



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



In the matter of: [Redacted] Applicant for Security Clearance)))))	ISCR Case No. 11-10187
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Appearances

For Government: Chris Morin, Esq., Department Counsel
For Applicant: Alan V. Edmunds, Esq.

01/31/2013

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guideline B (Foreign Influence), based on family ties to Russia. Eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted a security clearance application on June 3, 2011. On September 5, 2012, the Defense of Defense (DOD) notified him that DOD adjudicators were unable to find that it was clearly consistent with the national interest to grant him access to classified information, and they recommended that his case be submitted to an administrative judge for a determination whether to grant or deny his application. DOD set forth the basis for its action in a Statement of Reasons (SOR), citing security concerns under Guideline B. DOD acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by DOD on September 1, 2006.

Applicant received the SOR on September 7, 2012; answered it on September 24, 2012; and requested a hearing before an administrative judge. Department Counsel was ready to proceed on November 8, 2012, and the case was assigned to me on November 19, 2012. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on November 26, 2012, scheduling it for December 18, 2012. Applicant's attorney entered his appearance on November 20, 2012, and requested that the hearing be postponed until January 2013. I granted the request for postponement.

On December 4, 2012, DOHA issued an amended notice of hearing rescheduling it for January 10, 2013. I convened the hearing as rescheduled. Government Exhibits (GX) 1 through 4 were admitted in evidence without objection. Applicant testified, presented the testimony of four witnesses, and submitted Applicant's Exhibits (AX) A through CC, which were admitted without objection. At Applicant's request, I held the record open until January 25, 2013, to enable him to submit additional documentary evidence. He timely submitted AX DD, EE, and FF, which were admitted without objection.¹ Department Counsel's comments regarding AX DD, EE, and FF are attached to the record as Hearing Exhibit (HX) III. (HX I and II are discussed below.) DOHA received the transcript (Tr.) on January 16, 2013.

Administrative Notice

Department Counsel and Applicant both requested that I take administrative notice of relevant facts about Russia. (Tr. 18, 24.) Their requests and supporting documentation are attached to the record as HX I and II. Department Counsel noted that Applicant's request included versions of supporting documents that were earlier than those attached to his request. (Tr. 26-27.) I took administrative notice as requested by both parties. Where both parties submitted different versions of the same supporting documents, I have relied on the most recent version. The facts administratively noticed are set out below in my findings of fact.

Findings of Fact

In his answer to the SOR, Applicant admitted the factual allegations in the SOR. His admissions in his answer and at the hearing are incorporated in my findings of fact.

Applicant is a 52-year-old senior technical advisor employed by a defense contractor since April 2011. He served on active duty in the U.S. Army from June 1971 to October 1992, and retired as a lieutenant colonel. He received the Bronze Star, two Meritorious Service Medals, the Joint Service Commendation Medal, three Army Commendation Medals, the Army Achievement Medal, and numerous service medals. (AX R.) He volunteered to be recalled to active duty after the terrorist attacks of September 2001, and he received a Certificate of Appreciation for his offer. (Answer to

¹ Applicant's post-hearing submission incorrectly labeled the additional three documents as AX BB, CC, and DD, duplicating the lettering of two exhibits admitted during the hearing. I have redesignated the three documents as AX DD, EE, and FF.

SOR; AX T.) He has a service-connected disability. (AX V.) He held a security clearance from June 1971 until May 2005, when it was revoked because of security concerns based on foreign influence. (Tr. 74; AX Z.)

Applicant married in December 1986 and divorced in March 2001. No children were born during this marriage. He married his current wife in June 2002.

Applicant's current wife is a native of Russia. He met her through an on-line matchmaking service. His wife has a daughter, now 15 years old, from a previous marriage, and Applicant adopted her in 2003. (Tr. 94.) His wife and adopted daughter became U.S. citizens in March 2007. Applicant and his wife had another daughter in February 2004. (Tr. 80.)

In his opening statement, Department Counsel portrayed Applicant's marriage as "a very close and loving relationship." (Tr. 13.) Applicant testified that they were dealing with some problems "typical of most marriages, maybe somewhat accelerated because of the cultural and language difficulties." He testified that there is a lot of conflict between their 15-year-old daughter and his wife, and he usually ends up being the arbitrator. (Tr. 65.) He believes that the family tension is related to his wife's difficulty in dealing with a 15-year-old and not related to feelings of attachment to or affection for Russia or family members in Russia. (Tr. 95.)

Applicant's father-in-law, mother-in-law, and brother-in-law are citizens and residents of Russia. His father-in-law is a retired colonel in the Russian Army who receives a pension. He retired sometime in the fall of 2009. He is unemployed, almost deaf, reclusive, and suffers from dementia. (AX FF.) Applicant's brother-in-law recently retired as a lieutenant colonel in the Russian Army and now is a school principal. Applicant's mother-in-law is a retired utility worker and suffers from melanoma. (Tr. 76; AX Y.)

Applicant's wife calls her mother about once every three months. She is unable to converse with her father because of his hearing loss and dementia. There is no email contact because her parents do not have a computer. (Tr. 85.) She knows little about her brother's lifestyle and family and talks to him about twice a year. She last saw her brother in 2003. (AX Y.)

Applicant met his wife's father in early 2002 and has had no further contact with him. (Tr. 64.) Applicant has never met or conversed with his wife's brother. (Tr. 70.) When Applicant decided to travel to Russia to meet his future wife and propose marriage, he reported his relationship with her and his travel plans to his employer. (Tr. 75; AX S.)

Applicant's wife's mother visited her in the United States in 2004 and 2009, each time staying for about a month. Applicant had no conversations with her because of the language barrier. (Tr. 69.) Applicant's wife and daughter visited her parents in Russia in 2003 and 2006. (Tr. 82-83.) When she applied for a visa to visit her parents in 2011,

she was informed by Russian authorities that she could not travel to Russia on a U.S. passport. She applied for Russian passports for herself and her daughter, which they used in lieu of their U.S. passports.

After learning that Russian authorities considered her a Russian citizen, Applicant's wife began to explore the possibility of renouncing her Russian citizenship. She discovered that it was a slow, tedious, cumbersome process. She submitted a draft copy of her renunciation statement and supporting documentation to the Russian embassy for their review and approval in July 2012. She is now waiting for embassy officials to review her documentation and schedule her for an interview. (Tr. 67.) After an embassy official reviews and approves her draft, she will be allowed to sign and submit it.² She has been informed by Russian officials that the renunciation process takes about 6-12 months.

Applicant's wife did not testify at the hearing, but she submitted a statement (AX Y) that includes the following:

I am a citizen of the United States and so is my daughter and adopted daughter of my husband. My daughter and I became US citizens [on] March 15, 2007. I love the United States and never intend to go back to Russia. Russia is and was corrupt and there is no future there for my daughter or me.

I have no desire to be a citizen of Russia. It came as a surprise to me that Russia still considered me to be a citizen when I applied last year to go to Russia. They would not allow me to go to Russia on a US passport because they said I was still a citizen of Russia.

I have gone through the procedure of renouncing my unwanted Russian citizenship in July of this year. I am awaiting the formal papers back from Russia acknowledging my renouncement. In the meantime before I hear back on my renouncement, I am willing to turn my passport into whomever the court designates.

. . .

[Applicant] is an ideal husband and father. He has been kind and considerate to my daughter and me. I respect [him] and would never ask him to divulge any classified information. I have never known my husband to do anything wrong.

² The English translation of the application for renunciation of Russian citizenship includes a box in which an official of the Russian diplomatic mission attests: "Correctness of the filing of the application and the presence of the necessary documents is checked; the application is signed in my presence, confirm the authenticity of the applicant's signature (certify)." (AX BB at 4.)

My husband doesn't talk to me about what he does at work. I do not know his job title or what the nature of his work is. I only know where he works and that he works long hours. He provides our family with a good living and I am happy with that. He has also never discussed what he did in any of his assignments in the Army.

Applicant and his wife own their home. Their home is worth about \$420,000, and the mortgage has been paid in full. Applicant earns about \$150,000 per year. He and his wife have multiple savings and investment accounts in the United States. (Tr. 77-78.)

Applicant and his wife have no assets in Russia and do not send money to his wife's family in Russia. (Tr. 74.) His wife's partial ownership of her parents' apartment was terminated when her parents transferred it to her brother. (Tr. 87-88.) Although Applicant does not speak or understand Russian, the tone of voice his wife has used when talking to her brother on the telephone has caused him to believe that there are some hard feelings between them because her brother obtained her interest in her parents' property. (Tr. 92.)

Applicant was a self-employed consultant before he was hired by his current employer. He worked for several defense contractors after his retirement from the Army. He holds several advanced degrees and certifications in computer information systems, logistics, and management. (AX A-C; AX I-K.)

Applicant testified that if he had to make a choice between the interests of his wife and the interests of his country, he would "choose the country every time." He declared, "I was married to my country a long time before I was married to my wife." He testified that his wife knows "very well" that he would resolve any conflict of interest in favor of the United States. (Tr. 63-64.)

A retired Army lieutenant colonel who has known Applicant for about 17 years submitted a statement and also testified for Applicant at the hearing. Applicant has been his frequent mentor and they have served together in combat. He regards Applicant as a model of Army values, with "stellar" character, high moral standards, impeccable ethics, and unwavering loyalty to the United States. Based on his knowledge of Applicant's character and the principles that guide his life, he has no reservations about Applicant holding a clearance in spite of his wife's connections to Russia. (Tr. 29-34; AX H.)

Applicant's supervisor from 1998 to 2008, while he was employed by another federal contractor, testified that she had daily contact with Applicant and he became her best friend. She trusts him absolutely. She knows Applicant's family and has socialized with them. She believes that they have a loving and devoted marriage. She is confident that Applicant would not yield to foreign influence because of his strong moral compass. She testified that Applicant's wife loves the United States and loves being a U.S. citizen.

She believes that if something happened to Applicant, his wife would remain in the United States. (Tr. 35-44.)

Applicant's current first-line supervisor, a retired Army lieutenant colonel, submitted a statement that included the following: "I can definitely attest, based on daily observation, close working relationship, frequent daily dialogue and often long working hours, to [Applicant's] honesty, integrity, trustworthiness, and allegiance to the United States of America. I would trust my life, my family and my reputation with [Applicant]." (AX N.) He testified that he is aware that Applicant lost his clearance due to concerns about foreign influence, and he stated that he has "no reservations whatsoever" about Applicant holding a security clearance, because, "[H]e will always do the right thing. He will follow the letter of the law if push comes to shove." He believes that if Applicant ever found himself in a situation where he had to choose between his family and the letter of the law or the interests of his country, he would resolve the conflict in favor of the law and his country (Tr. 49.)

Applicant's second-line supervisor is a retired Army lieutenant colonel with a total of 40 years of military and civilian service. He is aware of the foreign influence concerns raised by Applicant's wife's connections to Russia. He testified that he has no reservations about Applicant holding a clearance because of his strong moral character. (Tr. 54-57.)

In addition to the witnesses who testified in person at the hearing, numerous retired senior officers submitted testimonials to Applicant's reliability, trustworthiness, good character, and suitability for a security clearance. Some of those testimonials are described below.

A retired lieutenant general, who has known Applicant for 27 years, states that Applicant is "honest and trustworthy to a fault." He states: "There is no situation in which [Applicant] would compromise the best interests of the United States. I believe I am a good judge in this regard – I have had thousands of soldiers under my command during my Army career and thousands more in my corporate career." (AX E.)

Another retired lieutenant general, who has known Applicant for more than 35 years, submitted a statement (AX G) that includes the following:

During the entire time I have known [Applicant], he has never done anything to the contrary of the interests of the United States, and he has never had a security violation. He conducts his personal life in an exemplary manner. . . . I believe I am a good judge of his character in this regard. [Applicant] has proven himself loyal and faithful to our country under the most difficult of circumstances I have personally witnessed. . . .

A third retired lieutenant general, for whom Applicant worked during Desert Storm, submitted a statement in November 2004, when security concerns based on Applicant's marriage to a citizen of Russia were first raised. He stated: "[Applicant] is not

now and never will be a security threat to the United States. He has proven himself to be loyal under both peacetime and war-time environments. I have complete faith and trust in [Applicant]’s fidelity, honesty, and integrity.” However, in a handwritten notation on his statement, he expressed concern about Applicant’s marriage to a Russian citizen. (AX AA at 5.) This retired officer submitted another statement for consideration at this hearing, in which he stated that Applicant served with him during the Gulf War, did an outstanding job, and received the Bronze Star for his service. (AX CC.)

A retired brigadier general, who has known Applicant for 15 years, submitted a statement (AX M) that includes the following:

[Applicant] is known as a man of great honesty and loyalty to the United States. His word is his bond and is considered by all to be “solid gold.” His character is of the highest order and above reproach.

He will always do the right thing whether alone or with many and will follow the harder right over the easier wrong.

A retired colonel, who has known Applicant for eight years, states that Applicant is “honest and trustworthy to a fault.” He has seen Applicant “do the more difficult right rather than the easier wrong.” (AX F.)

Another retired colonel, who has known Applicant for 20 years, states: “[W]hat set [Applicant] apart from the herd was the strong moral content of his character and conduct and his quick willingness to express his love for God and America. [Applicant] will declare, without hesitation, that he’s a patriot and darn proud of it.” (AX L.)

The senior minister of Applicant’s church, who has known him for nine years, states that Applicant subscribes to the church’s tenets regarding brotherly love, concern for others, and honest and ethical behavior in the workplace and at home. (AX D.) Two friends, who have known Applicant since college, attest to his loyalty, integrity, honesty, and selflessness. (AX O; AX P.)

Russia is one of the top three most aggressive and capable collectors of economic information and technological intelligence from U.S. sources. Russian intelligence and security services target the United States in support of Russian security and foreign policy objectives. Authorities routinely monitor Internet activity and monitor telephone calls.

Russia provides military and missile technologies to countries of security concern, including China, Iran, Syria, and Venezuela, and Russian military programs continue to be driven by the perception that the United States and the North Atlantic Treaty Organization are its principal strategic challenges and greatest potential threat. Russia’s human rights record is uneven, and in some areas it is poor. The judiciary is subject to manipulation by political authorities. Abuses include attacks on journalists, physical abuse by law enforcement officers, harsh prison conditions, arbitrary detention,

politically motivated imprisonment, electronic surveillance without judicial permission, warrantless searches of residences and other premises, and widespread corruption in the executive, legislative, and judicial branches.

Relations between the United States and Russia improved and became more cooperative after the change in U.S. administration in January 2009. However, the recent Russian elections in December 2011 and the return of President Putin to power may result in more confrontational relations.

The Russian Federation Law on Citizenship provides that acquisition by a Russian Federation citizen of another citizenship does not terminate the Russian Federation citizenship, and a dual citizen is considered to be only a Russian Federation citizen, except for certain cases not relevant to Applicant. The law allows surrender of Russian Federal citizenship by persons residing in the territory of a foreign state.

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, an administrative judge applies these guidelines 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 and 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 that 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 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).

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 B, Foreign Influence

The SOR alleges that Applicant’s father-in-law is a citizen and resident of Russia, who retired from the Russian military as a colonel and receives a Russian pension (SOR ¶ 1.a); his mother-in-law is a citizen and resident of Russia (SOR ¶ 1.b); his brother-in-law is a citizen and resident of Russia, who retired from the Russian Army as a lieutenant colonel (SOR ¶ 1.c); and his wife and stepdaughter are dual Russian-U.S. citizens who were required to travel to Russia on their Russian passports because they were considered Russian citizens (SOR ¶ 1.d). The security concern under this guideline 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.

Three disqualifying conditions under this guideline are relevant:

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;

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; and

AG ¶ 7(d): sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion.

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). "[T]here is a rebuttable presumption that a person has ties of affection for, or obligation to, the immediate family members of the person's spouse." ISCR Case No. 01-03120, 2002 DOHA LEXIS 94 at * 8 (App. Bd. Feb. 20, 2002).

AG ¶¶ 7(a) and (d) 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.

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, "even friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security." ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at **15-16 (App. Bd. Mar. 29, 2002). Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. Nevertheless, the nature of a nation's government, its relationship with the United States, 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 United States. In considering the nature of the government, an administrative judge must also consider any terrorist activity in the country at issue.

Applicant has rebutted the presumption that he has ties of affection for or obligation to his wife's parents and brother. However, the concern in this case is whether Applicant's affection and sense of obligation to his wife make him vulnerable to indirect coercion through his wife. I have considered the evidence that Applicant's wife does not appear to be close to her brother. She contacts him only about twice a year, and she did not visit him during her trips to Russia in 2006 and 2011. She has demonstrated her lack of attachment to Russia. On the other hand, she has strong feelings of affection and obligation to her parents. I have concluded that Russia's aggressive intelligence efforts to acquire sensitive economic information and technological intelligence from the United States, combined with the totality of Applicant's wife's family ties to Russia, are sufficient to establish the "heightened risk" in AG ¶¶ 7(a) and (d) and create the potential conflict of interest in AG ¶ 7(b).

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). The evidence supporting AG ¶¶ 7(a), (b), and (d) precludes 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).³ Applicant's wife is a "foreign person," because she is a dual citizen, and his ties of

³ Department Counsel argued that Applicant "should not be placed in a position where he is forced to make a choice" between the interests of his family members and the United States. (Tr. 108.) This argument appears to rely on Appeal Board decisions predating the current adjudicative guidelines. Under the old adjudicative guidelines, a disqualifying condition based on foreign family members could not be mitigated unless an applicant could establish that the family members were not "in a position to be exploited." Directive ¶ E2.A2.1.3.1. The Appeal Board applied this mitigating condition narrowly, holding that an applicant should not be placed in a position where he or she is forced to make a choice between the interests of the family member and the interests of the United States. See ISCR Case No. 03-17620 at 4 (App. Bd. Apr. 17, 2006); ISCR Case No. 03-24933 at 6 (App. Bd. Jul. 28, 2005); ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2005); ISCR Case No. 03-15205 at 3 (App. Bd. Jan. 21, 2005). Thus, an administrative judge was not permitted to apply a balancing test to assess the extent of the security risk. Under the new guidelines, however, the potentially conflicting loyalties may be weighed to determine if an applicant "can be expected to resolve any conflict of interest in favor of the U.S. interest."

affection and obligation to her are well beyond “minimal.” However, Applicant’s sense of loyalty or obligation to her parents and brother is less than “minimal; it is nonexistent.

On the other hand, Applicant has deep and longstanding relationships formed during his distinguished military and civilian careers. He has repeatedly demonstrated his patriotism and deep loyalty to the United States, moral courage, willingness to adhere to law and regulations, and a strong sense of personal responsibility. He has drawn a clear line between his relationship with his wife and his work. She knows little about his job, and they do not discuss his work. Numerous senior military officers, who are highly experienced in judging character and reliability, have attested to Applicant’s loyalty, reliability, devotion to duty, and willingness to make hard choices. I conclude that AG ¶ 8(b) is established.

Security concerns under this guideline also may be mitigated by showing that “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.” AG ¶ 8(c). Applicant’s wife is still a “foreign citizen,” but his contacts and communication with his wife’s family are virtually non-existent. I conclude that AG ¶ 8(c) is established for Applicant’s in-laws.

Security concerns based on foreign influence may be mitigated if “the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country.” AG ¶ 8(e). Applicant promptly reported his travel to Russia and his contacts with his now wife and her family. Thus, AG ¶ 8(e) is established.

Whole-Person Concept

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. In applying 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 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.

I have incorporated my comments under Guidelines B in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

Applicant has a long and distinguished record of service to the United States. He was candid, sincere, and credible at the hearing. He has been entrusted with classified information for most of his professional life. He has an impeccable reputation for trustworthiness and reliability. The array of experienced senior military officers who trust him to resolve any conflict of interest in favor of the United States is impressive.

After weighing the disqualifying and mitigating conditions under Guideline B, evaluating all the evidence in the context of the whole person, and mindful of my obligation to resolve close cases in favor of national defense, I conclude Applicant has mitigated the security concerns based on foreign influence. Accordingly, I conclude he has 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 B (Foreign Influence):	FOR APPLICANT
Subparagraphs 1.a-1.d:	For Applicant

Conclusion

I conclude that it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

LeRoy F. Foreman
Administrative Judge