



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



In the matter of:	)	
	)	
(Redacted)	)	
	)	ISCR Case No. 09-04706
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Eric Borgstrom, Esq., Department Counsel  
For Applicant: William L. Handler, Esq.

February 25, 2011

**Decision**

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines B (Foreign Influence), C (Foreign Preference), and E (Personal Conduct). Security concerns under Guidelines C and E are mitigated, but security concerns under Guideline B are not mitigated. Access to classified information is denied.

**Statement of the Case**

Applicant submitted a security clearance application on January 17, 2008. On June 23, 2010, the Defense Office of Hearings and Appeals (DOHA) sent him a Statement of Reasons (SOR) detailing the basis for its preliminary decision to deny his application, citing security concerns under Guidelines B, C, and E. DOHA acted 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 adjudicative guidelines (AG) implemented by the Department of Defense on September 1, 2006.

Applicant received the SOR on July 7, 2010; answered it on August 26, 2010; and requested a hearing before an administrative judge. DOHA received the request on August 31, 2010. Department Counsel was ready to proceed on September 30, 2010, and the case was assigned to me on October 2, 2010. DOHA issued a notice of hearing on November 12, 2010, scheduling it for December 8, 2010. I convened the hearing as scheduled. Government Exhibits (GX) 1 through 3 were admitted in evidence without objection. Applicant testified and submitted Applicant's Exhibits (AX) A through J, which were admitted without objection. I kept the record open until December 22, 2010, to enable Applicant to substitute copies of AX D through J for the originals and to submit additional evidence. He timely submitted copies of AX D through J, and he submitted AX K and L, which were admitted without objection. Department Counsel's comments regarding AX K and L are attached to the record as Hearing Exhibit (HX) II. (HX I is discussed below.) DOHA received the transcript (Tr.) on December 17, 2010.

### **Administrative Notice**

Department Counsel requested that I take administrative notice of relevant facts about India. The request and supporting documents are attached to the record as HX I. I declined to take administrative notice based on a research paper included in HX I, whereupon Department Counsel withdrew it from HX I, offered it as GX 4, and it was admitted without objection. I took administrative notice as modified and requested by Department Counsel, without objection by Applicant. The facts administratively noticed are set out below in my findings of fact.

### **Amendment of SOR**

After both sides had presented their evidence, Department Counsel moved to amend SOR ¶ 1.a(1), alleging that Applicant possesses an active Indian passport, to allege that Applicant possesses a current "Persons of Indian Origin" card. Applicant did not object, and I granted the motion. (Tr. 108.)

### **Findings of Fact**

In his answer to the SOR, Applicant admitted the allegations in SOR ¶¶ 1.a(2) and 2.a-2.h. He denied the allegations in SOR ¶¶ 1.a(1) and 3.a. His admissions in his answer and at the hearing are incorporated in my findings of fact.

Applicant is a 39-year-old native of India. He is the chief operating officer and facility security officer of a U.S. company seeking to perform services for defense contractors. He completed college in India, worked for several information-technology companies in India from 1994 to 1999, and came to the United States on a work visa in September 1999 to accept an offer of employment. He became a U.S. citizen in April 2005. He holds an interim clearance but has never been granted a final security clearance. (GX 2 at 4.)

Applicant married an Indian woman in May 1997 and divorced in April 2000, while he was still a citizen and resident of India. No children were born from this marriage. He has no contact with his former spouse. His current spouse is a native of India. She came to the United States when she was 11 years old and became a U.S. citizen in November 1998. They were married in the United States in May 2001, and they have a daughter, born in October 2005, and infant twins. (GX 2 at 8; Tr. 56.) His spouse has been employed by the U.S.-based parent company of several hotels and car rental companies for the last seven or eight years. (Tr. 63.)

Applicant's father is deceased. His mother received her "green card" from the U.S. Government in 2006, and she has applied for U.S. citizenship. (Tr. 57; AX I.) She lives with Applicant in the United States for six to eight months of the year. (Tr. 77.) She is not employed. Applicant claims her as a dependent on his federal income tax returns. (AX D, E, and F.)

Applicant's father-in-law and brother-in-law are citizens and residents of the United States. His mother-in-law is a resident alien living in the United States. (Tr. 90.)

Applicant became a partner in a U.S.-based consulting company in March 2005. He and his current spouse own about 54% of the equity in the company, which provides software application services, infrastructure management services, and staff augmentation or professional services for commercial firms and defense contractors. The remaining 48% of the equity is owned by U.S. citizens. (GX 2 at 5.)

In November 2006, Applicant became a partner in an Indian company that provides "back office" administrative support for his U.S.-based company. Applicant and his spouse own about 52% of the Indian company, and the remaining equity is owned by the same owners as the U.S.-based company, except for a 2.5% interest owned by the managing director, who is a citizen and resident of India. (Tr. 83-84.) According to Applicant, Indian law requires that one owner be an Indian citizen. Applicant has known the managing director since 1994 and has daily business contact with him, but he knows little about the managing director's personal life. (GX 2 at 9; Answer to SOR.)

Applicant's brother, a citizen and resident of India, is the operations manager of the Indian company. Applicant and his brother have daily business contact. (GX 2 at 7.) His brother applied for permanent resident status in 2006 and intends to emigrate from India and become a U.S. citizen. (Tr. 58-59; AX J.) Applicant testified that his brother wants to come to the United States because all of his family is in the United States. His brother recently married, and his Indian wife is willing to accompany him to the United States. (Tr. 102-03.)

Applicant has completed the documentation to sponsor three employees of his Indian company to obtain work visas and work in the United States. (Tr. 84.) At present, only one of the three is working in the United States. (GX 2 at 9.)

Applicant testified that the Indian company has little intrinsic market value because it has no clients, but it generates about \$1 million per year in income for the U.S.-based company. The U.S.-based company has annual revenue of about \$6 million. (Tr. 87-88.) Applicant receives no salary or dividends from the Indian company. (Tr. 89.)

Applicant and his mother have jointly owned an apartment in India, where she resides when she is not in the United States, since June 2003. His mother provided most of the purchase money. (Tr. 95.) The apartment is worth about \$100,000. Applicant stays in the apartment for one night on his business trips to India, before he travels to various business locations in India. (GX 2 at 6, 11). He intends to sell the apartment once his mother moves to the United States and he no longer needs it for business. (Tr. 70.)

Applicant travels to India two or three times a year, using a U.S. passport. He still has his Indian passport, but it is invalidated and stamped "Cancelled." (GX 2 at 12; AX B; Tr. 46-47.) Applicant was issued a "Persons of Indian Origin" (PIO) card in January 2010, which is issued by the Indian embassy for travel to India in lieu of a visa. (AX C; Answer to SOR at 1-2.) Only a non-Indian citizen of Indian origin can obtain a PIO card. The PIO card allows Applicant to make short-notice trips to India less than two months apart. With the ten-year visa he previously held, he was required to have a two-month interval between trips to India. (Tr. 99-100.)

Applicant maintains an account in an Indian bank to provide cash while traveling in India. The average balance in this account is about 15,000 rupees, which is less than \$350. (AX G; Tr. 55.) Applicant maintains the account for convenience, to simplify currency conversion, avoid the risk of carrying cash, and avoid the substantial international fees for ATMs and credit cards. (Answer to SOR; Tr. 53-54.)

Applicant purchased his first home in the United States in 2001. (Tr. 59.) He and his wife now own a home in the United States that they purchased in July 2003 for \$605,000. (AX K.) They currently owe about \$309,000 on the mortgage. (AX L.) Applicant and his spouse both have IRA accounts in a U.S. bank worth about \$34,000 (AX H.)

Applicant has little involvement in the community, but he is heavily involved in his family, especially the newborn twins. (Tr. 91.) He votes in U.S. elections. (Tr. 92.)

When Applicant submitted his security clearance application, he answered "Yes" to question 17, asking if he had an active foreign passport in the last seven years, and he stated that he had an Indian passport issued in September 1994 with an expiration date of May 2005. The face of Applicant's Indian passport reflects an expiration date of August 2014. (AX B.) Applicant testified that he believed that, because India does not recognize dual citizenship, his Indian passport was no longer active after he became a U.S. citizen. He testified he did not intend to withhold or conceal any information regarding his Indian passport. (Tr. 93-94.) He submitted a copy of his Indian passport with "Cancelled" written across the first page. (AX B.)

India is a multiparty, federal, parliamentary democracy, with a bicameral parliament and a population of approximately 1.1 billion. Its political history since it gained independence from Great Britain in 1947 has included several armed conflicts with Pakistan, assassinations of two prime ministers, sporadic outbreaks of religious riots, and violent attacks by several separatist and terrorists groups in different parts of the country. There is a continuing threat from terrorism throughout the country, including attacks on targets where U.S. citizens are known to congregate or visit.

The United States and India have differences over India's nuclear weapons programs, the pace of India's economic reforms, and India's bilateral strategic partnership with Iran. Nevertheless, the United States recognizes that India is important to U.S. strategic interests. The United States is India's largest foreign investment partner. The two countries have a common interest in the free flow of commerce and resources, including through the vital sea lanes of the Indian Ocean, and they share a common interest in fighting terrorism and in creating a strategically stable Asia. They are seeking to foster bilateral relations by establishing working groups to address (1) strategic cooperation; (2) energy and climate change; (3) education and development; (4) economics, trade, and agriculture; and (5) science and technology, health, and innovation.

In the past, India had long-standing military supply relationships with the Soviet Union, and Russia remains India's largest supplier of military systems and spare parts. There have been numerous incidents of international businesses illegally exporting, or attempting to export U.S. restricted, dual-use technology to India.

The Indian Government generally respects the rights of its citizens, but there are serious problems involving abuses by police and security forces. Corruption in the police force is pervasive, and police officers often act with impunity.

India does not recognize dual citizenship. Foreign citizens entering India are required to obtain a visa. Travelers entering on tourist visas are not allowed reentry within two months, unless they obtain specific permission. Non-citizens of Indian origin may obtain a PIO card, which allows unlimited travel to and from India.

## **Policies**

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to "control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the AG. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 92-1106 at 3, 1993 WL 545051 at \*3 (App. Bd. Oct. 7, 1993).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## **Analysis**

### **Guideline C, Foreign Preference**

The SOR, as amended, alleges that Applicant exercises dual citizenship with India by possessing a PIO card (¶ 1.a(1)). It also cross-alleges the allegations under Guideline B that Applicant is a partner in an Indian business (¶ 2.a), owns an apartment

in India (¶ 2.d), and maintains a bank account in India (¶ 2.e). The security concern relating to Guideline C is set out in AG ¶ 9: “When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.”

The security concern under this guideline is not limited to countries hostile to the U.S. “Under the facts of a given case, an applicant’s preference, explicit or implied, even for a nation with which the U.S. has enjoyed long and peaceful relations, might pose a challenge to U.S. interests.” ADP Case No. 07-14939 at 4 (App. Bd. Mar. 11, 2009).

A disqualifying condition may arise from “exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen . . . .” AG ¶ 10(a). Exercise of foreign citizenship includes but is not limited to: “possession of a current foreign passport” and “using foreign citizenship to protect financial or business interests in another country.” AG ¶¶ 10(a)(1) and (5). This disqualifying condition is not established, because Applicant is no longer an Indian citizen. He acquired his interest in the Indian company after becoming a U.S. citizen and losing his Indian citizenship. His Indian passport is no longer valid. He uses his U.S. passport to travel to and from India. His possession of a PIO card in lieu of a visa is a privilege derived from being born in India, not from Indian citizenship. Applicant is treated as a foreigner when he travels to India.

Although not encompassed by the enumerated disqualifying conditions, the SOR alleges that Applicant’s business and property interests in India reflect a preference for India over the United States. This allegation is not supported by substantial evidence. Applicant’s acquisition of a controlling interest in the Indian business was motivated by the desire for low-cost administrative services for his U.S.-based business. He purchased the apartment to provide housing for his mother and for occasional business use. His small bank account is designed solely to facilitate his business travel.

## **Guideline B, Foreign Influence**

The SOR alleges Applicant is a partner in an Indian business and holds about 50% equity in it (¶ 2.a), he and his mother jointly own an apartment in India (¶ 2.d), and he maintains a bank account in India (¶ 2.e). It also alleges that Applicant’s mother is a citizen and resident of India with permanent resident status in the United States (¶ 2.b), his brother is a citizen and resident of India and the operations manager of Applicant’s business (¶ 2.c), he maintains contact with a close friend who is a citizen and resident of India and the managing director of Applicant’s business (¶ 2.f), and he has traveled to India two or three times a years since about 2003 (¶ 2.h). Finally, it alleges he has initiated the process to sponsor five non-U.S. citizens for immigration into the United States (¶ 2.g).

The security concern under this guideline is set out in AG ¶ 6 as follows:

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.

Guideline B is not limited to countries hostile to the United States. “The United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States.” ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004).

Furthermore, friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security. Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. See ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at \*\*15-16 (App. Bd. Mar. 29, 2002). Nevertheless, the nature of a nation’s government, its relationship with the U.S., and its human rights record are relevant in assessing the likelihood that an applicant’s family members are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, or the country is known to conduct intelligence operations against the U.S. In considering the nature of the government, an administrative judge must also consider any terrorist activity in the country at issue. See *generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006) (reversing decision to grant clearance where administrative judge did not consider terrorist activity in area where family members resided).

Three disqualifying conditions under this guideline are relevant to this case. First, a disqualifying condition may be raised by “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.” AG ¶ 7(a). Second, a disqualifying condition may be raised by “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(b). Third, a security concern also may be raised by “a substantial business, financial, or property interest in



a foreign country, or in any foreign-owned or foreign-operated business, which could subject the individual to heightened risk of foreign influence or exploitation.” AG ¶ 7(e).

AG ¶¶ 7(a) and (e) require substantial evidence of a “heightened risk.” The “heightened risk” required to raise one of these disqualifying conditions is a relatively low standard. “Heightened risk” denotes a risk greater than the normal risk inherent in having a family member living under a foreign government.

When foreign family ties are involved, the totality of an applicant’s family ties to a foreign country as well as each individual family tie must be considered. ISCR Case No. 01-22693 at 7 (App. Bd. Sep. 22, 2003). Applicant’s mother is a permanent alien resident of the United States, but she spends substantial time in India. Applicant’s brother is a citizen and resident of India, recently married to a citizen and resident of India. As an executive in a U.S.-owned business, his brother is vulnerable to terrorists in India who target U.S. interests.

Applicant’s business in India has little intrinsic value, because it has no clients and exists only to provide low-cost “back room” administrative services to his U.S.-based company. Nevertheless, his Indian business generates about \$1 million per year in gross income for his U.S.-based business.

Applicant’s apartment in India, alleged in SOR ¶ 2.d, was financed primarily by his mother. It is her residence in India, and is used intermittently for Applicant’s business-related travel. His Indian bank account, alleged in SOR ¶ 2.e, is of minimal value and used for business travel. These two assets are part of Applicant’s foreign business and, as such, have no independent security significance. Similarly, Applicant’s foreign travel, alleged in SOR ¶ 2.h, is connected to his business and his family ties, and has no independent security significance. See ISCR Case No. 02-26978 (App. Bd. Sep. 21, 2005). I will resolve SOR ¶¶ 2.d, 2.e, and 2.h in Applicant’s favor.

The allegation in SOR ¶ 2.g that Applicant has sponsored five non-U.S. citizens for immigration into the United States also has no independent security significance. Two of the five persons alleged are Applicant’s mother and brother. The remaining three are Applicant’s employees, brought into the United States as resources for his U.S.-based business. Rather than raise security issues, Applicant’s sponsorship of Indian citizens tends to reduce the likelihood of influence by removing them from the influence of the Indian government, foreign terrorists, and governments unfriendly to the United States with whom India has relationships. I resolve SOR ¶ 2.g in Applicant’s favor.

Considering Applicant’s foreign family ties and foreign financial interests as a whole, they are sufficient to raise AG ¶¶ 7(a), (b), and (e). Thus, the burden shifted to Applicant to produce evidence to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

Security concerns under this guideline can be mitigated by showing that “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.” AG ¶ 8(a). India and the United States have common interests and values. Nevertheless, India’s ties to Iran and Russia, its involvement in economic espionage, and the level of terrorist activity directed toward Western interests preclude application of this mitigating condition.

Security concerns under this guideline also can be mitigated by showing “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.” AG ¶ 8(b). Applicant has been a U.S. citizen for more than five years. His spouse has lived in the United States since she was 11 years old, and she has been a U.S. citizen for 12 years. He is gradually bringing all his immediate family to the United States. On the other hand, he has little connection to his community. His focus has been on his family and his business, which are the sources of the conflict of interest. His brother is a citizen and resident of India, and his mother still spends considerable time in India. His foreign financial interests are substantial, and his family ties are strong. I conclude that AG ¶ 8(b) is not fully established.

Security concerns arising from financial interests can be mitigated if “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.” AG ¶ 8(f). This mitigating condition is not established, because Applicant’s foreign business interests are substantial and make him vulnerable to influence, manipulation, or pressure.

### **Guideline C, Personal Conduct**

The SOR alleges Applicant falsified his security clearance application by stating that his Indian passport expired in May 2005, when in fact it was valid until 2014. The concern under this guideline 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.

The relevant disqualifying condition in this case is “deliberate omission, concealment, or falsification of relevant facts from any personnel security

questionnaire.” AG ¶ 16(a). Applicant denied intentionally falsifying his security clearance application, and the evidence establishes that Applicant believed his passport expired when he became a U.S. citizen. I conclude that AG ¶ 16(a) is not established. No other disqualifying conditions under this guideline are established. See AG ¶ 17(f) (security concerns mitigated if “the information was unsubstantiated”).

### **Whole-Person Concept**

Under the whole-person concept, an administrative judge must evaluate an applicant’s eligibility for a security clearance by considering the totality of the applicant’s conduct and all the relevant circumstances. An 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 the whole-person concept. I have incorporated my comments under Guideline C and B in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

Applicant is a mature, well-educated adult, and a loyal citizen of the United States. He has clearly demonstrated preference for the United States. He is a successful entrepreneur operating in a global economy. Nevertheless, his family ties and business interests in India make him vulnerable to foreign influence from India, international terrorists, and unfriendly countries such as Iran with whom India has a bilateral relationship.

After weighing the disqualifying and mitigating conditions under Guideline C and B, and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns based on foreign preference and he has refuted the allegation of falsifying his security clearance application, but he has not mitigated the security concerns raised by his foreign family ties and foreign business interests. Accordingly, I conclude he has not carried his burden of showing that it is clearly consistent with the national interest to grant him eligibility for access to classified information.

### **Formal Findings**

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline C (Foreign Preference):	FOR APPLICANT
Subparagraphs 1.a(1) and (2):	For Applicant
Paragraph 2, Guideline B (Foreign Influence):	AGAINST APPLICANT
Subparagraphs 2.a-2.c:	Against Applicant
Subparagraphs 2.d-2.e:	For Applicant
Subparagraph 2.f:	Against Applicant
Subparagraph 2.g-2.h:	For Applicant
Paragraph 3, Guideline C (Personal Conduct):	FOR APPLICANT
Subparagraph 3.a:	For Applicant

### **Conclusion**

I conclude that it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

LeRoy F. Foreman  
Administrative Judge