



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



In the matter of:

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Applicant for Public Trust Position

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ADP Case No. 15-08245

**Appearances**

For Government: Andrew Henderson, Esq., Department Counsel  
For Applicant: Ryan C. Nerney, Esq.

07/07/2017

**Decision**

WESLEY, Roger C., Administrative Judge:

Based upon a review of the pleadings and exhibits, I conclude that Applicant mitigated trustworthiness concerns regarding foreign preference and foreign influence. Eligibility for holding a public trust position is granted.

**History of the Case**

On August 11, 2016, Department of Defense (DOD) Consolidated Adjudication Facility (CAF) issued a Statement of Reasons (SOR) detailing reasons why DOD adjudicators could not make the preliminary affirmative determination of whether to grant eligibility for a public trust position, and recommended referral to an administrative judge to determine whether eligibility to hold a public trust position should be granted, continued, denied, or revoked. The action was taken under Executive Order 10865 (Exec. Or. 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 (AGs).<sup>1</sup> These new Guidelines replaced the 2006 AGs placed in force on September 6, 2006 and are controlling for decisions issued on or after June 8, 2017.<sup>2</sup>

Applicant responded to the SOR on October 17, 2016, and requested a hearing. This case was assigned to me on December 14, 2016. The case was scheduled for hearing on March 9, 2017. A hearing was held on the scheduled date for the purpose of considering whether it would be clearly consistent with the national interest to grant, continue, deny, or revoke Applicant's application for eligibility to hold a public trust position. At the hearing, the Government's case consisted of three exhibits (GEs 1-3); Applicant relied on one witness (himself) and one exhibit (AE A). The transcript was received on March 20, 2017.

### **Procedural Issues**

Before the closing of the hearing, Applicant requested the record be kept open to permit him the opportunity to supplement the record with a post-hearing brief. For good cause shown, Applicant was granted seven days to supplement the record. Department Counsel was afforded five days to respond. Within the time permitted, Applicant provided a post-hearing brief. Applicant's submission was accepted without response from the Government.

### **Summary of Pleadings**

Under Guideline C, Applicant allegedly (a) exercised French citizenship rights after becoming a U.S. citizen; (b) applied for and obtained a French passport in June 2011 that carried an expiration date of June 2021; (c) used his French passport for foreign travel after becoming a U.S. citizen; and (d) voted in French presidential and senatorial elections after becoming a U.S. citizen.

Under Guideline B, Applicant allegedly (a) has a mother and brother who are citizens and residents of France and (b) has various financial accounts in France with an estimated value of approximately \$750,000.

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<sup>1</sup> A memorandum from the Deputy Under Secretary of Defense for Counterintelligence and Security, titled "Adjudication of Trustworthiness Cases," covering the handling of trustworthiness cases under the Directive was issued on November 19, 2004. This memorandum directed DOHA to continue to utilize DOD Directive 5220.6 in ADP contractor cases for trustworthiness determinations for persons holding sensitive positions (to include those involving ADP I, II, and III positions). (HE 1)

<sup>2</sup> Effective June 8, 2017, by Directive 4 of the Security Executive Agent Directive (SEAD 4), dated December 10, 2016, *National Security Adjudicative Guidelines* for all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position, and by extension eligibility to hold a trustworthiness position, were established to supercede all previously issued national security adjudicative criteria or guidelines. Procedures for administrative due process for contractor personnel continue to be governed by DoDD 5220.6, subject to the updated substantive changes in the guidelines, effective June 8, 2017.

In his response to the SOR, Applicant denied all of the allegations pertaining to foreign preference with explanations. He claimed his dual citizenship with France is based solely on his parents' citizenship or birth in a foreign country and that he has expressed a willingness to renounce his dual citizenship.

Addressing foreign influence allegations, Applicant admitted each of the allegations with explanations. He claimed that it is unlikely he would be placed in a position of having to choose between the interests of the foreign individual, group, organization, or government and the interests of the United States. He also claimed the absence of any conflict of interest. He claimed, too, that his contacts and communications with relatives are casual and infrequent such as there is little likelihood that his contacts could create a risk of foreign influence or exploitation. And he claimed that he complied truthfully with all of the Government's requests, which together should absolve him of any doubts about his reliability, honesty, trustworthiness, and good judgment.

### **Findings of Fact**

Applicant is a 53-year-old software developer for a defense contractor who seeks eligibility to hold a public trust position. The allegations covered in the SOR and admitted by Applicant are adopted as relevant and material findings. Additional findings follow.

#### **Background**

Applicant never married and has no children. (GEs 1-3) He attended college classes between October 1984 and September 1989 and earned a Bachelors' degree in France in September 1988. (GEs 1-2) He reported no U.S. military service but served one year of mandatory military service in the French armed forces between October 1987 and October 1988. (GEs 1-3; Tr. 27)

Applicant was born and raised in France to French parents. (GEs 1-3; Tr. 17-18) He immigrated to the United States in August 1996. (GEs 2-3) Applicant applied for and became a naturalized U.S. citizen in December 2010. (GEs 1 and 2; Tr. 13) He has held dual citizenship with France since August 1964. (GEs 1-2; Tr. 14) Applicant was issued a U.S. passport in June 2011 and applied for and received an updated French passport in June 2011 (expiration in June 2021). (GE 1)

Before becoming a naturalized U.S. citizen, Applicant voted in French elections on four separate occasions between August 1996 and February 2003 by casting his votes at a local French consulate in the United States. (GE 3) Since becoming a U.S. citizen in 2010, he has continued to vote in most French elections. (GE 2) In an interview with an investigator of the Office of Personnel Management (OPM) in February 2003, he expressed no willingness to renounce his French citizenship. (GE 3) In a follow-up interview with an OPM agent in June 2015, he repeated his unwillingness to renounce his citizenship for family visitation reasons. (GE 2) In his 2015 OPM interview,

he also declined to surrender his French passport that he used when traveling to France in July 1991, October 1993, February 1996. (GE 2)

Since April 2015, Applicant has worked for his current defense contractor as a software engineer. (GE 1; Tr. 12) In his work, he designs, codes, and tests software. (Tr. 12) Between August 1996 and April 2015, he worked as a technical delivery manager on the same contract for another defense contractor. (GE 1) Applicant's unit contract was sold to his current defense contractor in April 2015. (Tr. 12-13)

### **Applicant's Exercise of French Voting and Travel Privileges**

Since 2003, Applicant has twice voted in French presidential and senatorial elections: once in August 2004, and once again in May 2012 after becoming a naturalized U.S. citizen. (GEs 1 and 3; Tr. 17, 30-31) He has not voted in a French election since 2012 and has "no interest in French politics" or plans to vote again in a French election in the foreseeable future. (Tr. 17, 31, 35, 41) Applicant does not participate in "any public life in France at all" since becoming a U.S. citizen. (Tr. 16)

In 2014 and 2016, Applicant traveled to France using his U.S. passport for entry and his French passport for his return. (GEs 1-2; Tr. 15-16, 28-30) His French passport does not expire until June 2021. (GE 1; Tr. 16) He retains French eligibility to travel on his French passport for so long as it is valid. (Tr. 18) But he has no current plans to travel to France this year. (Tr. 24, 32) Applicant expressed his intent to surrender his French passport and renounce his French citizenship should it be necessary. (Tr. 17-18) Applicant does not know whether he can legally enter or exit France without using his French passport. (Tr. 14-17, 30, 33-34) Based on his understanding of the citizenship requirements of the United States and France, each country treats Applicant as a sole citizen of his birth and adopted country, respectively. (Tr. 17) And he does not know of any formal French procedure for renouncing his French citizenship. (Tr. 17-18)

Applicant considers the United States to have the most promising future, but does not consider France to be a heightened risk country. (Tr. 25-27) He considers himself to be reliable and trustworthy, loyal to the United States, and no threat to U.S. security interests. (Tr. 25-26) He is proud of both his French and U.S. citizenship, but claims no preference. (Tr. 36) Since becoming a U.S. citizen, he voted in U.S. national elections in 2012 and 2016 and regularly votes in local elections. (Tr. 34-35)

### **Applicant's family members and property interests in France**

Applicant's mother and brother are citizens and residents of France. (GEs 1-3; Tr. 19-20) His mother is a retired piano teacher and has no ties to the French government or military. (GE 2; Tr. 19) His father is deceased. Applicant has a brother who is a citizen and resident of France. (GE 3) His brother works for an insurance company in France. None of his French family members have any knowledge of Applicant's being considered for a trustworthiness position. (GE 2; Tr. 20) Neither family member has any connections, affiliations, or ties to the French government or military.

Applicant maintains casual conversations with his mother bi-weekly and never discusses his work with her. (Tr. 19-22) He communicates less frequently with his brother, maybe three to four times a year. (Tr. 21-22)

Applicant possesses and maintains a U.S. type 401(k) account in France, which he established in 1990. (Tr. 22) He currently has approximately \$75,000 in the account. (Tr. 24) He also has a French IRA retirement account worth \$25,000 and a French savings account that holds approximately 200 Euros in the account. (Tr. 23-24) He has occasionally accessed this savings account for travel purposes. (Tr. 23) Applicant stands to inherit a "fair amount of property" from his mother when she passes. (Tr. 41)

By contrast, Applicant has a U.S. 401(k) retirement account with \$175,000 in the account and two brokerage accounts with \$60,000 combined in both accounts. (Tr. 24-25) He expressed no intention to withdraw moneys from his French accounts. To do so, would subject him to imposed taxes on his retirement accounts. (Tr. 24-25)

### **Country Status of France**

No requests were made by either the Government or Applicant concerning facts or documents for which official notice should be taken. Based on facts taken from an official U.S. Department of State web-site ([www.state.gov/rpa/ei/bgn/3842.htm](http://www.state.gov/rpa/ei/bgn/3842.htm)) a number of pertinent background facts can be made about the status of France and its relations with the United states.

The United States and France are historical allies. Relations between the two countries are active and friendly. They share common values and have aligned policies on most political, economic, and security issues. Differences are discussed frankly and have not as a general rule been allowed to impair the longstanding pattern of close cooperation that characterizes relations between the two countries.

The United States and France work closely on many issues, most notably in combating terrorism, efforts to stem the proliferation of weapons of mass destruction, and on regional problems, including in Africa, the Middle East, the Balkans, and Central Asia. France is a member of the European Union and is the United States' third-largest trading partner in Europe (just behind Germany and the U.K.)

Trade and investment between the United States and France are strong. On average, over \$1 billion in commercial transactions, including sales of U.S. and French foreign affiliates, take place daily. U.S. exports to France include industrial chemicals, aircraft and engines, electronic components, telecommunications, computer software, computers and peripherals, analytical and scientific instrumentation, medical instruments and supplies, and broadcasting equipment. The United States is the principal destination for French investment, and the United States is the largest foreign investor in France. The United states and France have a bilateral convention on investment and a bilateral tax treaty addressing, *inter alia*, double taxation and tax evasion. See [www.state.gov/rpa/ei/bgn/3842.htm](http://www.state.gov/rpa/ei/bgn/3842.htm)

## **Character references**

Applicant's deputy program manager who has worked with him for over a year credited Applicant with being excellent in the performance of his duties as a senior software developer. (AE A) He described Applicant as our "go-to-guy" when there are problems. (AE A) He characterized Applicant as very reliable and one who goes above and beyond when the duties of the job require it. (AE A) In his dealings with Applicant he found him to be very trustworthy, dedicated, and honest in his work and in his dealings with his project's team. (AE A)

Applicant's employer's chief architect credited him with being an integral part of his firm's software solutions development since 1996. (AE A) He attested to knowing Applicant personally and professionally for over 20 years and described Applicant as unquestionably dedicated and trustworthy. (AE A)

Coworkers who have worked with Applicant for over two years characterized Applicant as an example/model of honesty and integrity. He never questioned Applicant's motivations or loyalties and trusts him both personally and professionally. (AE A)

## **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 {privacy} information. These guidelines include "[c]onditions that could raise a trustworthiness concern [public trust position] and may be disqualifying" (disqualifying conditions), if any, and many of the "[c]onditions that could mitigate [trustworthiness concerns]."

The AGs must be considered before deciding whether or not eligibility to hold a public trust position should be granted, continued, 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) of the AGs, which are 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 public trust risk.

When evaluating an applicant's conduct, the relevant AGs are to be considered together with whole-person factors. The following AG ¶ 2(d) factors are to be considered along with the guidelines: (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 individual guideline is pertinent in this case:

### **Foreign Preference**

*The Concern:* 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 provide information or make decisions that are harmful to the interests of the United States. Foreign involvement raises concerns about an individual's when it is in conflict with U.S. national interests or when the individual acts to conceal it. *By itself*, the fact that a U.S. citizen is also a citizen of another country is not disqualifying without an objective showing of such conflict or attempt at concealment. The same is true for a U.S. citizen's exercise of any right or privilege of foreign citizenship and any action to acquire or obtain recognition of a foreign citizenship. See Adjudicative Guidelines (AG), ¶ 9.

### **Foreign Influence**

*The Concern:* Foreign contacts and interests, including but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be national security concern if they create circumstances in which the individual may be or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interests is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism. See AG ¶ 6.

### **Burden of Proof**

By virtue of the principles and policies framed by the AGs, a decision to grant or continue an applicant's eligibility to hold a public trust position 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 public trust position 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.

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 public trust position eligibility. The required materiality showing, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused privacy information before it can deny or revoke eligibility to hold a public trust position. Rather, the judge must consider and weigh the cognizable risks that an applicant may deliberately or inadvertently fail to protect privacy 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 trustworthiness through evidence of refutation, extenuation, or mitigation. Based on the requirement of Executive Order 10865 that all [trustworthiness] determinations be clearly consistent with the national interest, the applicant has the ultimate burden of demonstrating his or her trust eligibility. “[T]rustworthiness] determinations should err, if they must, on the side of denials.” See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

### **Analysis**

Trustworthiness concerns are raised over Applicant's twice voting in French presidential elections and traveling on French and U.S. passports after becoming a naturalized U.S. citizen. Additional trustworthiness concerns are raised over Applicant's (a) having immediate family members who are citizens and residents of France and (b) holding financial interests in various French accounts.

### **Jurisdictional Issues**

Positions designated as ADP I and ADP II were classified as “sensitive positions.” under DOD Regulation 5200.2-R, *Personnel Security Program*, ¶¶ C3.1.2. 1.1.7, C3. 12.2.2, and C3. 1.2.3 (Jan. 1987, as amended) (the Regulation). Holding a public trust position involves the exercise of important fiducial responsibilities, among which is the expectancy of consistent trust and candor. DOD Manual 5200.02, which incorporated and canceled DOD Regulation 5200.2-R, continues to cover sensitive positions previously included in DOD Regulation 5200.2-R.

While ADP positions are not expressly referenced in either DOD Manual 5200.02 or the Directive, they remain sensitive positions eligible for trustworthy determinations. And in the covered individual section of the Directive, covered individuals include contractors holding sensitive positions. See Directive 5220.6, ¶¶ D5(d) and D8.

So, while ADP I and ADP II positions are not expressly designated in the Directive or DOD Manual 5200.02, they are implicitly incorporated in both instruments under the general headings of sensitive positions. By a combination of implied retention of ADP definitions in the Directive, DOD Manual 5200.02, and the DOD Undersecretary's November 2004 memorandum affirming DOHA's jurisdiction to hear ADP cases, DOHA's jurisdiction over the instant ADP case remains vested.

## **Foreign Preference**

Dual citizenship concerns necessarily entail allegiance assessments and invite critical considerations of acts indicating a preference for the interests of the foreign country over the interests of the United States. The issues, as such, raise concerns over Applicant's preference for a foreign country over the United States. By voting in France's national elections in 2012 after becoming a naturalized U.S. citizen in 2010, he created concerns over his having a split preference for the United States and France.

By itself, without evidence of a conflict or concealment of his exercise of French voting and travel privileges after becoming a naturalized U.S. citizen, exercises of French voting and travel privileges as a dual French citizen (as here) present no trustworthiness concerns. Any trustworthiness concerns associated with Applicant's exercise of French voting and travel privileges under Directive 5220.6 are preempted and controlled by the changes made in SEAD 4.

In assessing split-preference cases under Directive 5220.6, the Appeal Board looked to indicia of active exercise of dual citizenship. In cases where there is record evidence of a dual-citizen applicant having substantial real property interests in a country that are not available to non-residents or citizens on the same terms, the Appeal Board has considered such interests to represent special benefits or privileges that reveal a preference to that particular country. See ISCR Case No. 08-02864 at 4 (App. Bd. Dec. 29, 2009); See ISCR Case No. 16098 at 2 (App. Bd. May 29, 2003). By exercising voting and travel privileges in a foreign country (France) after becoming a naturalized U.S. citizen, Applicant revealed split preferences for his birth country, which the Appeal Board found in these pre-SEAD 4 cases to be incompatible with exclusive allegiance principles.

Preference questions require predictive judgments about how an applicant can be trusted in the future to honor his fiduciary responsibilities to the U.S. Government. Applicant's reason for voting in French elections in 2012 after becoming a U.S. citizen was that he considered voting in France's 2012 national elections was his duty as a French citizen. Since voting in French elections in 2012, he has lost interest in French politics and has avoided French elections.

Overall, Applicant is able to persuade that his exercising French voting and travel privileges by voting in French elections as a dual citizen of France and exercising French travel privileges after becoming a U.S. citizen is not disqualifying absent other disqualifying considerations under Guideline C. Favorable conclusions warrant with respect to the allegations covered by subparagraph 1.a of Guideline C

## **Foreign Influence Concerns**

The Government urges additional trustworthiness concerns over risks that Applicant's mother and brother (both French citizens and residents) could be subjected to coercion, pressure, or undue influence that could make Applicant vulnerable to succumbing to pressure to disclose sensitive information in his custody or control. It

urges trustworthiness concerns as well over Applicant's having financial accounts in France exceeding \$100,000 in U.S. dollars.

Because Applicant's mother and brother hold French citizenship and residency, they present potential heightened trustworthiness risks covered by disqualifying condition (DC) ¶ 7(a), "contact, regardless of method, 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 immediate family members in France poses 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.

Neither Applicant's mother nor brother who reside in France have any identified French government or military service connections, ties, or affiliations. As a result, neither 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 classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information *or technology*," nor DC ¶ 7(d), "counterintelligence information, whether classified or unclassified, that indicates the individual's access to classified information or eligibility for a sensitive position may involve unacceptable risk to national security," warrant any application to Applicant's situation. To be sure, there is no evidence in the record that Applicant's mother or brother residing in France, have any history of being subjected to any coercion or influence, or appear to be vulnerable to the same.

The AGs 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. See ISCR Case No. 00-0317 at 6 (App. Bd. March 29, 2002) The AGs take into account the country's demonstrated relations with the United States 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.

France is a charter member of NATO and a longtime ally of the United States. France is a major trade and investment partner and is a country with deep respect for human rights and the rule of law. It's status as a strategic partner of the United States in matters of trade, investment, and defense are important bilateral considerations that help to promote political solidarity and reduce security risks and concerns between the two countries.

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 positions 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," fully applies to Applicant. Neither Applicant's mother nor brother

residing in France pose any heightened security risks that could subject them to potential pressures and influence from French government and military officials.

Another mitigating condition available to Applicant is MC ¶ 8(b): “there is no conflict of interest, either because the individual’s sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep 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.” 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 familial relationships with his mother and brother.

Applicant’s property interests in France consist of moderately valued retirement and savings accounts that are considerably less valuable than the accounts and assets he holds in the United States. Available to Applicant is 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. The relatively modest assets he holds in France are not enough to warrant any serious concerns about potential conflicts of interest.

Whole-person assessment is available also to minimize Applicant’s exposure to potential conflicts of interests with his mother and brother residing in France. Applicant is highly regarded by his managers and colleagues and is credited with being an integral part of his firm’s software solutions development. His managers and coworkers consider him to be very trustworthy, dedicated, and honest in his work and in his dealings with his project’s team. Further, Applicant is not aware of any risks of coercion, pressure, or influence that his mother and brother residing in France might be exposed to.

So, in Applicant’s case, the potential risk of coercion, pressure, or influence being brought to bear on him, his mother, and brother is quite minimal and mitigated. Applicant has lived in the United States since 1996 and has been a naturalized U.S. citizen since 2010. And he has enjoyed success in his U.S. employment relationships.

Overall, potential trustworthiness concerns over Applicant's having immediate family members in France are sufficiently mitigated to permit safe predictive judgments about his ability to withstand risks of undue influence attributable to his familial relationships in France. 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 C (FOREIGN PREFERENCE): FOR APPLICANT**

Subparagraph 1.a:	For Applicant
<b>GUIDELINE E (FOREIGN INFLUENCE):</b>	<b>FOR APPLICANT</b>
Subparagraph 2.a-2.c:	For Applicant

**Conclusions**

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 eligibility to hold a public trust position. Eligibility to hold a public trust position is granted.

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Roger C. Wesley  
Administrative Judge

