



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



In the matter of:

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Applicant for Security Clearance

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ISCR Case No. 12-00863

**Appearances**

For Government: Jeff Nagel, Esq., Department Counsel

For Applicant: Alan K. Hahn, Esq.

09/13/2012

**Decision**

WESLEY, Roger C., Administrative Judge:

Based upon a review of the pleadings, exhibits, and testimony, I conclude that Applicant mitigated the security concerns covering foreign influence. Eligibility for access to classified information is granted.

**Statement of Case**

On April 10, 2012, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing reasons why DOHA could not make the affirmative determination of eligibility for granting a security clearance, and DOHA recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. 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 Adjudicative Guidelines (AGs) implemented by the Department of Defense on September 1, 2006.

Applicant responded to the SOR on May 9, 2012, and requested a hearing. The case was assigned to me on May 17, 2012, and was scheduled for hearing on June 28, 2012. The hearing was convened on that date. At hearing, the Government's case consisted of three exhibits (GEs 1-3). Applicant relied on one witness (himself) and 11 exhibits (AEs A-K). The transcript (Tr.) was received on July 10, 2012.

Besides the exhibits offered by the parties, I took administrative notice of 14 documents cited in the Government's Administrative Notice: *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage - 2008*, Office of the National Counterintelligence Executive (July 2009); *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage-2000*, Office of the National Counterintelligence Executive (undated); *Businessman Pleads Guilty to Supplying Indian Government with Controlled Technology*, U.S. Department of Justice (March 2008); *Privileges Denied to Indian Corporation and Three Executives*, U.S. Department of Commerce (December 2007); *California Man to Plead Guilty to Plot to Export Restricted Technology to India*, U.S. Department of Commerce (July 2007); *High Tech Firms/Executives Sentenced to Export Case*, U.S. Department of Commerce (November 2005); *Chyron Corporation Settles Charges of Unlicensed Export to India*, U.S. Department of Commerce (November 2005); *Berkeley Nucleonics Corporation Settles Charges of Unlicensed Exports*, U.S. Department of Commerce (June 2004); *Sentry Settles Charges of Unlicensed Exports*, U.S. Department of Commerce (June 2004); *CRS Report for Congress: India-U.S. Relations*, Congressional Research Service (October 2010); *Background Note: India*, U.S. Department of State (July 2010); *Country Reports on Terrorism, Chapter 2-Country Reports*, U.S. Department of State (August 2011); *Country Specific Information, India*, U.S. Department of State (July 2011); *2010 Human Rights Reports, India*, U.S. Department of State (April 2011).

Administrative or official notice is the appropriate type of notice used for administrative proceedings. Administrative notice is appropriate for noticing facts or government reports that are well known. See *Stein*, Administrative Law, Section 25.01 (Bender & Co. 2006). For good cause shown, administrative notice was granted with respect to the above-named background reports addressing the geopolitical situation in India. Administrative notice was extended to the documents themselves, consistent with the provisions of Rule 201 of Fed. R. Evid.

### **Summary of Pleadings**

Under Guideline B, Applicant allegedly has (a) family members and a friend who are citizens and residents of India; (b) a condominium in India, worth about \$100,000; (c) two bank accounts with about \$50,000 on deposit; and (c) a benefit from the Cricket Control Board in India of about \$160 a month. He admitted each of the allegations with explanations.

In his response to the SOR, Applicant claimed that his father is a naturalized U.S. citizen who has lived and worked in the United States and has traveled back and forth between the United States and India before deciding to reside in India for treatment of

his prostrate cancer. He claimed his mother is a 76-year-old homemaker who takes care of his father while residing in India and holds a U.S. green card. He explained that neither his father, mother, nor his brothers residing in India have ever been affiliated with the Indian government or military. He claimed that two of his brothers reside in India: one works in retail clothing, while the other works in the commercial retail sector. Applicant claimed that his mother-in-law is a naturalized U.S. citizen who returned to India to live independently before she gets too old. He claims his friend operates a manufacturing business in India; he maintains infrequent contact with this friend.

Applicant provided explanations of the condominium and two bank accounts he has in India. He furnished explanations, too, of the monthly pension he receives from the Cricket Control Board of India (an independent, non-governmental body). And he provided family background about himself and his family living in the United States.

### **Findings of Fact**

Applicant is a 52-year-old chief executive officer for a computer products company that is a subcontractor for a prime defense contractor. His company has a pending facility clearance application that awaits adjudication of his personal clearance application. The allegations covered in the SOR and admitted by Applicant are incorporated and adopted as relevant and material findings. Additional findings follow.

### **Background**

Applicant was born and raised in India to parents of Indian descent. He immigrated to the United States in 1990 and became a naturalized U.S. citizen in July 2005. (GEs 1 and 2; Tr. 34-39, 85-86)

Applicant married in March 1991 and has two children from his marriage. (GE 1; Tr. 38-39) Both of his children are U.S. citizens by birth and have no dual citizenship with any other country. (GEs 1 and 2) His oldest daughter attends a respected university in her state; another attends a local high school. (GE 2)

Applicant earned a bachelor's degree from a respected university in India in March 1979. (GE 1) He claims no military service.

When Applicant became a naturalized U.S. citizen, he implicitly renounced his Indian citizenship. (Tr. 40) At the time, he possessed an expired Indian passport. This passport was later destroyed by a Defense Security Service (DSS) agent in Applicant's presence in December 2011. (Tr. 41) His wife is also a naturalized U.S. citizen. When she became a naturalized U.S. citizen in 2001, her Indian passport was stamped canceled and returned to her by the Indian consulate in her state. (GE 2; Tr. 40) In accordance with a new Indian law (enacted in 2010), Applicant and his wife filed for renunciation of their Indian citizenship. They each received renunciation certificates from the Indian Embassy in August 2010 that confirmed their citizenship renunciation

and expiration of their passports. (AE I; Tr. 40-41) Applicant's loyalties extend only to the United States, and not to India. (GE 2; Tr. 57, 62-63, 78)

Applicant's parents immigrated to the United States in 1985 and became green card holders. (Tr. 69-71, 84-85) Both of his parents were already residing in the United States when Applicant arrived five years later. (Tr. 36-37, 48, 81) His parents sponsored his U.S. immigration. (Tr. 40-41, 81-84)

Applicant's mother is a 76-year-old homemaker who cares for Applicant's father. She once applied for U.S. citizenship, but was declined because of her lack of fluency in the English language. (Tr. 71, 81) His father is a dual U.S.-Indian citizen, who has lived and worked in the United States, but has frequently traveled back and forth between India and the United States. (GE 2; Tr. 48) Due to poor health, he moved back to India where he can get preferred treatment for his diagnosed prostate cancer. (Tr. 47) At this time, Applicant does not know if or when his parents will ever return to the United States. (Tr. 71-72) Neither of Applicant's parents have ever been affiliated with the Indian government or military. (GE 2) Applicant communicates with his parents monthly, but provides them no financial assistance. (GE 2) He has no plans to relocate to India.

Applicant's mother-in-law became a naturalized U.S. citizen in 2009 at the age of 82 (Tr. 54), and is a full-time resident of the United States while dividing her time between Applicant's wife and her sister. (Tr. 55) Recently, his mother-in-law returned to India to spend more time in her home independently before she gets too old. (Tr. 55) When she can no longer live independently, she plans to return to the United States and reside with either Applicant and his wife, or his wife's sister. Applicant communicates periodically with his mother-in-law (Tr. 73-74), but provides her no financial support. His father-in-law worked for a U.S. agency in India and was a green card holder. (Tr. 72) He passed away in 1986. (GE 2; Tr. 72)

Besides his parents and children, Applicant has six brothers, four of whom immigrated to the United States and became naturalized U.S. citizens. (GEs 1 and 2; Tr. 37, 49-52, 64) Each of them resides in the United States and has shown no interest in returning to India. (GE 2; Tr. 77-78)

Applicant has two other brothers who are citizens and residents of India. (GEs 1 and 2) One brother is currently involved in a family-run tailoring business. (Tr. 37, 49, 53, 65-66) The other brother is employed in the real estate sector. (Tr. 53) Neither brother has any plans to come to the United States in the foreseeable future. Applicant communicates with these brothers every three to four months and provides no financial support. (GE 2; Tr. 52-53, 66-67) Neither brother residing in India has ever been affiliated with the Indian government or military. (GE 2; Tr. 54)

Applicant's listed friend in India operates a spare parts business. Previously, he was the mayor of a small town. (Tr. 56) Applicant communicates infrequently with this friend and never discusses his work. (Tr. 73-74) He is not aware of his friend's ever being affiliated with the Indian government or military. (GE 2)

## **Applicant's business and property interests**

Following their marriage, Applicant and his wife operated a local Indian restaurant for several years. (Tr. 37-38) In May 1998, they started their computer products business. (Tr. 38, 43) Applicant's company is a Small Business Administration (SBA) certified minority business which provides information technology equipment, such as computers, notebooks, servers, networking equipment, and related peripherals to U.S. agencies. (GE 3; Tr. 43-45)

Applicant and his wife own their computer products company: Applicant owns 40 per cent of the company; while his wife owns the remaining 60 per cent. (Tr. 40) Their wholly-owned company is a subcontractor for a large computer hardware company that is sponsoring their company's facility clearance application. Applicant's company currently has no facility security officer (FSO) and no facility background in security operations and procedures.

Applicant and his wife resell computer products exclusively to U.S. defense agency customers in accordance with the terms of their letter arrangements with their sponsor. (GE 3) They take no title to their sponsor's products and most of their sold products are shipped directly from their sponsor's warehouse to their U.S. customers. (AEs A, B, and H; Tr. 45) Applicant and his wife need their personal security clearances to facilitate the hiring of more employees to access U.S. agency sites. (Tr. 43-45)

Applicant's company currently employs 10 employees at their local office and 10 more in another office located in the same state. (Tr. 98) All of his company's employees are U.S. citizens. (Tr. 86, 97-98) Applicant's company maintains offices as well in India to ensure more efficient outsourcing of their services on behalf of their sponsor. (GE 3 and AE H; Tr. 58-60) They employ no staff at this location. (Tr. 59) Their company has no current plans for exporting. Should Applicant and his wife decide to export their products, they will adhere to U.S. export guidelines. (Tr. 63-64)

Applicant and his wife have prospered with their computer products business and earned \$436,489 in joint income from their business in 2011 on reported corporate sales revenue of \$34,831,723. (AE B; Tr. 26) They currently own two homes in their local region. (AEs A and B; Tr. 24-27) One home (their previous residence) has an estimated value of \$637,000, with a mortgage balance of \$393,000. (AE D; Tr. 27) Their current residence is estimated to be worth \$1,500,000, with a mortgage balance of \$583,000. (AE E; Tr. 24-27, 88)

Besides their two homes, Applicant and his wife have a U.S. savings account (\$114,000), a stock/money market portfolio worth a little over \$139,000, a checking account with a \$55,343 balance, and 401(k) profit sharing plans worth close to \$70,000 (Applicant's) and \$64,000 (his spouse's), respectively. (AE F; Tr. 29-31) They estimate to have a net worth of over \$1.3 million, the majority of which is U.S.-based.

In addition to their U.S.-based assets, Applicant and his wife own a condominium in India that they purchased in 2007. (GE 2; Tr. 57, 75) They purchased the unit as an

investment property and were hoping to resell it and make a profit. They are still awaiting construction completion. (Tr. 58) They estimate its market value to be approximately \$100,000. (Tr. 58-59)

To facilitate their making the monthly payments (\$16,000 annually) on their condominium in local currency, they opened two Indian bank accounts in 2007. (GE 2 and AE H; Tr. 79-80) These accounts are relatively modest and currently hold no more than \$20,000 combined. (AE G; Tr. 32)

In 1985, while residing in India, Applicant played amateur cricket. In May 2006, the Cricket Control Board of India approved a monthly pension for Applicant in the amount of \$160. (AE K; Tr. 61, 80) This control board is an independent, non-governmental body. Applicant's monthly checks are deposited in one of his Indian bank accounts. Applicant continues to be very active in playing cricket with a local U.S. cricket club in his area. (Tr. 42-43)

### **Applicant's travels to India**

After becoming a naturalized U.S. citizen, Applicant traveled to India in 2008, 2009, 2011, and most recently in 2012 to attend a world cricket cup event. (Tr. 68-69) Once he obtained his U.S. passport, he always used his U.S. passport when traveling.

### **Country information on India**

Considered the world's largest democratic republic, India is also a very diverse country, in population, geography, and climate. (*Background Note, India, supra*, at 2-4) India is the world's second most populous country and the world's seventh largest country in area. (*id.*)

India is a constitutional democracy, whose Constitution defines it as a "sovereign, socialist, secular democratic republic." (*Background Note: India, supra*) It is a "multiparty, federal, parliamentary democracy with a bicameral parliament" and an historical reputation for respecting the rights of its citizens. (*see id.*) However, there have been reports of extrajudicial killings of persons in custody, disappearances, torture and rape by police and security forces, who generally enjoy de facto impunity. (*2010 Human Rights Reports, India, supra*, at 2-12) The basic problem stems from the lack of clear accountability, which too often has resulted in cited human rights violations going unpunished. (*id.*, at 1) Police and security officials reportedly use torture and threaten violence during interrogations to extort money and summarily punish prisoners. (*id.* at 6-8)

Since gaining its independence from great Britain in 1947, India has been involved in wars with Pakistan in 1947, 1965, and 1971, and has had to defend itself against a 1999 intrusion of Pakistani-backed forces into Indian-held territory that nearly turned into full-scale war. (*CRS Report for Congress: India-U.S. Relations, supra*, at 7; *Background Note: India, supra*, at 3-4) India survived a 1975 declaration of a state of emergency that carried a suspension of many civil liberties. (*id.* at 3) The country has

experienced two assassinations of its leaders: Prime Minister Indira Ghandi in October 1984 and Prime Minister Rajiv Ghandi in May 1991. (*id*) In recent years, India has been confronted with sporadic outbreaks of religious riots that resulted in numerous deaths and casualties, and violent attacks by separatist groups in various parts of the country. (*id.*)

Before its demise in the early 1990s, the Soviet Union was India's principal and most reliable trading partner, and an important source of economic and military assistance. (*Background Note: India, supra*, at 8-9) U.S. efforts to strengthen its ties with India have been hampered some by U.S. differences over India's nuclear weapons programs, its cooperation with the Iranian military, its lack of a negotiated resolution of the Kashmir dispute with Pakistan, and the pace of India's efforts to achieve long-planned economic reforms. (*CRS Report for Congress: India-U.S. Relations, supra*, at 11, 22-23, and 45)

Important U.S. concerns have been raised, too, over reported cases involving government-sponsored entities and their illegal export, or attempted illegal export, of U.S. restricted dual use technology to India, including (1) high-tech testing equipment that posed potential risks of diversion to a weapons of mass destruction program, (2) dual use equipment that can be used in military and civilian aircraft to extract engine vibration information, (3) equipment that can be used to manufacture material that improves the accuracy of strategic ballistic missiles with nuclear capabilities, (4) an animation system that can be diverted to weapons of mass destruction technology, (5) nuclear pulse generators to two Indian entities capable of mounting diversion to the development of weapons of mass destruction or missiles, and (6) heat treating containers to an Indian entity capable of mounting diversion to the development of weapons of mass destruction or missiles. See Administrative Notice, *supra*, at 5, and the specific cases referenced, *supra*.

Recommended travel restrictions do exist for U.S. citizens visiting India. The State Department cautions U.S. citizens to avoid travel in general (with several noted exceptions) to the state of Jammu & Kashmir. (*Country Specific Information, supra*, at 2-8)

## **Endorsements**

Applicant is highly regarded by his friends, business associates, and members of his local cricket club. They praise his community contributions and find him reliable, trustworthy, and committed to preserving U.S. security interests. (AE J) One close colleague affiliated with his local cricket club is an associate dean of a local business school and president of Applicant's cricket club. This colleague joins Applicant's other references in characterizing Applicant as highly trustworthy and reliable. (AE J)

## **Policies**

The AGs list guidelines to be used by administrative judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could

create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information.

These guidelines include "[c]onditions that could raise a security concern and may be disqualifying" (disqualifying conditions), if any, and many of the "[c]onditions that could mitigate security concerns." They must be considered before deciding whether or not a security clearance should be granted, continued, revoked, or denied. The guidelines do not require administrative judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision. Each of the guidelines is to be evaluated in the context of the whole person in accordance with AG ¶ 2(c)

In addition to the relevant AGs, administrative judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in AG ¶ 2(a) . AG ¶ 2(a) is intended to assist the judges in reaching a fair and impartial commonsense decision based upon a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following AG ¶ 2(a) factors:

- (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.

Viewing the issues raised and evidence as a whole, the following adjudication policy factors are pertinent herein:

### **Foreign Influence**

*The Concern:* 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 the this Guideline can and should considered 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. See AG ¶ 6.

### **Burden of Proof**

Under the AGs, a decision to grant or continue an applicant's security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires administrative judges to make a commonsense appraisal of the evidence accumulated in the record, the ultimate determination of an applicant's eligibility for a security clearance depends, in large part, on the relevance and materiality of that evidence. See *United States, v. Gaudin*, 515 U.S. 506, 509-511 (1995). As with all adversarial proceedings, the judge may draw only those inferences which have a reasonable and logical basis from the evidence of record. Conversely, the judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government's initial burden is twofold: (1) it must prove by substantial evidence any controverted facts alleged in the SOR, and (2) it must demonstrate that the facts proven have a material bearing to the applicant's eligibility to obtain or maintain a security clearance. The required materiality showing, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a security clearance. Rather, the judge must consider and weigh the cognizable risks that an applicant may deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the evidentiary burden shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation, or mitigation. Based on the requirement of Exec. Or. 10865 that all security clearances be clearly consistent with the national interest, the applicant has the ultimate burden of demonstrating his or her clearance eligibility. "[S]ecurity-clearance determinations should err, if they must, on the side of denials." See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988). And because all security clearances must be clearly consistent with the national interest, the burden of persuasion must remain with the Applicant.

### **Analysis**

Applicant is a chief executive officer of a U.S.-based computer products company with a pending facility clearance application. Absent any proof that Applicant and his company are not sponsored by their prime contractor, jurisdiction to adjudicate Applicant's security clearance is retained.

Applicant immigrated to the United States in 1990 (following his parents who preceded him) and became a naturalized U.S. citizen in 2005. With his wife (also a naturalized U.S. citizen from India), he founded a computer products company in May

1998. His company maintains a local office, one at another location within his home state, and one in India. While his parents, his two brothers, his mother-in-law, and an old friend, are citizen/residents of India, the remainder of his family and important business associates reside in the United States with U.S. citizenship.

Applicant and his wife and family have deep roots in India, a country rich in history and socio/political traditions, constitutional government and institutional respect for human rights, intermixed with periodic reports of abuses by police and government authorities. Despite encouraging efforts in the development of strategic partnerships between India and the U.S. in recent years, there have been cited instances of illegal and damaging export practices by Indian firms associated with the Indian government to create dual use diversion risks.

The Government urges security concerns over risks that Applicant's parents, two brothers, mother-in-law, and friend residing in India, might be subject to undue foreign influence by Indian government authorities to access classified information in Applicant's possession or control. Because Applicant and his wife have family members and friends who have Indian citizenship by birth and reside currently in India, they present potential heightened security risks covered by disqualifying condition (DC) ¶ 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," of the AGs for foreign influence. The citizenship/residence status of these family members and cited friend in India pose some potential concerns for Applicant because of the risks of undue foreign influence that could potentially impact the privacy interests subject to Applicant's control.

Because none of Applicant's family, his wife's family, and his friend residing in India have any identified Indian government or military service affiliation, no consideration of DC 7(b), "connection 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," is warranted. To be sure, none of Applicant's immediate and extended family members and friend residing in India have any history of being subjected to any coercion or influence, or appear to be vulnerable to the same.

Applicant, his family, and his old friend residing in India have recognized family roots in the country. Their citizenship status and presence in India does not by itself create a heightened risk. Applicant's contacts with his family members are manageable risks, and clearly not of the magnitude that could make them subject to a heightened security risk of pressure or compromise under the foreign influence guideline.

The AGs governing collateral clearances do not dictate *per se* results or mandate particular outcomes for applicants with relatives who are citizens/residents of foreign countries in general. What is considered to be an acceptable risk in one foreign country

may not be in another. Unlike the previous AGs, the new ones do take into account the country's demonstrated relations with the U.S. as an important consideration in gauging whether the particular relatives with citizenship and residency elsewhere create a heightened security risk. The geopolitical aims and policies of the particular foreign regime involved do matter.

While the reports of illegal exporting of potential dual-use technology to India is a matter of some security concern to the United States, India's emergent status as a strategic partner of the United States in controlling the proliferation of nuclear weapons is an important political development that serves to promote political solidarity, and reduce security risks and concerns between the two nuclear powers.

Based on his case-specific circumstances, MC ¶ 8(a), "the nature of the relationships with foreign persons, the country in which these persons are located, or the persons or activities of these 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 a foreign individual, group, organization, or government and the interests of the United States," is available to Applicant. Neither Applicant, his immediate and extended family, nor his friend residing in India pose heightened security risks that could subject them to potential pressures and influence from Indian government and military officials.

Another mitigating condition available to Applicant is MC ¶ 8(b). Where, "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 United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest," MC ¶ 8(b) applies. Applicant's demonstrated loyalty and professional commitments to the United States, are well demonstrated and sufficient under these circumstances to neutralize any potential conflicts that are related to his relationships with his immediate and extended family and friend. MC ¶ 8(c), "contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create risk for foreign influence or exploitation," has some applicability, too, based on Applicant's infrequent contacts with his brothers, mother-in-law, and friend.

Two other mitigating conditions have mixed application to Applicant's situation. MC ¶ 8(e), "the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country," has limited value. For there is no documented record of Applicant's prior reporting of his contacts with members of his family to warrant any more than minimal consideration at this time.

On the other hand, MC ¶ 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," applies to Applicant's situation. His financial interests in India (primarily a condominium and two

bank accounts) are relatively modest when compared to his U.S. interests, and are not likely to create any interest conflicts in the foreseeable future.

Whole person assessment is available also to minimize Applicant's exposure to potential conflicts of interests with his Indian family members and childhood friend. Most importantly, Applicant is not aware of any risks of coercion, pressure, or influence that any of his family members or friend might be exposed to. So, in Applicant's case, the potential risk of coercion, pressure, or influence being brought to bear on him, or any of his respective family members and friend is minimal and mitigated.

Overall, potential security concerns over Applicant's having family members, a friend, and property interests in India are sufficiently mitigated to permit safe predictive judgments about Applicant's ability to withstand risks of undue influence attributable to his familial relationships and property interests in India. Favorable conclusions warrant with respect to the allegations covered by Guideline B.

### **Formal Findings**

In reviewing the allegations of the SOR and ensuing conclusions reached in the context of the findings of fact, conclusions, conditions, and the factors listed above, I make the following formal findings:

GUIDELINE B (FOREIGN INFLUENCE):	FOR APPLICANT
Subparagraphs 1.a through 1.g:	For Applicant

### **Conclusion**

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue Applicant's security clearance. Clearance is granted.

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Roger C. Wesley  
Administrative Judge

