for renewal (Tr. 81-82).<sup>4</sup>

On October 1, 2007, Applicant responded to DOHA foreign influence interrogatories. She answered "Yes" to question 3.e concerning whether any of her immediate family members had ever been employed by a "business, educational institution, or other organization that is owned or operated by a foreign government, a component of a foreign government, or a local, municipal, or regional government in a foreign country" and disclosed her parents' former employments with the Taiwanese railroad agency and a municipality's public transportation department before their immigration. Concerning other relatives' foreign government employment, Applicant indicated that her father-in-law had been employed by the Taiwanese navy and her mother-in-law by the Taiwanese government before her birth but that she did not know the dates of their service or their positions. She also added that a "Fourth Uncle" had worked for the PRC before her birth, but again she knew no details of his former employment. As for her contacts with her parents-in-law, Applicant related it was limited to greetings twice a year, although she also reported her travel to Taiwan to visit them in February 2005 with her spouse and children. She indicated that during that same trip, she visited with a "Sixth Uncle" with whom she exchanges greetings once every year or two. Applicant denied that she or her spouse had any foreign financial assets, interest, or income, or that they owed any financial or legal obligation to a foreign entity while their U.S. net worth was about \$210,000 USD (Ex. 2). Applicant did not mention her spouse's siblings in Taiwan because they did not work for the government (Answer).

---

<sup>4</sup>The available record does not include any report of the investigator or any statement/affidavit from Applicant concerning what was discussed during the interview.

On receipt of the SOR, Applicant realized that her spouse should relinquish his Taiwanese citizenship to mitigate those security concerns. After learning what was required to formally renounce his foreign citizenship, Applicant realized that she had not fulfilled the requirements and should do the same (Tr. 99). Applicant's spouse, who had a trip to Taiwan planned to visit his family, determined he would take the opportunity to obtain the necessary documents (military records, tax records) while he was in Taiwan in the hopes it would accelerate the process. He traveled to Taiwan from December 18, 2007, to January 8, 2008 (Answer, Tr. 99-01). He wanted Applicant to accompany him but she refused (Tr. 95). He stayed at his parents' home (Tr. 94). On January 16, 2008, Applicant and her spouse filed their applications for citizenship renunciation with the Taipei Economic and Cultural Office (Ex. C). They turned in her spouse's Taiwanese passport, which was still active (Tr. 98), and her expired Taiwanese passport (Tr. 92-93, 98). Their applications were accepted and they were denationalized on February 20, 2008 (Ex. D).

Applicant's spouse's parents and his siblings are resident citizens of Taiwan. Applicant understands from her spouse that his father had been an engineer for the Taiwanese navy until about 20 or 30 years ago (Answer). He then went to work as a civilian for a company that built ships for the Taiwanese government. He had retired by the time Applicant went to Taiwan to live in 1994 (Tr. 73-75). Applicant also knows little about her mother-in-law's former employment with the Taiwanese government. She understands her mother performed administrative work for Taiwan's military when her spouse was a child (Tr. 77-78). Applicant believes her parents-in-law both receive pensions from the Taiwanese government (Tr. 75-78). Since retiring, her mother-in-law has served as a mediator of local disputes before they go to court. Applicant understands that this volunteer position is at the invitation of local people in the area ("she is respected, well respected in the local area and they asked her to be a mediator." Tr. 78-80). Applicant's spouse has once weekly contact with his parents (Tr. 76, 80). Applicant speaks with them two to three times yearly (Tr. 76). She respects her in-laws but does not share bonds of affection with them (Tr. 44).

The elder of Applicant's two brothers-in-law has been a college professor in Taiwan since 1990 when he returned to Taiwan after earning his doctorate degree in the U.S. He had taught social studies at a religiously funded university but is currently affiliated with another university. Applicant does not know whether it is publicly funded (Tr. 82-86). His spouse had been a university professor at one time as well (Tr. 82). Applicant's spouse contacts his brother two or three times a year. Applicant's contact is not more than twice a year (Tr. 86). This brother visited them en route to an educational exchange in Europe in 2004 (Tr. 87). He and his spouse have two sons, who were born in the U.S., and are currently attending college in the U.S. (Answer).

The younger of Applicant's brothers-in-law is an engineer working in the private sector, in the semiconductor industry, in Taiwan (Tr. 88). He earned his master's degree in the U.S., and he also has two sons who were born when he was in the U.S. (Answer). This brother helped move Applicant and her spouse into their new home in 1999 (Tr. 89). During their family trip to Taiwan in February 2005, Applicant and her spouse

visited with his brothers and their families (Tr. 89). Applicant and her spouse do not have any property or financial assets in Taiwan (Ex. 2, Tr. 102). They provide no financial support for any relatives in Taiwan (Tr. 102).

Applicant's spouse has an aunt and two maternal cousins who are resident citizens of Taiwan whom he contacts about twice a year or less (Answer, Tr. 89). His aunt never worked out the home. Applicant is unaware of the nature of his male cousin's employment. The female cousin works as a librarian. Applicant visited with these relatives of her spouse during visits to Taiwan (Tr. 90-92).

Applicant's parents and siblings are U.S. resident citizens. Her brother is a dentist married to a research scientist at a national institute. Her sister lives close by and is a state employee (Tr. 123). Her sister's spouse is employed by a U.S. defense contractor (Answer). Applicant's maternal step-grandmother still lives in Taiwan with Applicant's "sixth uncle." She no longer recognizes anyone, but Applicant visited with her when she was in Taiwan (Tr. 96).

A work colleague familiar with her performance for the past nine years, initially as a coworker in a radar test and evaluation group and more recently program manager, attests to Applicant being dependable and very dedicated. She took on a greater workload than what would normally be expected and worked long hours in developing test procedures. He has the highest praise for her work ethic (Ex. E, Tr. 137-38). Applicant's direct supervisor has found her to be open about her family and her spouse's family backgrounds. Applicant has received rave reviews from the customers she supports (Ex. F). A coworker who has socialized with Applicant outside of work and at lunches knows Applicant has been to Taiwan for at least one family visit and that she had also returned to Taiwan to live when her spouse could not find a job. She has observed nothing that raises questions for her about Applicant's dedication to the U.S. or her job (Tr. 144-45).

\* \* \*

Following review of official publications of the U.S. government that address the economic, political, and intelligence activities of Taiwan and the PRC, I take administrative notice of the following facts:

The government of Taiwan is a multiparty democracy. The United States recognizes that there is only one China, that the government of the PRC is the sole legal government of China, and that Taiwan is part of China. Under the Taiwan Relations Act of 1979, the U.S. conducts unofficial relations with Taiwan. Although the U.S. terminated its Mutual Defense Treaty, it has continued to sell appropriate military defensive material to Taiwan. The PRC has surpassed the U.S. as Taiwan's most important trading partner, but Taiwan maintains a large military establishment whose primary mission is the defense of Taiwan against the PRC, which is seen as the predominant threat and has not renounced the use of force against Taiwan. The PRC's Ministry of State Security is the preeminent civilian intelligence collection agency in China, and maintains intelligence operations in Taiwan, through a bureau utilizing PRC



nationals with Taiwan connections. It is U.S. policy that the resolutions of disputes between Taiwan and China be peaceful. Taiwan is a major international trading power and a member of the World Trade Organization. It enjoys normal trade relations with the U.S., and ready access to U.S. markets. The U.S. State Department reports that Taiwan has taken dramatic steps to improve respect for human rights and create a democratic political system since ending martial law. Taiwan is known to be an active collector of U.S. economic intelligence. In the past, organizations in Taiwan employed unlawful methods to obtain U.S. economic and intelligence information. As recently as 2004, a female Taiwanese intelligence officer cultivated a covert relationship with a U.S. State Department official.

## **Policies**

When evaluating an Applicant's suitability for a security clearance, the administrative judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an Applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial and common sense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the Applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The Applicant has the ultimate burden of persuasion as to obtaining a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-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 the Applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline B, Foreign Influence**

The security concern relating to the guideline for foreign influence is set out in 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.

Applicant’s family members (parents, siblings, children, and spouse) are all resident citizens of the U.S. Following the recent renunciation of their Taiwanese citizenship, Applicant and her spouse are citizens solely of the U.S., so her spouse’s citizenship status (SOR ¶ 1.a) no longer raises foreign influence concerns. Yet Applicant’s spouse’s parents (SOR ¶¶ 1.b and 1.c) and his two brothers (SOR ¶¶ 1.d) and their families are resident citizens of Taiwan. Applicant does not share particularly strong bonds of affection with her in-laws, despite having lived with them from about February 1994 to September 1996, and her mother-in-law having stayed with them for a month on the birth of their second daughter in June 2000. She speaks with her in-laws only about twice a year. When she had to move back to Taiwan from March 1997 to October 1997 to reacquire U.S. permanent residency status for her spouse, she insisted they rent an apartment. She chose to not accompany her spouse on his December 2007 trip to Taiwan. However, the risk of undue foreign influence through her spouse and his relationship to his relatives must be considered.

Her spouse first came to the U.S. for graduate study in 1988. After he earned his degree in 1992, he moved back to Taiwan without her when she was pregnant with their first child. The evidence suggests he lived with his parents during his time alone in

Taiwan, since after she joined him in February 1994 they shared his parents' home. When Applicant returned to the U.S. in September 1996, he stayed behind in Taiwan, and lived with his parents (Tr. 72) while working as a research and development engineer. After moving to the U.S. permanently in October 1997, Applicant's spouse visited his parents and siblings in Taiwan in at least February 2005, April 2006, and December 2007. His close contacts with his parents are also evident in his once weekly telephone calls. 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") 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") apply.

Furthermore, Applicant did not disclose her association with her spouse's foreign relatives when she completed her security clearance application in November 2006 (SOR ¶ 1.e). AG ¶ 7(f) ("failure to report, when required, association with a foreign national"), also applies. That conduct primarily raises personal conduct concerns (see Guideline E, *infra*), but concealment of relationships with foreign nationals can make one vulnerable to undue foreign influence.

The close personal bonds Applicant's spouse has with his relatives in Taiwan, Taiwan's efforts to acquire U.S. sensitive and/or classified data, and to a lesser extent, his relatives' activities in Taiwan, preclude me from applying mitigating condition AG ¶ 8(a) ("the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S."). Applicant's in-laws are long retired from their careers in the Taiwanese military, but they apparently have government pensions. His mother was chosen as a mediator of disputes because she is respected within her community. His elder brother is a professor of social science at a Taiwanese university. It is unclear whether this brother relies on the Taiwanese government for his salary, and there is nothing about his academic field of social sciences that makes him a likely target for those seeking advanced technology, security, or military information. Applicant's other brother is an engineer for a private company in the semiconductor industry, which could have military implications. With so little known about their particular jobs and associates, however, it is difficult to discount the risk of her in-laws being exploited by the Taiwanese government or those in industry targeting U.S. classified data for competitive advantage. While Taiwan is a democracy that generally respects the human rights of its citizens, it has actively pursued U.S. economic intelligence, although there is no evidence that Applicant's spouse's relatives have been targeted.

Applicant's vulnerability to undue foreign influence through her spouse's close relationships with his foreign family members may be overcome by deep and longstanding relationships and loyalties in the U.S. (see 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 credibly asserts a singular loyalty to the U.S. where she is invested financially and professionally. Unlike her spouse, she has long roots in the U.S., having immigrated at age 12 with her parents and siblings. As confirmed by her sister, Applicant is close to her family members who are all in the U.S. Applicant has also shown an independence that makes her less vulnerable to any undue foreign influence should her husband or more likely his family members be targeted. Although she moved to Taiwan when her spouse was unable to find a job in February 1994, she moved back to the U.S. in September 1996 on her own, got rehired by her former employer, and raised her daughter on her own for six months until she had to return to Taiwan to reacquire U.S. permanent residency for her spouse. The fact that she was on a leave of absence from her defense contractor job in 1997 shows she intended to return to her position, which she did in October 1997. She has only been back to Taiwan once since, which was for a brief ten days in February 2005 so that her father-in-law could meet her younger daughter. She chose to not accompany her spouse to Taiwan in December 2007 despite his request.

As attested to by coworkers who have had the opportunity to observe her work for nine years, Applicant is very dedicated to her job. She has worked long hours at times beyond what one would reasonably expect, apparently even at some cost to her marital relationship. First granted her secret clearance in August 1989, she held a security clearance for her previous job with a defense contractor with no evidence of any violations, and continued to demonstrate compliance with security regulations and practices with her present employer. AG ¶ 8(b) applies.

Applicant did not disclose her relationships with her spouse’s family when she applied to renew her clearance. Yet she had already notified her employer’s security office in February 2005 of her planned travel to Taiwan, and provided the contact information for her parents-in-law (see AG ¶ 8(e) (“the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country.”)). Some coworkers know that her spouse has family members in Taiwan, and the government has been made aware as well. In the absence of any ongoing efforts to conceal these familial relationships, she is not seen as vulnerable to pressure or coercion by any foreign interest because of her failure to report these foreign ties on her clearance application.

### **Guideline E, Personal Conduct**

The security concern related to the guideline for personal conduct is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions

about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

When Applicant applied for renewal of her secret clearance in November 2006, she did not report her associations with her spouse's parents or brothers (SOR ¶ 2.a), or her travel to Taiwan in February 2005 (SOR ¶ 2.b), although she listed her and her spouse's dual citizenship with the U.S. and Taiwan, as well as her residency in Taiwan from March 1997 to October 1997. Applicant denied any intentional falsification while admitting that she did not report the foreign relatives and travel that should have been listed.

Concerning her failure to list her spouse's relatives in response to section 14/15, "Your Relatives and Associates," Applicant was specifically directed to report the "full name, correct code, and other requested information for each of your relatives and associates, living or dead, specified below," which included her father-in-law, her mother-in-law, and other relatives "with whom she or her spouse are bound by affection, obligation, or close and continuing contact." When she responded to the SOR, Applicant attributed the omission of her spouse's relatives to a focus on those to whom she was personally bound by affection. At her hearing, she admitted she knew when she completed the e-QIP that she had to report the information about her parents-in-law, but that she was too angry at her spouse to ask him for the details. Her failure to list her parents-in-law was a deliberate omission under AG ¶ 16(a) ("deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities"). Applicant put her personal anger with her spouse ahead of her obligation of full candor. Her listing of her parents-in-law by name and telephone number on her foreign travel request completed for her employer in February 2005, did not relieve her of the responsibility to report them on her clearance application in November 2006, although she obviously was not intending to conceal these relationships. She has continued to maintain that she did not list her Taiwanese brothers-in-law on her e-QIP because she was focused on those for whom she feels affection. In the absence of any evidence showing she has a close bond with her brothers-in-law, I accept her explanation. AG ¶ 16(a) does not apply to omissions due to good faith mistake, misunderstanding, or inadvertence.

As for her failure to report her trip to Taiwan in response to section 18 "Foreign Countries You Have Visited," Department Counsel accurately asserts the government would have no reason to know from the e-QIP that Applicant had been to Taiwan as recently as February 2005. Applicant explained that she thought she did not have to include the trip since she had reported her residency in Taiwan under section 9. Given section 18 does not ask for specific dates of travel and directs one to "not repeat travel covered in sections 9, 10, or 11," I conclude her negative response to question 18 was not a knowing falsification.

Under AG ¶ 17(a) a known omission of relevant facts can be mitigated by “prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts.” Applicant was interviewed by a government investigator in May 2007. No report or written statement from that interview is included in the evidentiary record, but Department Counsel had information about Applicant’s father-in-law’s occupation at the hearing that may well have been from that interview.<sup>5</sup> On October 1, 2007, in response to DOHA interrogatories, Applicant listed her parents-in-law by name, and that they had been affiliated with the Taiwanese navy and Taiwanese government “before [she] was born,” but she also indicated she did not know what their rank/positions had been (Ex. 2). She “kind of guessed” and had not asked her spouse for the details (Tr. 74). At her hearing, she testified that she believed her father-in-law had been an engineer, and her mother-in-law did “administrative kind of work” based on what she learned through her husband. She has not talked with her parents-in-law about their former occupations and still does not know the details, such as the duration of their employments or the dates of their retirements (see Tr. 73-76). The level of detail is consistent with her claimed relationships of respect but not of affection with her in-laws, who she speaks with only about twice a year and sees rarely (see Tr. 44). While one might expect Applicant to have a closer relationship based on the fact that she lived with her in-laws from February 1994 to September 1996, she had considerable demands on her time from an infant daughter and her job in a European cellular phone company. Although her compliance with the reporting requirements for foreign travel does not excuse her knowing omission of her association with her foreign in-laws from her e-QIP, it carries considerable weight in determining whether she can be counted on to timely report contacts with known foreign nationals and to otherwise comply with her obligation of candor in the future. Applicant demonstrates reform by acknowledging that she should not have allowed her anger with her spouse to cloud her judgment, which she now regrets (“I shouldn’t have done that.” Tr. 105).

### **Whole Person Concept**

Under the whole person concept, the administrative judge must evaluate an Applicant’s eligibility for a security clearance by considering the totality of the Applicant’s conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a): (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. Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for

---

<sup>5</sup>In response to my question about whether her father-in-law retired from a military position with the Taiwanese navy or from a civil servant position with the navy, Applicant testified that he had enlisted in the navy and then found a civilian job. Department Counsel then asked, “And his civilian job was for a shipbuilding company, is that right?” (Tr. 75). The original source for that information is not of record.

a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept.

The salient issue in the security clearance determination is not in terms of loyalty, but rather what is clearly consistent with the national interest. See Executive Order 10865, Section 7. An applicant may have the best of intentions and yet be in an untenable position of potentially having to choose between a dear family member and the interests of the U.S. Applicant's ties to Taiwan are primarily through her spouse and his close relationships there. Through the recent renunciation of their Taiwanese citizenship, Applicant and her spouse have put the U.S. interests first. Applicant is not likely to jeopardize the considerable ties she has developed within the U.S. since she immigrated at age 12. She made a mistake in not reporting her foreign relatives on her e-QIP, which she regrets, but had already shown that she is able and willing to comply with the requirements to report foreign travel and contacts.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

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 |

Paragraph 2, Guideline E: FOR APPLICANT

|                   |               |
|-------------------|---------------|
| Subparagraph 2.a: | For Applicant |
| Subparagraph 2.b: | For Applicant |

### **Conclusion**

In light of all of the circumstances, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

---

ELIZABETH M. MATCHINSKI  
Administrative Judge