



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



In the matter of:)	
)	
-----)	ISCR Case No. 08-09211
SSN: -----)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Caroline H. Jeffreys, Esq., Department Counsel

For Applicant: Gary L. Rigney, Esq.

September 25, 2009

Decision

MARSHALL, Jr., Arthur E., Administrative Judge:

Applicant completed a Security Clearance Application (SF-86), dated February 16, 2006. On April 23, 2009, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing security concerns under Guideline B (Foreign Influence). 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.

In a response notarized on May 7, 2009, Applicant admitted all eight allegations raised in the SOR and requested a hearing. After consultation, Applicant and Department Counsel agreed to a hearing date of July 15, 2009. A Notice of Hearing to that effect was issued on June 24, 2009. At the hearing, Applicant was represented by counsel and introduced three documents, admitted into the record without objection as exhibits (Exs.) A-C. Applicant gave testimony, as did four witnesses on his behalf.

Department Counsel introduced 14 exhibits, accepted into the record as Exs. 1-14.¹ Applicant was given through July 24, 2009, to submit any additional documents. On July 22, 2009, two additional documents were sent by facsimile transmission to Department Counsel, who forwarded the items to me on July 23, 2009. They were accepted into the record without objection as Exs. D-E. The transcript (Tr.) of the proceeding was also received on July 23, 2009. The record was closed on July 27, 2009. Based upon a review of the case file, exhibits, and testimony, security clearance is granted.

Administrative Notice

The Government submitted nine documents regarding the country of Taiwan. Those documents note that Taiwan is a multi-party democracy. They report that the U.S. does not support Taiwan independence, in keeping with the “one China” policy.² They report, however, that the U.S. supports Taiwan’s membership in appropriate international organizations where statehood is not a requirement for membership and its meaningful participation in appropriate international organizations where its membership is not possible.³

The documents also stress that there are significant economic ties between Taiwan and the People’s Republic of China (PRC), attributable to their physical proximity and history. Because of its location, Taiwan has a particular interest in information from the U.S. that could aid it in its own defense.⁴ The documents note that the PRC maintains intelligence operations in Taiwan through a bureau utilizing PRC nationals with Taiwanese connections.⁵ Unlike the PRC, however, the constitutional basis of the Taiwanese government suggests that its resort to coercive measures against its citizens to collect economic intelligence is precluded.⁶

¹ The transcript incorrectly identifies the number of documents as 13. Regarding Exs. 5-14, see section below, Administrative Notice.

² *But see*, “Many observers concluded in 2001 that the newly elected [U.S. President] had abandoned the long standing U.S. policy of “strategic ambiguity” in favor of “strategic clarity” that places a clearer emphasis on Taiwan’s interests and showed less concern for [the People’s Republic of China’s] views.” Ex. 8, CRS Report for Congress: *Taiwan: Recent Developments and U.S. Policy Choices*, Aug. 5, 2008, at 11.

³ U.S. Department of State, *Background Note: Taiwan*, April 2009.

⁴ Tr. 99.

⁵ Ex. 5 (Memorandum, Administrative Notice: Taiwan); Interagency OPSEC Support Staff, *Intelligence Threat Handbook* [Unclassified/For Official Use Only] (Intelligence Threat Handbook), dated June 2004, at 19-20, 71-72.

⁶ While not introduced by Department Counsel, introduced during the hearing, or relied upon herein, see also U.S. State Department, *2008 Human Rights Reports: Taiwan*, dated February 25, 2009 (<http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119038.htm>).

Department Counsel cites to various cases involving the illegal export or attempted illegal export of U.S. restricted, dual use technology to and/or through Taiwan.⁷ An additional source cited is from nearly a decade ago. It is a report to the U.S. Congress concerning foreign economic collection and industrial espionage occurring in the 1990s. That report notes that Taiwan was then known to be an active collector of U.S. economic intelligence.⁸ The report ranked Taiwan after China, Japan, Israel, France, and Korea as an active collector of such information.⁹

The proffered materials also note that Taiwan is a modern democracy with vibrant public participation during which demonstrations may become confrontational. Caution is urged within the vicinity of any political demonstrations.¹⁰ Overall crime is noted as low. None of the documents offered by Department Counsel affirmatively states or suggests Taiwan specifically targets U.S. citizens to obtain protected information or is associated with terrorism.

Findings of Fact

Applicant is a 30-year-old advanced programmer who has worked for the same defense contractor since January 2006. He earned a high school diploma and a degree in both electrical engineering and computer science from a leading U.S. university. Married, Applicant has one child who is nearly two years of age.

During the summer break after his junior year in college, Applicant had a summer internship with a software company. He contributed to an independent project that caught the eye of an individual seeking technical talent to start a new company designing graphic software. By the time Applicant started his senior year of college, he was working part-time for the newly created venture. Upon graduation, he became a full-time employee of the company, earning approximately \$60,000 a year and receiving about 5% of the company's equity in stock shares. When their initial funding was depleted, the company received financing from another U.S. company, from which he received similar shares of stock.

In May 2003, Applicant made his first trip to Taiwan to promote his company's products. By spring 2004, he had moved to Taiwan to increase sales opportunities. As part of his efforts, trips were made to mainland China to promote his company.¹¹ While working in China, he followed the local business practice of using a Chinese name

⁷ Ex. F, *supra*, note 1, at 2-3.

⁸ National Counterintelligence Center, *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage (Annual Report to Congress – 2000)*, at 16.

⁹ *Id.* The more current editions of the report to Congress no longer rank countries in the manner depicted above. See, e.g., the 2007 and 2008 editions.

¹⁰ U.S. Department of State, *Taiwan: Specific Information*, dated Jan. 26, 2009, at 2.

¹¹ Applicant always used his U.S. passport, for which he obtained a visa for visiting mainland China. Tr. 27.

spelled in Chinese characters. This was partly in observance of local practice, but also it was an acknowledgment that his unique last name was difficult to pronounce in Chinese.¹² During this time abroad, the only contact Applicant had with a potential agent of either the government of Taiwan or the government of China was a brief demonstration for a public/private television station in China.¹³

In 2004 or early 2005, Applicant's company was restructured and he was named as one of four company directors. One evening, he met his present wife at a dinner hosted by a co-worker. She was college educated and a successful copywriter for a private entity with no connection with any government.¹⁴ They developed a relationship and he met her parents, who divorced about 20 years ago.

By the summer of 2005, Applicant had become disillusioned with his employer and his situation. He had developed a "distaste" for his dealings with the officers of the company¹⁵ and wanted to "be in a healthier work environment."¹⁶ He felt his stock benefits would never become anything "significant."¹⁷ Missing life in the U.S., he asked his future wife to go with him to America, which she did in June 2005. He returned to the state in which he was raised, formally quit his position in July 2005, and was married in September 2005. Since quitting his position, he has relinquished all his rights, title, and interest in his company's common stock together with his stock certificate.¹⁸ Applicant no longer has any foreign financial ties, interests, or investments.¹⁹ He no longer retains any professional ties with the company, Taiwan, or China, although he subsequently made three trips to Taiwan. He and his wife took two pleasure trips in 2006. A third trip was taken in March 2009, when he joined his wife and infant child on their visit to Taiwan which, for the most part, was planned to visit her father. Each time, Applicant visited for about a week while his wife stayed for a longer period of time, usually three weeks. He expects they will continue to visit his wife's family "every couple of years" while her parents remain alive.²⁰

¹² Tr. 27-28. When using his English name, Applicant did not adopt the use of Chinese characters.

¹³ Tr. 25.

¹⁴ Tr. 36.

¹⁵ Tr.47.

¹⁶ Tr. 56. It was further noted Applicant ceased his contact with his former place of employment shortly thereafter. *See also* Tr. 47.

¹⁷ Tr. 26.

¹⁸ That action was executed by letter posted on July 15, 2009. Ex. D (Attorney's letter, dated June 22, 2009) and Ex. E (Proof of Mailing, dated Jul. 15, 2009); Tr. 28-31, 109-110. Applicant estimates the value of the stock as being approximately \$750 U.S. dollars. Applicant only postponed this relinquishment because he "had a distaste for dealing with the officers [of the company]. . . ." Tr. 47.

¹⁹ Tr. 35.

²⁰ Tr. 48.

Aside from his recent trip to Taiwan, Applicant has had no contact with his wife's mother.²¹ Applicant had brief contact with the woman on each of his three return visits to Taiwan. She has worked for a Taiwanese military base for nearly 30 years as a switchboard operator, although her job function has been virtually eliminated through technological advances. She will soon be eligible for retirement.

Applicant has spent slightly more time with his wife's father, who completed his state-mandated military service as an air traffic controller over 20 years ago.²² The father retired from the military with the dream of moving to the U.S. and opening a restaurant, as his sister had earlier. Instead, he ended up buying and managing a hotel in Taiwan.²³ When he severed from the military, he was given a financial settlement. No additional funds are or will be forthcoming for his benefit from the state.²⁴ Today, he is retired from the hotel business and he lives off his investments.²⁵ Applicant's father-in-law visited the U.S. for the birth of his grandchild. He later made another visit about six months later to see his sister and his daughter's family.²⁶ Applicant's wife and her father exchange telephonic contact every few weeks. The contact is casual and the conversations last about 10 minutes at the most.²⁷ He has no future plans to visit the U.S. Both her father's octogenarian parents are still alive, although she has only spoken with her grandfather, who is in ill health, "a handful of times in the last year."²⁸

Applicant's wife also has one sibling, a brother who is about six years her junior. He lives with their father and is training to become a hair stylist. His contact with Applicant's wife is infrequent, about on par with his wife's contact with their mother. They are not particularly close. They exchange greetings about once a month, when they see each other on-line.²⁹

²¹ Applicant's wife and her mother are estranged. They speak less than monthly by telephone and do not otherwise correspond. Tr. 38-39, 65-66. Because they are not close, Applicant has only met the elder woman "a half-dozen times, just for a very brief period each time." Tr. 34-35.

²² Tr. 67.

²³ *Id.* Applicant's father-in-law's sister has been in the U.S. for nearly 40 years and been a U.S. citizen for nearly 30 years. She is a former restaurateur who now owns a retail store.

²⁴ Tr. 68.

²⁵ Taiwan does not have an equivalent to Social Security, so Applicant's father-in-law receives no state funding toward his retirement. Tr. 70.

²⁶ Tr. 35.

²⁷ Tr. 73.

²⁸ Tr. 43.

²⁹ Tr. 42, 79-80.

When Applicant and his wife visited Taiwan, they spent some time at her father's home and some time at the hotel he used to manage.³⁰ Applicant and his wife also spent some time with other relatives of his wife, but Applicant has little recollection of the visit as he was unable to converse with them. Applicant's wife used to maintain some contact with old school friends, but that contact ended a couple of years ago.³¹ Today, she only occasionally exchanges internet messages with two particular friends when she encounters them on-line through her internet "buddy list."³² Her contact with Taiwan is otherwise limited to her parents, paternal grandfather, and brother. She has no contacts or connections with any government, nor does she have any property or investments in Taiwan.³³ As for Applicant's work, his wife has little understanding of either his business or his projects.³⁴ She would be unable to provide details of her work to third parties.³⁵

Applicant started his current job in 2006. He and his wife are settled in a mid-sized community, where they have owned their own home for about two years. Their marital assets are in the U.S., with they have no holdings in Taiwan or China. Applicant is exceptionally close to his mother who, in depicting their relationship stated: "I think I've relied on him probably as much as he has relied on me."³⁶ They visit on a near-weekly basis. Although Applicant learned very little Taiwanese while living abroad, his wife now speaks English fluently. She has made friends with their neighbors and has socialized with some of Applicant's professional peers.³⁷ She does not associate with any Taiwanese or Chinese groups or associations in the U.S. Their child attends day care at a local church attended by the children of Applicant's peers. Applicant's wife only recently received her permanent green card, which was delayed in arrival due to an address error. With the card now in her possession, she is preparing to apply for U.S. citizenship.³⁸ Her application for citizenship is already signed and completed, needing only to be mailed.³⁹

³⁰ *Id.*

³¹ Tr. 44.

³² Tr. 80-81. These friends are female. One works for a U.S.-based jeweler and the other is a secretary.

³³ Tr. 73.

³⁴ Tr. 76.

³⁵ Tr. 76-77.

³⁶ Tr. 96.

³⁷ Tr. 83.

³⁸ Tr. 78.

³⁹ Tr. 81.

At work, Applicant is exceptionally well regarded. His supervisor notes that Applicant not only knows how to properly safeguard information, but that he serves as a model for others.⁴⁰ That co-worker states that he has never noticed anything suspicious about Applicant's conduct or demeanor: "I've never had any reason to believe that [Applicant's] doing anything other than his job."⁴¹ As an employee, he receives "the highest merits within [the company] that [his supervisor is] able to give him."⁴² A co-worker with whom Applicant and his wife socialize echoes these sentiments. He also notes that he has not observed any suspicious conduct on the part of Applicant and does not have any reservations regarding Applicant's ability to hold a security clearance.⁴³ Applicant demonstrated an appreciation and understanding of the appropriate steps for reporting foreign contacts, which he learned on the job and through life experience. He has both professional and personal mentors to whom he can turn for advice in such matters.⁴⁴

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 commonsense decision. Under AG ¶ 2(c), this 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.

The government must present evidence to establish controverted facts alleged in the SOR. An applicant is responsible for presenting "witnesses and other evidence to

⁴⁰ Tr. 53-54.

⁴¹ Tr. 57.

⁴² Tr. 59.

⁴³ Tr. 89.

⁴⁴ See, e.g., Tr. 33, 51-52, 60, 96-97.

rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .⁴⁵ The burden of proof is something less than a preponderance of evidence.⁴⁶ The ultimate burden of persuasion is on the applicant.⁴⁷

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). “The clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials.”⁴⁸ Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.⁴⁹ The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant.⁵⁰ It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Analysis

Based upon consideration of the evidence, AG B (Foreign Influence) is the most pertinent to the evaluation of the facts in this case. Conditions pertaining to this adjudicative guideline that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, are set forth and discussed in the appropriate sections below.

The concern under Guideline B is that foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may

⁴⁵ See *also* ISCR Case No. 94-1075 at 3-4 (App. Bd. Aug. 10, 1995).

⁴⁶ *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

⁴⁷ ISCR Case No. 93-1390 at 7-8 (App. Bd. Jan. 27, 1995).

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Executive Order 10865 § 7.

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. The adjudication 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 U.S. citizens to obtain protected information and/or is associated with a risk of terrorism.

Applicant is married to, and co-habitates with, a citizen of Taiwan. His in-laws remain citizens and residents of that country. Applicant and his wife have traveled to Taiwan on three occasions since Applicant returned to the U.S. Additionally, Applicant resided in Taiwan while employed in that country between 2004 and 2005. During that time, he served on the board of directors of his employer, owned about \$750 worth of company stock, and used a Chinese name written in Chinese characters for business purposes when culturally appropriate. Foreign Influence Disqualifying Condition (FI DC) 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”), 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”), and FI DC AG ¶ 7(e) (“a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign-influenced business, which could subject the individual to heightened risk of foreign influence”) apply. With disqualifying conditions raised, the burden shifts to Applicant to explain or mitigate the security concerns raised under this guideline.

The un rebutted facts presented make certain allegations raised no longer applicable. Applicant quit his association with his former employer and severed his personal and professional relationships with its directors, for whom he maintains a “distaste,” over four years ago.⁵¹ He longer resides in Taiwan, having returned to America nearly four and a half years ago. Applicant has ceased all his former business dealings with Taiwan and China. Consequently, he no longer uses a Chinese name or any other business practices unique to those countries. Moreover, he has since relinquished his stock in his former company, an investment of nominal value. In so doing, he divested himself of the foreign business investments, customs, and associations alleged in SOR allegations ¶ 1.d (“You served on the board of directors of your employer, [deleted], which had subsidiaries in Taiwan and China”), ¶ 1.e (“You resided in Taiwan while employed with [deleted], between about May 2004 and June 2005”, ¶ 1.f (“You used a Chinese name using Chinese characters while employed by [deleted]”, and ¶ 1.g (“You own about 750,000 shares of [deleted] stock worth about \$750.00”).

⁵¹ Tr. 47; see note 10, *supra*.

The above facts are facts of the past and, given Applicant's demonstrated antipathy for his former place of employment in Taiwan and its directors,⁵² the above-referenced allegations are no longer current in their applicability. Applicant's explanation of his rise from college student to foreign-based company director is credible, as is his explanation as to why he has since severed his connections with both his former company and place of residence. Under these circumstances, Foreign Influence Mitigating Conditions (FI MC) 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 the foreign individual, group, organization, or government, and the interests of the U.S."), ¶ 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 longstanding relationships and loyalties in the U.S. that the individual can be expected to resolve any conflicts of interest in favor of the U.S. interest"), and ¶ 8.f ("the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual") apply. Consequently, it is Applicant's relationship with his wife and her family that remains at issue.

Judging by their testimony and demeanor, Applicant and his wife are truly devoted to each other. He is endeavoring to help her assimilate into this culture and their community. She has settled into their neighborhood comfortably, learning English, maintaining their home, raising their young child, and slowly making friends. Applicant indulges his wife in her desire to maintain contacts with her family members in Taiwan, but has not developed more than a casual or superficial relationship with any of them. It is also clear that Applicant became disillusioned with the business culture in Taiwan and his former associates. He is happily back in the U.S., where he enjoys the lifestyle and his work. He is back to his roots and lives near his mother, to whom he is very close. With regard to Applicant and his in-laws, FI MC AG ¶ 8.a and ¶ 8.b, above, as well as ¶ 8.c ("contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it would create a risk for foreign influence or exploitation") apply.

In these cases, however, the relationship between a spouse and that spouse's family is attributed to an applicant. Here, Applicant's wife's testimony and Applicant's depiction of his wife indicate that her relationships with her estranged mother and younger brother are relatively indifferent, on par with her relationships with the acquaintances she sees on her internet "buddy list." As depicted, their relationships are comprised more of custom-based respect and social form than of genuine substance. As for her grandparents, both Applicant and his wife acknowledge and appreciate the fact that both are of an advanced age, octogenarians, and in declining health. Her occasional contact with her grandfather is performed out of respect. As is the case with her mother, bother, and her few "buddy list" acquaintances, there are no facts indicating

⁵² See, e.g., Tr. 47, 56.

that she retains a particularly close or special relationship with them, although a certain degree of sentiment would be natural. This is particularly true in contrast with her overt devotion to her husband, their child, and their current life in the U.S. Such facts give rise to FI MC AG ¶ 8.a, ¶ 8.b, and 8.c.

The situation involving Applicant's father-in-law, however, is more complex. Their relationship is obviously warm and their contact regular, obviating application of FI MC AG ¶¶ 8.b-8.c. He is a former member of the Taiwanese military, although such service was compulsory. He severed his service, however, two decades ago. Since leaving the military, Applicant's father-in-law entered the private sector as a hotelier. He is currently retired and subsides on his business proceeds and investments. The facts show it was once his dream to immigrate to the U.S. and open a restaurant. There is no evidence that he is an enemy of the U.S. or that his daughter's marriage has triggered any form of inquiry by governmental or other agents. There is no prohibition to his visiting either his daughter or his sister in the U.S. He has no connections with any foreign governments and he receives no monetary supplements or benefits from Taiwan's government. Moreover, while Taiwan may be a collector of economic information and although the PRC may use operatives stationed within Taiwan, there is no indication that Taiwan uses coercive measures against private citizens such as Applicant's father-in-law or any of her contacts in Taiwan. Consequently, given Applicant's wife relationship with her father, the country at issue, and his capacity as a constitutionally protected private citizen within Taiwanese society, FI MC AG ¶ 8(a) applies.

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 commonsense judgment based upon careful consideration of the guidelines and this "whole person" concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case, as well as the "whole person" factors noted above. Applicant is a highly credible, intelligent, and articulate young man who is obviously devoted to both his wife and to the creativity involved in his professional work.

He is happily content to be back in the area in which he was raised and reunited with his mother after an unsatisfactory period of employment in Taiwan. He is both cordial with, and respectful of, his in-laws, but there appears to be no genuine warmth between them. Linguistic differences and geography provide as much of a divide between them as does his wife's minimal contact with her family members. Their sole nexus is Applicant's wife, whose preference decidedly leans toward her husband, child, and home.

Although diplomatic regarding his disdain for his former employment situation, his "distaste" for his associates and experience is apparent. Since returning to the U.S., he has willingly severed all ties with his former organization and its business practices. In contrast, he is happy to have returned home and built the foundation for a warm and stable family life within his community.

Applicant's wife readily immigrated to the U.S. in the prospect of marrying her present husband and starting her new life in the U.S. In the process, she sacrificed a successful career as a copywriter. She is now content with her life as a housewife and mother. She is slowly building a life in the house they own, where she can raise their child and befriend both her neighbors and her husband's office peers. But for a delay in her receipt of her permanent green card, her completed application for citizenship would already be posted. While she maintains respectful relations with her estranged mother, younger brother, and elderly grandparents, that contact is of little more intensity than the minimal contact she maintains with her internet "buddies." In contrast, Applicant's wife maintains a warm, but geographically distant, relationship with her father. They speak on the phone regularly and he has visited them twice. Although he was a member of the Taiwanese military during his term of compulsory service, he left that service two decades ago with a settlement that afforded him the opportunity to buy and manage a private hotel. Since receiving his settlement, he has had no monetary reliance on the Taiwanese government. Today, he is a retired civilian living off of private investments. While it is true Taiwan has been depicted as a leading collector of economic information, there is no evidence it uses coercive measures against its own citizens to do so or that Applicant's father-in-law has ever been questioned about his daughter's marriage.

While the threat of economic collection and industrial espionage from Taiwan may be real, there is no reason to believe Taiwan would target Applicant or his wife to obtain protected information. Nor is there evidence supporting a suggestion that coercive measures would be used against Applicant, his wife, or his in-laws or that arbitrary interference with privacy, family, home, and correspondence is practiced by that state. Even if Taiwan should suddenly start exercising such practices, Applicant's deficient Chinese language skills, his wife's lack of understanding about Applicant's work and projects, and her family's lack of English language skills would make any discrete form of exploitation cumbersome at best. In sum, there is no evidence indicating Applicant, his wife, or either her family or contacts may be manipulated or induced in a manner antithetical to the interests of the U.S. or are otherwise vulnerable to pressure or coercion by Taiwan or any foreign interest. Based on these facts, I conclude it is clearly consistent with national security to grant Applicant a security clearance. Clearance is granted.

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 C:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	For Applicant
Subparagraph 1.h:	For Applicant

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. Clearance is granted.

ARTHUR E. MARSHALL, JR.
Administrative Judge