



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



In the matter of:)
)
-----) ISCR Case No. 07-16070
SSN: -----)
)
Applicant for Security Clearance)

Appearances

For Government: Robert E. Coacher, Esquire, Department Counsel
For Applicant: *Pro Se*

July 14, 2008

Decision

GALES, Robert Robinson, Chief Administrative Judge:

Applicant mitigated the security concerns regarding foreign influence. Eligibility for a security clearance and access to classified information is granted.

Statement of the Case

On February 6, 2006, Applicant applied for a security clearance and submitted an e-QIP version of a Security Clearance Application (hereinafter SF 86). On January 17, 2008, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to him, pursuant to Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive). The SOR alleged security concerns under Guideline B (Foreign Influence), and detailed reasons why DOHA could not make a preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant, and recommended referral to an Administrative Judge to determine whether a clearance should be granted, continued, denied, or revoked.

It should be noted that on December 29, 2005, the President promulgated revised *Adjudicative Guidelines for Determining Eligibility For Access to Classified Information*, and on August 30, 2006, the Under Secretary of Defense (Intelligence) published a memorandum directing implementation of those revised Adjudicative Guidelines (hereinafter AG) for all adjudications and other determinations made under the Directive and Department of Defense (DoD) Regulation 5200.2-R, *Personnel Security Program* (January 1987), as amended and modified (Regulation), in which the SOR was issued on or after September 1, 2006. The AG are applicable to Applicant's case because his SOR was issued after September 1, 2006.

It is unclear when Applicant received the SOR. In a sworn, written statement, dated January 24, 2008, Applicant responded to the SOR allegations and requested a hearing before an Administrative Judge. Department Counsel indicated the Government was prepared to proceed on February 5, 2008, and the case was assigned to Administrative Judge Henry Lazzaro on February 6, 2008. It was reassigned to me on February 14, 2008, due to caseload considerations. A Notice of Hearing was issued on February 19, 2008, and I convened the hearing, as scheduled, on March 19, 2008.

During the hearing, two Government exhibits and two Applicant exhibits were received without objection. Applicant testified. The transcript of the hearing (Tr.) was received on March 28, 2008.

Rulings on Procedure

At the commencement of the hearing, Department Counsel requested that I take Administrative Notice of certain enumerated facts pertaining to Taiwan, also referred to as the Republic of China (hereinafter Taiwan), appearing in a written submission of the request. Facts are proper for Administrative Notice when they are easily verifiable by an authorized source and relevant and material to the case. In this instance, the source information relied upon by the Government was publications of the Department of State;¹ the Congressional Research Service;² the Centre for Counterintelligence and Security Studies;³ the National Counterintelligence Center, now known as the Office of the National Counterintelligence Executive;⁴ a press release from the U.S. Department of Justice, U.S. Attorney, Western District of New York;⁵ a press release from the U.S.

¹ U.S. Department of State, Bureau of East Asian and Pacific Affairs, *Background Note: Taiwan*, dated October 2007.

² Congressional Research Service, Library of Congress, *Taiwan: Recent Developments and U.S. Policy Choices*, dated October 9, 2006.

³ Interagency OPSEC Support Staff, Center for Counterintelligence and Security Studies, *Intelligence Threat Handbook*, excerpts, dated June 2004.

⁴ National Counterintelligence Center, *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage*, dated 2000.

⁵ U.S. Department of Justice, U.S. Attorney, Western District of New York, *Press Release: Defendant Sentenced to 48 months in Trade Secret Theft Case Re: United States v. Jonathan C. Sanders*, dated Apr. 18, 2006.

Department of Justice, U.S. Attorney, Eastern District of Virginia;⁶ and records of the U.S. District Court for the Eastern District of Virginia.⁷

With regard to the National Counterintelligence Center Report, I note that it is eight years old, and the cited facts are based upon a “private survey” of “nearly a dozen selected Fortune 500 companies.” The report does not indicate how the companies were selected, what companies were selected, or how they decided upon their input to the survey. The survey results do not indicate whether the collection of economic information was accomplished through “open” methods, such as reading a newspaper, that raise no security issues under the relevant criteria, or more covert methods that might raise security concerns. Furthermore, as the selected companies are unidentified, it is impossible to assess possible bias or determine if there is an existing anti-Taiwan economic or political agenda. For these reasons, I conclude the factual matters asserted by Department Counsel, as demonstrated by the proffered report, should be given less weight than information from a more authoritative source.

The two press releases were presented apparently to substantiate that Taiwan actively pursues collection of U.S. economic and propriety information, and therefore, Applicant’s relationship with family members in Taiwan raises suspicion of him. Neither case involves Applicant personally or involved espionage through any familial relationship. The Western District of New York press release concerns the sentencing of a U.S. citizen for conspiring to commit trade secret theft during 1999-2001 to the benefit of a corporation based in Taiwan. There is no indication of any government sponsorship, approval, or involvement encouraging the Taiwanese company’s attempt to acquire sensitive commercial information for competitive advantage. Likewise, there is no evidence that Taiwan’s government was involved in, or sanctioned, the criminal activity.

The Eastern District of Virginia press release and the court record set forth the facts and sentencing of a former U.S. State Department official for unauthorized possession of classified information, making false statements to the government concerning his relationship with a female Taiwanese intelligence officer, and by not reporting that he had traveled to Taiwan where he met with the foreign intelligence officer. The criminal wrongdoing of other U.S. citizens is of decreased relevance to an assessment of Applicant’s security suitability, especially where there is no evidence that Applicant, nor any member of his family, was ever involved in any aspect of the case or ever targeted by any Taiwanese intelligence official.

After weighing the reliability of the source documentation and assessing the relevancy and materiality of the facts proposed by the Government, I take administrative notice that the events described in the press releases or related court record occurred,⁸

⁶ U.S. Department of Justice, U.S. Attorney, Eastern District of Virginia, *Press Release: Former State Department Official Sentenced for Mishandling Classified Material*, dated Jan. 22, 2007.

⁷ U.S. District Court Eastern District of Virginia, Criminal Case No. 1:05CR43, *U.S. v. Donald W. Keyser*, Statement of Facts, dated Dec. 12, 2005.

⁸ Tr. at 28-30.

as well as that information set forth in the National Counterintelligence Center Report. However, the inference that somehow Applicant and/or his family participated in criminal activity was not argued and is not accepted. Pursuant to Rule 201, *Federal Rules of Evidence*, I take administrative notice of certain facts, as set forth below under the Taiwan subsection.

Findings of Fact

In his Answers to the SOR, Applicant admitted all of the factual allegations in ¶¶ 1.a. through 1.f. of the SOR. Those admissions are incorporated herein as findings of fact.

Applicant is a 36-year-old employee of a defense contractor, and he is seeking to obtain a security clearance, the level of which has not been divulged. He has been employed as a senior electrical engineer by the same government contractor since August 2005.⁹ Applicant's colleagues, working group leaders, both current and past, and a director of operations, all support his application and characterize him in a very positive light, using terms such as: integrity, sound judgment, highest ethical standards, diligent, and knowledgeable.¹⁰ According to his immediate supervisor, his judgment and reliability are both rated "excellent," the highest of the five possible ratings on his employee performance evaluation.¹¹

Applicant was born in Taiwan in 1972,¹² and resided there with one or both of his parents. When his parents divorced, he moved in with his father.¹³ In 1982, at the age of 10, Applicant immigrated to the U.S. with his father, stepmother, and brother.¹⁴ He subsequently left his father's residence when he was in high school. He attended a U.S. university from 1990 until 1996, and earned BSEE and MS degrees in engineering management.¹⁵ Applicant became a naturalized U.S. citizen in September 1991.¹⁶ In 1994, Applicant married,¹⁷ and he and his wife have had three children, all of whom are native-born Americans.¹⁸

⁹ Government Exhibit 1 (Security Clearance Application, dated Feb. 6, 2006), at 11.

¹⁰ See Applicant Exhibits B-1 through B-5 (Character References, various dates).

¹¹ Applicant Exhibit A (Employee Performance Evaluation, dated Oct. 18, 2007), at 3.

¹² Government Exhibit 1, *supra* note 9, at 1.

¹³ Tr. at 44.

¹⁴ *Id.* at 45.

¹⁵ Government Exhibit 1, *supra* note 9, at 10.

¹⁶ *Id.* at 7.

¹⁷ *Id.* at 17.

¹⁸ *Id.* at 21-23.

Applicant's father was born in 1947 and raised in Taiwan.¹⁹ When Applicant and his father relocated to the U.S., the father owned and operated a restaurant.²⁰ Applicant's father has no known affiliations with the Taiwanese Government.²¹ After he left his father's residence, Applicant and his father were estranged, and did not communicate for about 20 years.²² The first and only time they have spoken since the mid-1980s was in March 2007, after his father had a stroke and his uncle encouraged him to call his father.²³ As it happens, his father was in a hospital located in the Peoples Republic of China (PRC).²⁴ Their conversation lasted less than five minutes because his father had a hard time speaking.²⁵ Applicant has no idea where his father is now.²⁶ Applicant has not had any communication with his father since that one brief telephone call.

His mother was born in 1947 and raised in Taiwan, and has remained a resident and citizen of Taiwan.²⁷ Since her divorce, she has been a single homemaker, and for the past 10 years, has not held a job.²⁸ In May 2006, Applicant saw his mother for the second time since he left Taiwan (1995 was the first time). He speaks with her by telephone or computer, generally once a month.²⁹ While she has an inheritance, on occasion, depending on his financial condition, Applicant may send her small amounts of money.³⁰ He did not send her any money in 2007, but did bring her \$7,000-\$8,000 when they visited in 2006.³¹ His mother has never had any type of job or affiliation with the Government of Taiwan.³²

¹⁹ *Id.* at 21.

²⁰ Tr. at 45.

²¹ *Id.* at 65.

²² *Id.* at 44.

²³ *Id.* at 44-46.

²⁴ *Id.*

²⁵ *Id.* at 55-56.

²⁶ *Id.* at 46.

²⁷ Government Exhibit 1, *supra* note 9, at 20.

²⁸ Tr. at 43.

²⁹ *Id.* at 54.

³⁰ *Id.* at 53.

³¹ *Id.* at 53-54.

³² *Id.* at 54.

Applicant's wife was born in Taiwan in 1970.³³ It is unclear where she was raised or when she immigrated to the U.S. They were married in the U.S.³⁴ She became a naturalized U.S. citizen in September 1999.³⁵ While she retains her dual citizenship, she is willing to renounce her Taiwanese citizenship, but has not been furnished guidance on how to do so.³⁶ Likewise, she is willing to surrender her Taiwanese passport, which expires in 2016.³⁷ She does not hold a job outside the family home, but is a fulltime homemaker raising their three children.³⁸ In 1995, after their marriage in the U.S., Applicant and his wife returned to Taiwan so their families could bless them and have a traditional wedding dinner.³⁹ They returned briefly in 2006 with their three children.⁴⁰

Applicant's mother-in-law was born and raised in Taiwan where she continues to reside as a Taiwanese citizen.⁴¹ She owns a restaurant in Taiwan.⁴² She has never been affiliated with the Taiwanese Government or Intelligence Service.⁴³ She came to the U.S. on one occasion in the 1990s,⁴⁴ and Applicant and his wife have visited Taiwan to see her in 1995 and 2006.⁴⁵ Applicant's wife speaks with her at least once a month, but Applicant's contacts are about once every six months.⁴⁶ Applicant does not furnish her support, but does send some money generally on the Chinese New Year.⁴⁷

Applicant's wife has two sisters and one brother who were born and raised in Taiwan, and continue to reside there as Taiwanese citizens.⁴⁸ Her brother is a laborer,

³³ Government Exhibit 1, *supra* note 9, at 17.

³⁴ *Id.*

³⁵ *Id.* at 18.

³⁶ Tr. at 52.

³⁷ *Id.* at 41-42.

³⁸ *Id.* at 52.

³⁹ Government Exhibit 2 (Answers to Interrogatories, dated Dec. 17, 2007), at 26.

⁴⁰ *Id.*

⁴¹ Tr. at 47.

⁴² *Id.* at 46, 48, 56.

⁴³ *Id.* at 56.

⁴⁴ *Id.* at 47.

⁴⁵ Government Exhibit 2, *supra* note 39, at 26.

⁴⁶ Tr. at 56-57.

⁴⁷ *Id.* at 64.

one sister is a flight attendant, and the other sister is a homemaker.⁴⁹ Applicant last saw them in 2006, and he has little, if any, contact with his in-laws, but his wife does have periodic contacts with her sisters.⁵⁰ They do not speak to the brother.⁵¹

Applicant's father has four brothers-Applicant's uncles-whom he has not seen nor had any contact with, since he immigrated to the U.S. in 1982.⁵² They were all born and raised in Taiwan. One uncle was employed by the Taiwanese Customs Service, but retired and eventually moved to the U.S.⁵³ Another uncle was a painter of movie boards who retired at least 20 years ago, and still resides in Taiwan.⁵⁴ A third uncle was educated in the U.S. and was a professor before retiring in the U.S.⁵⁵ The fourth uncle was also a professor, at a public university in Taiwan, before retiring in Taiwan.⁵⁶ Other than the uncle who worked for the Customs Service, none of his other uncles was ever affiliated with the Taiwanese Government.

Applicant has an estimated net worth in the U.S. of about \$400,000,⁵⁷ and does not own any property in Taiwan.⁵⁸ He has no intentions on visiting Taiwan within the next three years.⁵⁹ In December 2007, Applicant surrendered his Taiwanese passport to his Facility Security Officer.⁶⁰

Taiwan

In 1949, a large number of Chinese refugees fled from the civil war in mainland China and immigrated to the off-shore Island of Formosa. The Communists in mainland China established the PRC, and Chiang Kai-shek, the leader of the Kuomintang on mainland China, established a provisional government and capital in Taipei, Taiwan.

⁴⁸ *Id.* at 48.

⁴⁹ *Id.* at 49.

⁵⁰ *Id.* at 58.

⁵¹ *Id.*

⁵² *Id.* at 49-50, 64.

⁵³ *Id.* at 60-61.

⁵⁴ *Id.* at 50, 61-62.

⁵⁵ *Id.* at 62.

⁵⁶ *Id.* at 63.

⁵⁷ Government Exhibit 2, *supra* note 39, at 14.

⁵⁸ Tr. at 65.

⁵⁹ *Id.* at 64.

⁶⁰ Government Exhibit 2, *supra* note 39, at 4 (Letter from FSO, dated Dec. 17, 2007).

The PRC refuses to recognize Taiwan's independence, and insists that there is only "one China." After recognizing Taiwan for nearly 30 years, on January 1, 1979, the U.S. formally recognized the government of the PRC as the sole legitimate government of China. The U.S. does not support independence for Taiwan and, under the Taiwan Relations Act, signed into law on April 10, 1979, is committed to a "one-China policy." Nevertheless, the U.S. has been also been committed to maintaining cultural, commercial and other nonofficial relations with Taiwan, and continues to provide arms in support of Taiwan's security and region stability.

Taiwan is a multi-party democracy with a strong economy, with significant economic contacts with both the PRC and the U.S. Taiwan's own national security remains under constant threat from the PRC since PRC has not renounced the use of force against Taiwan, and this has led to Taiwan's large military establishment. Taiwan's armed forces are equipped with weapons obtained primarily from the U.S., but Taiwan has stressed military self-reliance in recent years that has resulted in the growth of indigenous military production.

Taiwan is believed to be an active collector of U.S. economic intelligence and proprietary information. There is no evidence that Taiwan uses coercive measures to gain access to such information. While there have been a number of incidents involving individuals, companies, and Taiwanese intelligence officers improperly acquiring U.S. economic intelligence and proprietary information, there is no direct or indirect connection to, or involvement with, Applicant.

Policies

When evaluating an Applicant's suitability for a security clearance, the Administrative Judge must consider the 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.

An Administrative Judge need not view the guidelines as inflexible, ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The Administrative Judge's over-arching 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 meaningful decision.

Since 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.

In the decision-making process, facts must be established by “substantial evidence.”⁶¹ The Government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the Applicant has the burden of persuasion to present evidence in refutation, explanation, extenuation or mitigation, sufficient to overcome the doubts raised by the Government’s case. The burden of disproving a mitigating condition never shifts to the Government.

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 as well. It is because of this special relationship that the Government must be able to repose a high degree of trust and confidence in those 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.” Accordingly, nothing in this Decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant’s allegiance, loyalty, or patriotism.

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.

⁶¹ “Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record.” ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1).

The mere possession of close family ties with a person in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if only one relative lives in a foreign country, and an applicant has contacts with that relative, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information.⁶²

The guideline notes several conditions that could raise security concerns. Under 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” is potentially disqualifying. Similarly, under AG ¶ 7(b), “connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information” may raise security concerns. Also, 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” may raise security concerns as well. I find AG ¶¶ 7(a), 7(b), and 7(d) apply in this case. However, the security significance of these identified conditions requires further examination of Applicant’s respective relationships with his various extended family members who are either Taiwanese citizen-residents or dual citizen-U.S. residents to determine the degree of “heightened risk” or potential conflict of interest.

The guideline also includes examples of conditions that could mitigate security concerns arising from foreign influence. Under AG ¶ 8(a), the disqualifying condition may be mitigated where “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.” Similarly, AG ¶ 8(b) may apply where the evidence shows “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.” Also, AG ¶ 8(c) may apply where “contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.”

Applicant’s relationship with his various extended family members is diverse. Those who are Taiwanese citizen-residents, his mother, father, mother-in-law, brother-in-law, two sisters-in-law, and two uncles, require the most scrutiny. His relationship with his father was strained and, for the most part, non-existent for over 20 years. The five-minute telephone call between them while his father was in the hospital with a stroke did not drastically alter this minimal relationship. Likewise, he has had no

⁶² See ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 at 12 (App. Bd. Feb. 8, 2001).

relationship with his two uncles since he departed Taiwan in 1982. He has no relationship with his brother-in-law, and a rare, indirect relationship with his two sisters-in-law. As far as they are concerned, the contacts and relationships are casual and infrequent.

The relationship he has with his mother is now somewhat closer and more frequent. He resided with his father upon his parents' divorce, as well as after he arrived in the U.S., and did not see his mother for 13 years after he arrived in the U.S. It was another 11 years before he saw her again. While they do have periodic contact by telephone and computer, and he sends her some money every so often, even those activities have not demonstrated a really warm close relationship. His relationship with his mother-in-law is somewhat similar. He has seen her on only three occasions in 13 years, and has direct contact with her about once every six months.

His relationship with his spouse, a dual citizen-U.S. resident, is obviously much closer. Nevertheless, while she retains her dual citizenship, she is willing to renounce her Taiwanese citizenship. She does not hold a job outside the family home, but is a fulltime homemaker raising their three children.

In assessing whether there is a heightened risk because of an applicant's relatives or associates in a foreign country, it is necessary to consider all relevant factors, including the totality of an applicant's conduct and circumstances, including the realistic potential for exploitation. One such factor is the potential for pressure, coercion, exploitation, or duress. In that regard, it is important to consider the character of the foreign power in question, including the government and entities controlled by the government, within the relevant foreign country. Nothing in Guideline B suggests it is limited to countries that are hostile to the United States.⁶³ In fact, the Appeal Board has cautioned against "reliance on overly simplistic distinctions between 'friendly' nations and 'hostile' nations when adjudicating cases under Guideline B."⁶⁴ Nevertheless, the relationship between a foreign government and the U.S. may be relevant in determining whether a foreign government or an entity it controls is likely to attempt to exploit a resident or citizen to take action against the U.S. through the Applicant. It is reasonable to presume that a friendly relationship, or the existence of a democratic government, is not determinative, but it may make it less likely that a foreign government would attempt to exploit a U.S. citizen through relatives or associates in that foreign country.

As noted above, the U.S. and Taiwan have a history of friendly relations making it less likely that the Taiwanese Government would attempt coercive means to obtain sensitive information. However, it does not eliminate the possibility that a foreign power would employ some non-coercive measures in an attempt to exploit his relatives. While Applicant has some extended family members still residing in Taiwan, there may be speculation as to "some risk," but that speculation, in the abstract, does not, without

⁶³ See ISCR Case No. 00-0317 at 6 (App. Bd. Mar. 29, 2002); ISCR Case No. 00-0489 at 12 (App. Bd. Jan. 10, 2002).

⁶⁴ ISCR Case No. 00-0317 at 6 (App. Bd. Mar. 29, 2002).

substantially more, establish evidence of a “heightened risk” of foreign exploitation, inducement, manipulation, pressure, or coercion.

As to Applicant’s very causal relationship with his father, brother-in-law, two sisters-in-law, and two uncles, there is a very low potential of forcing him to choose between the interests of U.S. and those of either Taiwan or those extended family members. He has met his burden of showing there is little likelihood that those relationships could create a risk for foreign influence of exploitation. I find AG ¶¶ 8(a) and 8(c) fully apply in this case. As to his slightly closer relationship with his mother and mother-in-law, AG ¶¶ 8(a) and 8(c) partially apply to a more limited extent.

As to his relationship with his wife, AG ¶¶ 8(a) and 8(b) fully apply. Applicant has been a resident of the U.S. since 1982, when he was 10 years old. He attended U.S. schools for his education. He and his wife became naturalized U.S. citizens and their three children are native-born U.S. citizens. He surrendered his Taiwanese passport and they are willing to renounce their dual citizenship. They have no foreign financial interests. Applicant’s performance evaluation and letters of support laud his hard work and excellent performance, and refer to him using terms such as: integrity, sound judgment, highest ethical standards, diligent, and knowledgeable. Applicant and his wife have “such deep and longstanding relationships and loyalties in the U.S., that [they] can be expected to resolve any conflict of interest in favor of the U.S. interest.”

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

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Applicant has an estimated net worth in the U.S. of about \$400,000, and does not own any property in Taiwan. He has resided in the U.S. since 1982, and became a U.S. citizen in 1991. He married in the U.S., and his closest family members are his wife and three children, and they reside

with him in the U.S. As such, they are not vulnerable to direct coercion or exploitation, and the realistic possibility of pressure, coercion, exploitation, or duress with regard to them is low.

Applicant's relationship with his various extended family members who are Taiwanese citizen-residents is varied. Some are historically non-existent relationships, some are limited to extremely rare visits with periodic telephone contacts, and some are generally limited to infrequent telephone contacts. While Taiwan is believed to be an active collector of U.S. economic intelligence and proprietary information, there is no evidence that Taiwan uses coercive measures to gain access to such information. It is in Taiwan's interests to maintain that friendship to counterbalance the PRC. It is very unlikely Taiwan would forcefully attempt to coerce Applicant through his relatives still residing in Taiwan. (See AG ¶ 2(a)(8).) The presence of extended-family members in Taiwan without any affiliation or relationship to the Government of Taiwan, does not generate a realistic potential for exploitation.

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising from his foreign influence concerns.

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 F:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

ROBERT ROBINSON GALES
Chief Administrative Judge