



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 14-03098

Appearances

For Government: Richard Stevens, Esq., Department Counsel

For Applicant: Kevin Kersey, Personal Representative

01/12/2016

Decision

DUFFY, James F., Administrative Judge:

Applicant mitigated the Government's security concerns under Guidelines B (foreign influence) and C (foreign preference), but failed to mitigate the security concerns under Guideline E (personal conduct). Applicant's eligibility for a security clearance is denied.

Statement of the Case

On December 8, 2014, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued Applicant a Statement of Reasons (SOR) detailing the security concerns under Guidelines B, C, and E. This action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by DOD on September 1, 2006.

On April 27, 2015, Applicant answered the SOR and requested a hearing. The case was assigned to me on June 25, 2015. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on July 6, 2015. The hearing was held as scheduled on July 20, 2015. At the hearing, Department Counsel offered Government Exhibits (GE) 1 through 6. Applicant testified and offered Applicant Exhibits (AE) A through I. The record of the hearing was left open until August 3, 2015, to provide Applicant an opportunity to submit additional matters. Applicant timely submitted documents that have been marked as AE J through L. Department Counsel's objection to AE L (Applicant's sworn statement) was overruled, and it was admitted into evidence. All other exhibits were admitted into evidence without objection. DOHA received the hearing transcript (Tr.) on July 27, 2015.

Procedural Matters

Applicant waived the 15-day notice requirement in ¶ E3.1.8 of the Directive.¹

Department Counsel requested administrative notice be taken of facts concerning Iran. Applicant had no objection to that request, and it was granted. Pertinent facts concerning Iran are set forth below.²

Department Counsel made a motion to withdraw two falsification allegations (SOR ¶¶ 3.a and 3.f). Applicant had no objection to that motion. The motion was granted and those allegations were withdrawn.³

Findings of Fact

SOR and Applicant's Answer to the SOR

The SOR alleged under Guideline B that Applicant has several relatives, including three aunts, one uncle, and one niece, who are citizens and residents of Iran (SOR ¶ 1.a) and that his father is a dual citizen of the United States and Iran, resides in the United States, and served in the Iranian military (SOR ¶ 1.b). Under Guideline C, the SOR asserted that Applicant obtained an Iranian passport in April 2001 and had it extended from April 2006 to April 2011 (SOR ¶ 2.a) and that he used his Iranian passport to travel to Iran (SOR ¶ 2.b). Under Guideline E, the SOR alleged that Applicant falsified his responses to seven questions in security clearance applications (SCA) submitted in 2005 and 2010. Those questions dealt with foreign citizenship, foreign passports, and contacts with foreign nationals and representatives of foreign governments. In his Answer to the SOR, Applicant admitted the Guideline B and C

¹ Tr. 11-12.

² Tr.12, 25-27.

³ Tr. 12-13.

allegations and denied the Guideline E allegations. His admissions are incorporated as findings of fact.⁴

Applicant's Background, Foreign Contacts, and Foreign Travel

Applicant is a 34-year-old employee of a defense contractor. He began working for his current employer in July 2015. He has worked for defense contractors since 2004. He was born in the United States, graduated from high school in 1998, earned a bachelor's degree in 2004, and master's degrees in 2006 and 2007. He completed both master's degrees with honors. He married in 2002. His wife was born in the United States. They have two children, ages 10 and 12, who were born in the United States. He has held a security clearance since about 2005.⁵

Applicant's father was born in Iran and is 63 years old. He completed mandatory military service in Iran. It is unclear whether he served two or four years in the Iranian military. He was born Muslim and, at some point, converted to another religion. Applicant indicated his father came to the United States for religious reasons. He entered the United States on a student visa in about 1975. He earned a bachelor's degree in engineering while working full-time in a restaurant. He became a U.S. citizen in 1984 and apparently remained a citizen of Iran. He has resided in the United States for the past 40 years, has worked for U.S. defense contractors for the past 30 years, and has held a security clearance. When Applicant was born his father was an Iranian citizen, and Applicant obtained Iranian citizenship through his father. Applicant's mother was born in the United States. She met her husband while he was working in the restaurant. She is an officer in a U.S. bank.⁶

Applicant's father is the youngest child in his family. Some of his siblings are deceased. At the time of the hearing, Applicant had three aunts, an uncle, and a niece who are citizens and residents of Iran. Applicant indicated that none of those relatives have ever worked for a foreign government or served in a foreign military. Applicant described his aunts and uncle as elderly and poor. In an Office of Personnel Management (OPM) interview in June 2012, he indicated that one of his deceased uncles had a military career in Iran, but did not indicate the uncle's rank. He also did not address how his surviving uncle avoided mandatory military service.⁷

Applicant indicated that his father was considered a defector by his family because of his religious conversion. After coming to the United States, his father did not return to Iran for about 15 years, but has since returned on a number of occasions. Applicant traveled to Iran with his father and mother in 1982, 2006, and 2007. He would

⁴ SOR; Applicant's Answer to the SOR.

⁵ Tr. 7-8, 57-63, 69, 96-97, 110-113, 120; GE 1-4; AE A, I.

⁶ Tr. 57-59, 71, 93-96, 113-121, 145-149; GE 1-4, 6.

⁷ Tr. 71-73, 79-85, 93-96, 118; GE 4, 6.

have been a toddler when they traveled to Iran in 1982. He stated that he traveled to Iran in 2006 and 2007 because his father was in poor health, and he wanted to be available in case his father needed help. Applicant does not speak or read Farsi. His relatives in Iran do not speak English. Language differences limited his ability to interact with his Iranian relatives. Applicant has not had any contact with his Iranian relatives since he visited there in 2007. In his SCA submitted on April 7, 2010, Applicant disclosed his travel to Iran in 2006 and 2007. Prior to traveling to Iran, he also disclosed his plans to travel there to his facility security officer. He testified that he has no intent to return to Iran.⁸

In his 2010 SCA, Applicant responded “No” to the question that asked whether he had close or continuing contact with foreign nationals in the last seven years with whom he was bound by affection, influence, or obligation. He testified that response is still correct. He did not consider that he had a close or continuing contact with his aunts, uncle, or niece in Iran and noted he has no continuing contact with them.⁹

Failure to Disclose Foreign Citizenship and Foreign Passport

Applicant was issued an Iranian passport on April 27, 2001. The passport was extended on July 10, 2006 and expired on April 25, 2011. In 2006 and 2007, he entered Iran through the use of his Iranian passport. Applicant testified that he believed his picture in the passport was from 2006, instead of 2001. He did not remember having that picture taken. Included in the passport are pictures of his children, who were born after it was initially issued, and were most likely added to his passport in 2006. In his post-hearing submission, Applicant provided a letter from his facility security officer confirming that he surrendered his expired Iranian passport. Applicant indicated that he is willing to renounce his Iranian citizenship.¹⁰

In his SCAs submitted on August 18, 2005, and April 7, 2010, Applicant responded “No” to questions that asked whether he ever held multiple citizenships or held an active passport from a foreign country. In his 2005 SCA, he responded “No” to the question that asked whether he ever had contact with a foreign government, its establishments (embassies or consulates) or its representatives other than on official U.S. business. In his 2010 SCA, he did not answer the question in Section 10c that asked whether his non-U.S. citizenship was based on his birth in a foreign country or the citizenship of his parents.¹¹

⁸ Tr. 70-85, 96, 113-121, 133, 137; GE 3, 4. In GE 3, Applicant reportedly stated his niece could speak English. In GE 6, he stated that his Iranian relatives only spoke Farsi.

⁹ Tr. 76-85, 142-144; GE 3.

¹⁰ Tr. 99-110, 124-125, 126-127, 130-141, 148-154; GE 4-6; AE K. Applicant’s mother may have taken the passport photographs of him and his children at the bank in which she works. In GE 6, Applicant indicated that he did not believe his father was a dual citizen.

¹¹ GE 1, 3. In his 2010 SCA, he was only required to answer the question in Section 10c if he responded “Yes” to the question in Section 10 that asked if he then held or ever held multiple citizenships.

During OPM interviews in May 2010 and June 2012, Applicant discussed his two most recent trips to Iran. The summaries of those interviews, however, do not address either his dual citizenship or Iranian passport. In a sworn affidavit in May 2011, he again addressed his trips to Iran, but did not mention his dual citizenship or Iranian passport.¹²

In his Answer to the SOR, Applicant addressed the falsification allegations for failing to disclose his Iranian passport in his 2005 and 2010 SCAs by stating,

I deny – no attempt to conceal existence of an Iranian passport was intended. I did not **reconcile or consider** the Iranian passport when completing the e-QIP. [Emphasis added.] All correspondence was performed by my father or alternative individual, I did not personally complete/submit, nor have knowledge of those activities. Further, due to language barriers, I also do not have the ability to review/confirm any of that correspondence.

His failure to “reconcile or consider” the Iranian passport implies that he was aware of its existence when he submitted the SCAs but overlooked it.¹³

In his SOR Answer, he addressed the falsification allegation for failing to disclose his dual citizenship in his 2010 SCA by stating,

I deny – no attempt to conceal citizenship was intended. It was not my understanding that possession of an Iranian passport constituted dual citizenship. Subsequent to April 7, 2010, I learned of this dual-citizenship and have openly and honestly disclosed that since. All correspondence was performed by my father or alternative individual, I did not personally complete/submit, nor have knowledge of those activities.

This response raises the question of why he would state that he did not understand possession of an Iranian passport constituted dual citizenship unless he was aware of the passport when he completed the 2010 SCA.¹⁴

At the hearing, Applicant stated that he believed his responses on the SCAs were complete and accurate when submitted. He acknowledged that, in retrospect, he was ignorant of aspects of dual citizenship and passports. He stated that he did not apply for the Iranian passport and believed his father handled all of the paperwork for his passport and dealt with the foreign issuing officials. The “holder’s signature” in the passport is written in Farsi. Applicant stated that he did not sign any documents for the

¹² GE 4, 6.

¹³ Applicant’s Answer to the SOR. The term “e-QIP” means Electronic Questionnaires for Investigations Processing and is synonymous with SCA.

¹⁴ Applicant’s Answer to the SOR.

initial passport or its extension. He did not remember giving a picture to his father for the passport.¹⁵

Applicant testified his parents handled all of the travel documents, including his U.S. passport, during their trips to Iran. He remembered seeing his U.S. passport during one of the trips, indicated he did not like his photo in that passport, but also noted he did not pay attention to the documents on the trips. He stated, "There was a big collection of documents and they were always handled together by my parents" When asked whether he presented his U.S. passport or Iranian passport during a layover in Germany, Applicant responded, "I don't remember." His father dealt with the Iranian immigration officials during their trips.¹⁶

Applicant further testified "I actually did not know I had it [his Iranian passport] until I was doing all the research for these security investigations." He also stated that he could not recall exactly when he learned of his Iranian passport, but believed it was within two years of the hearing. Upon learning of the passport, he stated that he provided a copy to the government. When asked whether he was aware of the Iranian passport when he filled out his 2010 SCA, he stated, "I don't believe so" and noted he simply did not think about it.¹⁷

Additionally, Applicant testified that his father told him Iran could force him into its military while he was in that country. He stated that he first had that discussion with his father when he was a teenager. He did not associate compulsory military service with citizenship and indicated he "didn't think these things through."¹⁸

In his post-hearing submission, Applicant stated that he was selected for an executive level position in October 2013. As part of the selection process, he was required to provide extensive paperwork to a third-party screening company. In preparing his responses for the screening company, he met with his parents and learned of the Iranian passport. About a month later, he provided a copy of the Iranian passport to DOD CAF in response to interrogatories that specifically asked whether he had a foreign passport.¹⁹

¹⁵ Tr. 75-76, 96-102, 104-110, 124-145, 136-137; GE 5.

¹⁶ Tr. 75-76, 96-102, 104-110, 124-145, 136-137. Applicant's U.S. and Iranian passport were both issued in April 2001. See GE 3.

¹⁷ Tr. 75-76, 96-102, 104-110, 124-145, 136-137.

¹⁸ Tr. 108-109, 128-130.

¹⁹ AE K.

Iran

The United States and Iran do not maintain diplomatic relations. Iran is a foreign intelligence threat to the U.S. and has developed cyber espionage or attack capabilities that could be used against this country. Iran continues to act abroad in ways that run counter to U.S. interests and that worsen regional conflicts. The U.S. State Department has designated Iran as a State Sponsor of Terrorism. Iran has a poor human rights record.²⁰

Character Evidence and U.S. Interests

Applicant worked while attending school and was responsible for paying his educational expenses. He acquired about \$71,000 in student loans that he has already repaid. He owns a home in the United States and estimated his net worth to be approximately \$850,000. In 2014, his adjusted gross income was approximately \$260,000. He has filed and paid his income taxes as required. He has no financial interests outside the United States.²¹

Applicant has consistently received work evaluations that praise his performance. He has been described as a model of personal excellence, integrity, and accountability. Applicant testified that, in the ten years he has worked in the defense industry, he has never had a security violation.²²

Three witnesses testified that Applicant is honest, trustworthy, and a person of integrity. As an example of Applicant's integrity, two witnesses cited a large funding error that Applicant brought to his company's attention even though he faced potential negative repercussions by revealing the error.²³

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching

²⁰ Tr. 98-99; HE 1. See also ISCR Case No. 12-08412 at 2 (App. Bd. Sep. 11, 2015)

²¹ Tr. 59, 70, 85-93; AE B, E, F, G, H.

²² Tr. 62-63 102-103; AE C, D.

²³ Tr. 30-48.

adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline B, Foreign Influence

AG ¶ 6 expresses the security concern regarding foreign influence:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or

financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.

AG ¶ 7 describes conditions that could raise a security concern and may be disqualifying. I have considered all of them, and the following disqualifying conditions potentially apply:

- (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; and
- (b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information.

The mere possession of close family ties with a person in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if only one relative lives in a foreign country and an applicant has contacts with that relative, this factor alone could be sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information. In this case, Applicant's father is a dual citizen of Iran and the United States. Applicant also has three aunts, an uncle, and a niece who are citizens and residents of Iran.

The nature of a nation's government, its relationship with the U.S., and its human rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable to government coercion. Iran is an intelligence threat to the United States, supports terrorism, and has a poor human rights record. Such circumstances create a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion for Applicant's family members in Iran and places a heavy burden of persuasion on him to demonstrate that his contacts in Iran do not pose a security risk and that he will not be placed in a position of having to choose between his loyalty to the U.S. and his family members. I find that AG ¶¶ 7(a) and 7(b) apply in this case.

I have also analyzed all of the facts and considered all of the mitigating conditions under AG ¶ 8. The following mitigating conditions potentially apply:

- (a) the nature of the relationship with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization and interests of the U.S.;

(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 U.S., that the individual can be expected to resolve any conflict of interests in favor of the U.S. interests; and

(c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.

In about 1975, Applicant's father left Iran for religious reasons. He has resided in the United States for the past 40 years, has worked for defense contractors for the past 30 years, and has held a security clearance. Language differences limit Applicant's ability to interact with his family members in Iran. He has not had any contact with his family members in Iran in the past eight years. AG ¶¶ 8(a) and 8(c) apply.

Applicant's roots, financial interests, and close relationships are in the United States. He does not speak Farsi. His interests in Iran are minimal and are outweighed in comparison to his interests in the United States. Even though it is unlikely that Applicant will be placed in a position of having to choose between the interests of anyone in Iran and his U.S. interests, he can be expected to resolve any conflict of interest in favor of U.S. interests. AG ¶ 8(b) applies.

Guideline C, Foreign Preference

Under AG ¶ 9 the security concern involving foreign preference is as follows:

When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.

AG ¶ 10 describes conditions that could raise a security concern and may be disqualifying. Two are potentially applicable in this case:

(a) exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen or through the foreign citizenship of a family member. This includes but is not limited to:

(1) possession of a current foreign passport; and

(b) action to acquire or obtain recognition of foreign citizenship by an American citizen.

Applicant is a native-born U.S. citizen. He was issued an Iranian passport in 2001, which was extended in 2006. In 2006 and 2007, Applicant used the Iranian passport to enter Iran. AG ¶¶ 10(a) and 10(b) apply.

AG ¶ 11 sets forth conditions that could mitigate foreign preference security concerns. Three are potentially applicable here:

(a) dual citizenship is based solely on parents' citizenship or birth in a foreign country;

(b) the individual has expressed a willing to renounce dual citizenship; and

(d) the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated.

Applicant's father obtained Applicant's Iranian passport for him. No evidence was presented that Applicant sought to obtain that passport. Applicant has expressed a willingness to renounce his Iranian citizenship. His Iranian passport expired in 2011. He has surrendered the expired passport to his facility security officer. AG ¶¶ 11(a), 11(b), and 11(d) apply.

Guideline E, Personal Conduct

The security concern for personal conduct is set out in AG ¶ 15, as follows:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

AG ¶ 16 describes one condition that could raise a security concern and may be disqualifying in this case:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities.

When falsification allegations are controverted by an applicant, as in this case, the Government has the burden of proving them. An omission, standing alone, does not prove falsification. An administrative judge must consider the entire record as a whole to

determine an applicant's state of mind at the time of omission.²⁴ An applicant's level of education and business experience are relevant to determining whether a failure to disclose relevant information on a SCA was deliberate.²⁵

Applicant did not falsify his 2005 SCA when he answered "No" to the question that asked whether he "ever had contact with a foreign government, its establishments (embassies or consulates), or its representatives, whether inside or outside the U.S., other than on official U.S. Government business." Applicant's father dealt with foreign officials to obtain and extend his Iranian passport. No evidence was presented that Applicant had contacts with such officials. I find in favor of Applicant on the allegation in SOR ¶ 3.i.

When Applicant became aware of his Iranian citizenship and Iranian passport is unclear. As a teenager, he talked with his father about the possibility of being subjected to compulsory military service if he visited Iran, but claimed he did not associate that possibility with Iranian citizenship. It is possible that he was not aware of his Iranian citizenship and Iranian passport prior to his trips to Iran in 2006 and 2007. Consequently, I find in favor of Applicant on the allegations in SOR ¶¶ 3.g and 3.h that dealt with questions about his foreign citizenship and foreign passport on his 2005 SCA.

Applicant did not falsify his 2010 SCA when he answered "No" to the question that asked whether he had close and continuing contacts with foreign nationals with whom he was bound by affection, influence, or obligation. His testimony that he did not consider his three aunts, uncle, or niece as close and continuing foreign contacts was believable and understandable. Additionally, he most likely did not consider his father as a foreign national for purposes of this question. I find in favor of Applicant on the allegation in SOR ¶ 3.d.

However, Applicant deliberately omitted required information on his 2010 SCA when he failed to disclose his Iranian citizenship and his active Iranian passport. Applicant either provided a picture of himself for the extension of his Iranian passport in 2006 or sat for that picture. He most likely would have known the purpose for that picture. In 2006 and 2007, he traveled to Iran at the age of 26 and 27. During those trips, he was either a graduate student or held master's degrees and had been working for a defense contractor for two or three years. Although he claimed his parents held all the travel documents during those trips, he remembered seeing his U.S. passport and noted he did not like his picture in that passport. In answering the SOR, Applicant did not state that he had no knowledge of his Iranian passport when he completed his 2010 SCA. Instead, he stated that he "did not reconcile or consider the Iranian passport" when completing that document. That statement implies that he was aware of the Iranian passport, but overlooked it. At the hearing and in his post-hearing submission, he claimed he learned of the Iranian passport after submission of the 2010 SCA. His

²⁴ See ISCR Case No. 03-09483 at 4 (App. Bd. Nov 17, 2004).

²⁵ See ISCR Case No. 08-05637 (App. Bd. Sep 9, 2010).

claims that he was not aware of the Iranian passport during his trips to Iran are not believable. I conclude that he had knowledge of the Iranian passport in 2006 and 2007 and, consequently, was aware of his Iranian citizenship at that time. He deliberately falsified his 2010 SCA when he failed to disclose his Iranian citizenship and Iranian passport. AG ¶ 16(a) applies to SOR ¶¶ 3.b, 3.c, and 3.e.

Six personal conduct mitigation conditions under AG ¶ 17 are potentially applicable:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by improper or inadequate advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security clearance process. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
- (e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress; and
- (f) the information was unsubstantiated or from a source of questionable reliability.

In about 2013, Applicant disclosed to the Government the existence his Iranian passport and Iranian citizenship. At the hearing, however, he denied he falsified his responses to the foreign citizenship and foreign passport questions on his 2010 SCA. His denial of those falsification allegations undercuts application of AG ¶ 17(a). His 2010 SCA falsifications are recent and significant. In falsifying his SCA, he seriously undermined the security clearance adjudication process. I find that none of the mitigating conditions apply to his deliberate falsifications.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines B, C, and E in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment. Applicant is a valued employee. He has a reputation for honesty and trustworthiness. He has held a security clearance for about ten years. Nevertheless, he deliberately failed to provide complete and accurate responses to questions on his 2010 SCA. Those falsifications raise serious security concerns that have not been mitigated.

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has mitigated the security concerns arising under the foreign influence and foreign preference guidelines, but failed to mitigate the security concerns under the personal conduct guideline.

Formal Findings

Formal findings on the allegations are:

Paragraph 1, Guideline B:	FOR APPLICANT
Subparagraphs 1.a-1.b:	For Applicant
Paragraph 2, Guideline C:	FOR APPLICANT
Subparagraphs 2.a-2.b:	For Applicant

Paragraph 3, Guideline E:

AGAINST APPLICANT

Subparagraph 3.a:

Withdrawn

Subparagraphs 3.b-3.c:

Against Applicant

Subparagraph 3.d:

For Applicant

Subparagraph 3.e:

Against Applicant

Subparagraph 3.f:

Withdrawn

Subparagraphs 3.g-3.i:

For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

James F. Duffy
Administrative Judge