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**United States Department of Energy  
Office of Hearings and Appeals**

In the Matter of:	Personnel Security Hearing	)	
		)	
Filing Date:	February 12, 2014	)	
		)	Case No.: PSH-14-0010
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Issued : June 17, 2014

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**Administrative Judge Decision**

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Ann S. Augustyn, Administrative Judge:

This Decision concerns the eligibility of xxxxxxxxxxxxxxxxxxxxxxxxx (hereinafter referred to as "the individual") to hold an access authorization<sup>1</sup> under the Department of Energy's (DOE) regulations set forth at 10 C.F.R. Part 710, Subpart A, entitled, "General Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." As discussed below, after carefully considering the record before me in light of the relevant regulations and the Adjudicative Guidelines, I have determined that the DOE should grant the individual an access authorization.

**I. Background**

The individual is an applicant for a DOE security clearance. A routine background investigation uncovered some potentially derogatory information that created doubts about the individual's eligibility to hold a DOE security clearance. A Local Security Office (LSO) attempted to resolve the derogatory information by conducting a Personnel Security Interview (PSI) with the individual in April 2013. When the LSO was unable to resolve issues surrounding the individual's close and continuing contact with family members in a foreign country and her

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<sup>1</sup> Access authorization is defined as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. § 710.5(a). Such authorization will be referred to variously in this Decision as access authorization or security clearance.

continuing connections to other persons and entities in that foreign country, it initiated formal administrative review proceedings under 10 C.F.R. Part 710.

In November 2013, the LSO sent a letter (Notification Letter) to the individual advising her that it possessed reliable information that created a substantial doubt regarding her eligibility to hold a security clearance. In an attachment to the Notification Letter, the LSO explained that the derogatory information fell within the purview of one potentially disqualifying criterion set forth in the DOE security regulations at 10 C.F.R. § 710.8, subsection (l) (hereinafter referred to as Criterion L).<sup>2</sup>

Upon her receipt of the Notification Letter, the individual, through her attorney, provided a written response to the allegations contained in the Notification Letter and requested an administrative review hearing. On February 14, 2014, the Director of the Office of Hearings and Appeals (OHA) appointed me the Administrative Judge in the case, and I subsequently conducted an administrative hearing. At the hearing, I received testimony from 15 witnesses. In addition to the testimonial evidence, the LSO submitted nine exhibits into the record; the individual tendered 15 exhibits. The exhibits will be cited in this Decision as “Ex.” followed by the appropriate numeric or alphabetic designation. The hearing transcript in the case will be cited as “Tr.” followed by the relevant page number.

## **II. Regulatory Standard**

### **A. Individual’s Burden**

A DOE administrative review proceeding under Part 710 is not a criminal matter, where the government has the burden of proving the defendant guilty beyond a reasonable doubt. Rather, the standard in this proceeding places the burden on the individual because it is designed to protect national security interests. This is not an easy burden for the individual to sustain. The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) (“clearly consistent with the national interest” standard for granting security clearances indicates “that security determinations should err, if they must, on the side of denials”); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9<sup>th</sup> Cir. 1990), *cert. denied*, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance).

The individual must come forward at the hearing with evidence to convince the DOE that granting her access authorization “will not endanger the common defense and security and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). The individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The

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<sup>2</sup> Criterion L refers to information indicating that an individual has “[e]ngaged in any unusual conduct or is subject to any circumstances which tend to show that the individual is not honest, reliable, or trustworthy; or which furnishes reason to believe that the individual may be subject to pressure, coercion, exploitation, or duress which may cause the individual to act contrary to the best interests of the national security. Such conduct or circumstances include, but are not limited to . . . a pattern of financial irresponsibility . . . or violation of any commitment or promise upon which DOE previously relied to favorably resolve an issue of access authorization eligibility.” 10 C.F.R. § 710.8(l).

Part 710 regulations are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

## **B. Basis for the Administrative Judge's Decision**

In personnel security cases arising under Part 710, it is my role as the Administrative Judge to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). I am instructed by the regulations to resolve any doubt as to a person's access authorization eligibility in favor of the national security. *Id.*

## **III. The Notification Letter and the Security Concerns at Issue**

To support its reliance on Criterion L, the LSO cites several matters that relate generally to the individual's relationship with foreign persons or foreign entities which allegedly create a heightened risk of foreign exploitation, inducement or pressure, and may create a potential conflict of interest between the individual's obligations to protect DOE's sensitive information and her desire to help a foreign person or group. In brief, the DOE alleges that the individual has contact with family members who reside in a foreign country and who are foreign government employees possessing expertise similar to that of the individual. Those family members, according to the LSO, are all aware of the individual's job with a United States (U.S.) government contractor; some are also aware of the individual's pending security clearance application.

The LSO also claims that the individual recruited foreign nationals to work for her U.S. government contractor employer, using her ongoing contacts with her former foreign university, her father's foreign government employer, and other foreign government employees. It further contends that the individual presented her U.S. government funded research to her father's foreign government employer in 2005 during a trip to that foreign country. Moreover, the LSO asserts that during another trip to that same foreign country in 2012, the individual met with a foreign government employee who served as her Master's degree advisor when she was a student in that foreign country. Finally, the LSO cites unclassified counterintelligence information indicating that the individual's access to protected information may involve unacceptable risk to national security.

I find that the DOE properly invoked Criterion L in this case. When a person has contact with a family member, business or professional associate, friend or other person who is a citizen of, or resident in, a foreign country that is known to target U.S. citizens to obtain protected information, there is a security concern in some instances that the person may have divided loyalties, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in the U.S. interests, or may be vulnerable to exploitation, inducement, manipulation, pressure, or coercion by any foreign interest. *See* Guideline B of the

*Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* issued on December 29, 2005, by the Assistant to the President for National Security Affairs, The White House.

#### **IV. Findings of Fact**

The individual was born in a foreign country (Foreign Country) and lived there continuously until age 22. Ex.8. She received her undergraduate and Master's degrees from a university in the Foreign Country (Foreign University #1). *Id.* From 2000 until 2005, the individual attended a graduate program at a U.S. university where she received an advanced degree. Ex. 9 at 73. During her matriculation at the U.S. university, the individual received some form of stipend from the U.S. University. Ex. 8.

In 2002, the individual married a citizen of the Foreign Country whom she met in the graduate program of the U.S. university where she was studying. *Id.* In 2003, the individual's husband accepted a position with a DOE contractor in a state a considerable distance from the U.S. University where the individual was still completing her doctoral thesis. Tr. at 366. One of the individual's professors at the U.S. university contacted a manager at the DOE contractor where the individual's husband had accepted a position, and inquired if the DOE contractor would "host" the individual in physical space in the DOE contractor's offices until the individual completed her doctoral thesis. *Id.* at 70. The DOE contractor agreed. *Id.* The DOE contractor did not provide any funding for the individual's thesis; the U.S. university funded the individual's post-doctoral work, including her research and thesis. *Id.* at 120, 328.

The individual ultimately accepted a job with the DOE contractor in 2005, and has worked continuously for that contractor in different positions until the present time. The individual renounced her citizenship of the Foreign Country, and became a U.S. citizen in March 2010. Ex. 8, Ex. 9 at 88. Her husband also renounced his citizenship in the Foreign Country, and became a U.S. citizen in March 2010. Tr. at 387. The individual and her husband have two children, both born in the U.S. Ex. 8.

##### **A. Foreign Connections and Contacts**

Contrary to the allegations contained in Sections A.1. through A.6. of the Summary of Security Concerns, none of the foreign family members enumerated in those sections is a "foreign government" employee.<sup>3</sup> Furthermore, three of the six relatives listed in those sections (mother,

<sup>3</sup> At the hearing, the DOE Counsel stipulated that the allegations set forth in the Statement of Charges at A.1 through A.6., *i.e.*, that the individual's mother, father, brother, mother-in-law-, father-in-law, and sister-in-law are foreign government employees, are "factually wrong." Tr. at 187-188. Prior to the stipulation, a professor and department chair at a U.S. State university with 34 years specializing in the interdisciplinary study of the language, literature, political science and history of the Foreign Country provided compelling testimony that employees of universities in the Foreign Country are not employees of the Foreign Country. *Id.* at 245-267. He testified that there is no way any faculty member in the Foreign Country would consider himself or herself an employee of the government of the Foreign Country, citing the Foreign Country's tradition of independence from the government. *Id.* at 253-256. Another witness, an employee of another DOE contractor, who worked for 30 years in the Foreign Country, testified that those who work at one of the premier research institutions at issue in this case do not perceive themselves as government employees. *Id.* at 234-235. While acknowledging that the government of the Foreign Country provides more than 50% of the funding for the research institution at issue, the witness nonetheless

father, brother) do not possess subject matter expertise similar to the individual. *Id.* at 160, 169, 191, 193, 277-280, 289, 290-291, 297-298. In addition, the individual has had no contact or relationship since 2008, with her mother-in-law or father-in-law, and has never had any meaningful conversation with her sister-in-law. *Id.* at 186, 192-193, 294-296. The individual has had regular contact, however, with her parents three to four times each week via Skype. *Id.* at 162. She only communicates via email with her brother on holidays and birthdays. *Id.* at 185.

Contrary to the allegations contained in Section A.1 through A.3 of the Summary of Security Concerns, the individual did not “advise” her mother, father, or brother that she was applying for a U.S. security clearance.<sup>4</sup> *Id.* at 163, 171, 178. Rather, she surmised that they were “aware” that she was applying for a security clearance because she had renounced her citizenship of the Foreign Country and asked each of them questions about their background in order to complete the security form paperwork. *Id.* at 164, 181.

The individual never has had any substantive discussion of her work at the DOE contractor with her mother, although she may have told her mother generally that she is working on two projects at work. *Id.* at 160, 162. She may have told her father the titles of two projects she was working on at the DOE contractor. *Id.* at 170. She knows that her father downloaded one of her recent publications from the internet. *Id.* Both of the individual’s in-laws are aware that the individual works for the DOE contractor, although she is unsure whether they know the DOE contractor is funded by the U.S. government.<sup>5</sup>

The individual’s contact with Foreign University #1 has been very limited. In 2013, she emailed the dean of her former department to commemorate the anniversary of the university. *Id.* at 194, 213. Another time, she contacted the dean of her old department at the request of another DOE contractor and asked him to post a listing seeking summer students. *Id.* at 195.

## **B. Recruitment Activities**

As part of her job responsibilities at the DOE contractor, the individual is required to recruit potential employees for the DOE contractor. *Id.* at 40. In her specialized field of discipline, there are very few candidates who graduate from U.S. Universities who possess the technical knowledge necessary to work in her field. *Id.* at 56-57, 196-197, Exs. I and J. For this reason, the individual reached out to friends who work at another foreign university (Foreign University #2) and her father who works for a research institute in the Foreign Country to inquire about possible

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remained resolute that the internal life in that institution is similar to the internal life of other research institutions in the U.S. The individual explained at the hearing why she responded affirmatively at the PSI when asked if her relatives worked for the government of the Foreign Country. She stated that she erred on the side of caution because she knew the universities and the research institute that employ her family members receive part of their funding from the Foreign Country. Tr. at 273.

<sup>4</sup> The PSI transcript passages cited to support the allegations at issue are incorrect. The relevant pages indicate that the individual responded to the question, is he or she “aware....that you are applying for a security clearance,” not “did you advise” your mother, father or brother that you are applying for a security clearance. See Ex. 9 at 144, 150, and 156.

<sup>5</sup> The DOE Counsel entered into a stipulation at the hearing that there is no evidence to suggest that the mother-in-law knows the DOE contractor is funded by the U.S. government. Tr. at 190.



candidates for open positions at the DOE contractor. In total, the individual recruited three foreign nationals, and tendered their names to those at the DOE contractor who further evaluated the candidates, and/or had hiring authority. *Id.* at 25, 74-77, 197-202. The first foreign national was the son of one of her father's friends who had previously attended Foreign University #1, and was living in the Foreign Country at the time. *Id.* at 198. The second was in graduate school at a prestigious U.S. university at the time the individual reached out to him. *Id.* at 198-202. This person graduated from Foreign University #1. *Id.* at 199. The third foreign national also previously attended Foreign University #1 but was working in the U.S. when she suggested his name to her boss for an open position. *Id.* at 201.

### **C. Presentation in 2005 in Foreign Country**

In 2005, the individual traveled to the Foreign Country on a government-sponsored trip where she presented her doctoral thesis at a conference. *Id.* 204-205. She also presented her doctoral thesis on the same trip to a Foreign Institute. *Id.* The DOE contractor granted permission to the individual to make both presentations. *Id.*

### **D. Visit in 2012 with Foreign National**

In 2012, the individual traveled with her husband and children to the Foreign Country for pleasure. *Id.* at 135. Prior to her departure, she met with a Counterintelligence Official at the DOE contractor (Contractor CI Official) and asked if she could meet with one of her former professors. *Id.* at 136. He told her that she could, and provided logistical guidance for the meeting. *Id.* The individual complied with all the instructions given by the Contractor CI Official. *Id.* at 137.

## **V. Analysis**

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony of the witnesses presented at the hearing. In resolving the question of the individual's eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c) and the Adjudicative Guidelines. After due deliberation, I have determined that the individual's access authorization should be granted. I find that granting the individual a DOE security clearance will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.27(a). The specific findings that I make in support of this decision are discussed below.

### **A. Foreign Relatives and In-Laws**

#### **1. In-Laws**

The individual testified that she has had no contact with her in-laws since 2008. *Tr.* at 186. According to the evidence, the in-laws object to their grandchildren being raised with American children and identifying with the American culture. *Id.* at 27, 392. They also judge the individual negatively because she is not submissive like the women in the Foreign Country; her marriage is more like an American marriage than a traditional one in the Foreign Country. *Id.* The in-laws

created such a tremendous strain on her marriage that the individual filed for divorce in March 2012. *Id.* at 394. She withdrew the divorce petition after her husband agreed to put her and the children before his parents. *Id.* at 396-397.

With regard to her sister-in-law, the individual has “never had a meaningful conversation with her,” and had no contact with her since 2007. *Id.* at 192-193, 323. Her sister-in-law lives with her husband’s parents, and is not close to her husband. *Id.* at 398. According to the husband, his sister “despises” him. *Id.* at 395.

Based on the evidence before me, I find that the individual has mitigated the security concerns associated with her in-laws. First, the individual does not have a relationship with her mother-in-law, father-in-law or sister-in-law. Therefore, it is not likely that she can be put in a position of having to choose between their interests and the interests of the U.S. *See* Adjudicative Guideline B, ¶ 8 (a). Second, the individual has no sense of loyalty towards her in-laws, people who dislike her and criticize her cooking, child-rearing skills and marriage. I find that there is no conflict of interest present. *Id.* at ¶ 8 (b). Finally, because the individual has not had contact with her in-laws since 2008, the risk of foreign influence or exploitation is not likely. *Id.* at ¶ 8 (c).

## **2. Parents and Brother**

The individual provided compelling testimony about the hardships she suffered while living in the Foreign Country (poverty, lack of food, crime, women treated as inferior citizens). *Id.* at 91, 316-317. One of her witnesses, a former manager and now close friend, recounted how the individual described the Foreign Country as a “prison.” *Id.* at 29. She related how the individual went to college and lived primarily potatoes that she kept under her bed. *Id.* at 29. The witness related that the individual hates the President of the Foreign Country and believes that he has destroyed the culture of her people. *Id.* at 26-27.

When asked directly how she would respond if the government of the Foreign Country were to threaten her parents if she did not provide the Foreign Country with some U.S. information, the individual testified credibly that she would immediately seek assistance from the security personnel at the DOE contractor. *Id.* at 217-218. She believes that this action would be the only one that could help her parents in this situation, explaining that the government of the Foreign Country is cruel, and that the government of the Foreign Country would harm her parents regardless of what she did. *Id.* The individual also shared her family history, particularly the hardship her father endured when he refused to ascribe to a particular political party in prominence in the Foreign Country. *Id.* at 300-302. The individual testified that she learned from her father that you must keep your values even in the face of adversity. *Id.*

The individual’s former manager and now close friend testified that the individual worries that her parents are hungry, have no health care, are living in poverty, and will be punished by the government of the Foreign Country. *Id.* at 28. She added that if the individual had to choose between her parents’ well-being and her husband and children, she would choose the latter. *Id.* She explained that her parents taught her what healthy parents teach their children, *i.e.* to focus on the next generation and be a family with her husband and children. *Id.*

The former manager and friend opined that the individual's loyalty to the U.S. is unquestionable. *Id.* at 28. Another former manager pointed to the fact that when her husband got an important job in another foreign country (Foreign Country #2) a few years ago, the individual did not go with him. *Id.* at 112. This manager believes her action in this regard indicates a strong preference to be in the United States. *Id.*

Based upon my evaluation of the individual and her witnesses' demeanor and credibility, I find that she will resolve any potential conflict between her loyalty to her parents and to the U.S. in favor of the U.S. *See* Adjudicative Guideline B, ¶ 8 (b). In reaching this finding, I considered the testimony of a DOE Counterintelligence Official who testified that the individual is a potential target of the Foreign Country's government and is potentially vulnerable because of her foreign associations. *Tr.* at 359. The DOE Counterintelligence Official stated that because we do not know what is in her "heart and mind," it is difficult to determine her reaction if approached. In determining that the individual's reaction, if approached, would be as she related, *i.e.* she would go to the security office at the DOE contractor, I gave considerable weight to the testimony of the Contractor CI Official that the individual complied with all his instructions he gave her when she traveled to the Foreign Country in 2012 (*id.* at 137), the testimony of an Authorized Derivative Classifier (ADC) that the individual is very proactive about obtaining approval for unclassified publications and carefully complies with all DOE rules and the rules of other agencies that have equity in information that she handles (*id.* at 117-118), and the testimony of her former manager that the individual "knows the difference between right and wrong and it's couched within being an American citizen." *Id.* at 29.

With regard to the individual's brother, the individual testified convincingly that she is not close to her brother (*id.* at 290), and that she only communicates with him via email on holidays and birthdays. *Id.* at 185. Under these circumstances, I find that Adjudicative Guideline B, ¶ 8 (a), (b), and (c) resolve the security concerns at issue with regard to divided loyalty and vulnerability to coercion by the individual's brother.

#### **B. Continuing Connections to Foreign Persons, Foreign Government Institutions, and the Foreign Country**

As noted in Section IV.B. above, the individual is required to recruit potential employees for the DOE contractor as part of her job responsibilities at the DOE contractor. *Id.* at 40. She does not, however, have any hiring authority. Her line manager testified, "I own the hiring process . . . I do not delegate the hiring." *Id.* at 74. Others testified that the individual only recommends potential candidates, and that there is an in-depth review of the potential candidates' technical skills and background by others in the hiring process before the individual's bosses make a hiring decision. *Id.* at 25, 32, 61. The individual's former mentor testified that it is expected that someone at the individual's professional level will reach out and recruit people she worked with earlier in her career, adding that to get promoted, the individual needed to network. *Id.* at 41, 43. The individual testified, and others corroborated, that for all hiring, employees are required to first identify a U.S. citizen who might be able to do the job before doing an international search. *Id.* at 32, 56, 79, 196. She explained that there are only 13 people a year who graduate from major U.S. universities with an advanced degree in her field of expertise. *Id.* at 197, Exs. I, J. The year she was recruiting employees, seven of the 13 students in her field of discipline were foreign



nationals; the six U.S. citizens were already employed. *Id.* at 197. For this reason, she sought out candidates with ties to Foreign University #1.

According to the individual's former manager, the individual's actions in recruiting three persons with ties to Foreign University #1 "was consistent in type and number of others in her group." *Id.* at 77. He stated that he wants his employees to have a wide net, and encourages them to "look under every rock" to find good candidates. *Id.* at 83-84. The ultimate goal, explained the individual's former mentor, is to hire the best employees. *Id.* at 40.

The weight of the evidence suggests nothing sinister about the individual's recruitment of foreign nationals with ties to Foreign University #1. The individual was required to recruit employees as part of her job and did so, on an international scale, with the encouragement, knowledge and approval of her supervisors given the scarcity of candidates with the requisite subject matter expertise needed. She did not have any hiring authority and made no hiring decisions. In view of all the evidence before me, I find that the individual mitigated the security concerns associated with the allegations contained in Section B.1. of the Summary of Security Concerns.

The individual denies "ongoing contact" with her father's employer. *Id.* at 203, 327. She testified credibly that the last time she had contact with the employer was in 2005. *Id.* at 204. She admits that she asked her father and friends in the Foreign Country for recommendations of qualified candidates for positions at the DOE contractor. *Id.* at 197. She explained that one of the three candidates whom she proposed to the DOE contractor was the son of her father's friend, who was a graduate of Foreign University #1. As explained above, the circumstances relating to the individual's recruitment of one of the three foreign nationals at issue in this case are clear – she was doing what she was required to by the DOE contractor. Moreover, Adjudicative Guideline B, ¶ 8(c) applies here as the contact with the father's employer is infrequent, thereby reducing the likelihood that she could be the subject of foreign influence or exploitation. For this reason, I find that the individual has mitigated the allegations contained in Section B.2 of the Summary of Security Concerns.

With regard to the allegations contained in Section B.3 of the Summary of Security Concerns, I find that they, too, are mitigated. The allegation incorrectly states that the individual presented U.S. government funded research in 2005 to her father's government employer. First, there is a stipulation of record that the individual's father's employer is not a government employer. Second, the evidence is clear that the presentation made by the individual in 2005 was her doctoral thesis, which was not U.S. government funded research. *Id.* at 42, 86, 204-205, 327, 328. Third, the individual received permission from the DOE contractor to present the doctoral thesis in the Foreign Country and at the foreign research institute. Since the factual underpinnings of Section B. 3 are lacking, I find that the individual has adequately mitigated the security concerns associated with this allegation.

In 2012, the individual traveled for pleasure to the Foreign Country and during her visit met with her former Master's degree supervisor (former professor). The Contractor CI Official testified that he met with the individual prior to her trip and she asked if she could meet with her former professor in the Foreign Country. *Id.* at 136. The Contractor CI Official provided logistical

guidance to the individual on this subject, and the individual complied with his advice. *Id.* at 137, 207, 330. The individual testified that the former professor is 75 years old and in failing mental and physical health. *Id.* at 207, 329. Based on the compelling evidence in the record, I find that the security concerns connected with the allegations set forth in Section B. 4 of the Summary of Security Concerns are sufficiently mitigated by Adjudicative Guideline B, ¶¶ 8 (c), (d) (e).

### C. Counterintelligence Information

With regard to the LSO's security concerns predicated on unclassified counterintelligence information (Ex. 5), the individual's relationship with her parents, in-laws, brother and sister-in-law are discussed at length in Section V. A. 1. and 2. above and will not be repeated here. Similarly, the individual's "recruitment" of three foreign nationals, and her visit in 2012 with her former professor are discussed in Section V.B. In addition to family members, the three people the individual recommended as possible candidates for employment at the DOE contractor, and her former professor, the individual revealed the identities of others residing in the Foreign Country with whom she has contact, some as regularly as one time each month. She explained that the form of contact is social media (Facebook) (*id.* at 213), and that the exchanges are generally about children and celebrating different holidays. *Id.* at 211-216.

As explained by the DOE Counterintelligence Official at the hearing, the individual's associations with foreign nationals present a risk that she can be targeted by adversarial intelligence services. *Id.* at 347-348. Based on my assessment of the credibility of the individual and her demeanor, I find that she is a loyal U.S. citizen with an overwhelming preference to be in this country. In addition, she and her witnesses convinced me that her political, professional and social interests are aligned with this country only, (*id.* at 21, 29, 33, 110-112, 128) and that she is committed to American values and traditions. *Id.* at 27, 124-125, 129, 307. The individual provided compelling testimony about (1) the hardships she suffered growing up in the Foreign Country (2) her view that the President of the Foreign Country has destroyed the culture of her former country, (3) her opinion that the government of the Foreign Country is cruel, (4) her unwavering desire that her two children never become citizens of the Foreign Country, (5) the pride she takes in her work for the DOE contractor, and (6) her unquestionable loyalty to the DOE contractor. These factors persuade me that it is unlikely that the individual will be placed in a position of having to choose between the interests of the Foreign Country and the U.S. However, if she were ever placed in such a position, I am convinced that she will resolve any conflict in favor of the U.S. In making this determination, I weighed heavily the testimony that the individual has always sought assistance and professional guidance from the Contractor CI Official and ADC to ensure that she is complying with foreign travel policies and publication policies, and that she has always complied with all rules imposed on her with regard to handling information. Furthermore, both the DOE CI Official and the Contractor CI Official remarked on the individual's openness and candor with them. Finally, it is my observation that the individual is a strong woman, who not only has achieved outstanding success in her chosen profession despite adversity<sup>6</sup>, but is someone who cannot likely be manipulated, exploited or pressured to act contrary to the interests of U.S. national security.

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<sup>6</sup> The evidence shows that the individual is extremely competent in her field, having won a coveted national award for her work. As one witness stated, she is "off the chart in value to the organization and the country." The

In sum, the evidence shows that the individual is a dedicated, loyal employee with a strong sense of right and wrong. Considering the “total person” concept, I find that the individual’s “heart and mind” is allied with the U.S. and that if she is ever faced with the choice of deciding between the interests of the U.S. and that of her foreign national friends, family members or the Foreign Country, she will choose the U.S. interests.

## **VI. Conclusion**

In the above analysis, I have found that there was sufficient derogatory information in the possession of the DOE that raises serious security concerns under Criterion L. After considering all the relevant information, favorable and unfavorable, in a comprehensive common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I have found that the individual has brought forth sufficient evidence to mitigate the security concerns associated with that criterion. I therefore find that granting the individual an access authorization will not endanger the common defense and is clearly consistent with the national interest. Accordingly, I have determined that the DOE should grant the individual an access authorization. The parties may seek review of this Decision by an Appeal.

Ann S. Augustyn  
Administrative Judge  
Office of Hearings and Appeals

Date: June 17, 2014

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regulations do not allow me, however, to consider the possible impact of the loss of the individual’s access authorization upon the DOE program. 10 C.F.R. § 710.27 (b).