

KEYWORD: Foreign Influence; Drugs; Personal Conduct

DIGEST: Applicant is 47 years old and works as a pharmacist for a defense contractor. He has mitigated the concerns under the personal conduct and drug involvement guidelines through rehabilitation and the passage of time. He was born in Iran. He failed to mitigate security concerns arising from foreign influence due to his contact with family members who are residents and citizens of Iran. Eligibility for a trustworthiness position is denied.

CASENO: 06-12289.h1

DATE: 05/07/2007

DATE: May 7, 2007

In re:)	
)	
-----)	
SSN: -----)	ADP Case No. 06-12289
)	
Applicant for Public Trust Position)	

**DECISION OF ADMINISTRATIVE JUDGE
NOREEN A. LYNCH**

APPEARANCES

FOR GOVERNMENT

Nichole Noel, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is 47 years old and works as a pharmacist for a defense contractor. He has mitigated the concerns under the personal conduct and drug involvement guidelines through rehabilitation and the passage of time. He was born in Iran. He failed to mitigate security concerns arising from foreign influence due to his contact with family members who are residents and citizens of Iran. Eligibility for a trustworthiness position is denied.

STATEMENT OF THE CASE

On November 30, 2006, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant Statement of Reasons (SOR) stating it was unable to find that it is clearly consistent with the national interest to grant or continue a position of trustworthiness.¹ The SOR, which is in essence the administrative complaint, alleged trustworthiness concerns under Guideline B (Foreign Influence), Guideline E (Personal Conduct) and Guideline H (Drug Involvement) of the revised Adjudicative Guidelines (AG) issued on December 29, 2005, and implemented by the Department of Defense effective September 1, 2006. The revised guidelines were provided to Applicant when the SOR was issued.

The case was assigned to me on February 27, 2007. A notice of hearing was issued on March 14, 2007, scheduling the hearing for March 28, 2007. Applicant waived the 15-day notice requirement. The hearing was conducted as scheduled. The government submitted two exhibits that were marked as Government Exhibit (GE) 1-2. Applicant did not submit any exhibits at the hearing, but was allowed time to send a post-hearing submission. The Applicant's eight exhibits (post hearing) marked as Applicant Exhibit (AE) A through H, and entered into the record without objection. Counsel submitted background notes and State Department documents on Iran, which were marked as Hearing Exhibit 1. Applicant testified on his own behalf. DOHA received the hearing transcript (TR) on April 11, 2007.

FINDINGS OF FACT

Applicant admitted the factual allegations pertaining to foreign influence under Guideline B (subparagraphs 1.a through 1.d), personal conduct under Guideline E (subparagraphs 2.a and 2.b) and drug involvement under Guideline H (subparagraphs 3.a through 3.c). Those admissions are incorporated as findings of fact. In addition, after a thorough and careful review of the pleadings and exhibits, I make the following findings of fact:

Since March 2003, Applicant who is 47 years old, has worked as a pharmacist for a defense contractor. He was born and raised in Iran; however, he has lived in the United States (U.S.) for thirty years as a naturalized citizen. He received his undergraduate degree in the U.S. in 1988.² After graduation, he passed the state board exam for his pharmacy license.³ He has worked as a pharmacist for the past 20 years. He submitted a trustworthiness application on February 26, 2004.⁴

While in the U. S., Applicant progressed in his chosen career. He worked in a hospital setting as a Director of Pharmacy, but decided to leave the hospital setting for the corporate world, and

¹This action was taken under Executive Order 10865, dated February 20, 1960, as amended, and DoD Directive 5220.6, dated January 2, 1992, as amended and modified (Directive).

²Exhibit 1 (Applicant's Application (SF 85-P), dated February 26, 2004) at 1-10.

³Tr. 34.

⁴*Id.*

worked for a large pharmacy.⁵ After several years, approximately 1999, Applicant started taking narcotics from the pharmacy inventory.⁶ He tested positive for the prescription drug Darvocet (a mild sedative).⁷ He used schedule two drugs approximately 2 or 3 times a week. Then he stole schedule 3 drugs from his stock at work. As a result, his employer fired him for stealing prescription drugs in 2001.⁸ He paid \$300 in restitution.

Applicant signed a Consent Agreement with the State Board on March 26, 2001. This contract required him to complete outpatient rehabilitation, attend three self-help meetings per week, submit 24 random urine screens per year and attend weekly peer group counseling sessions. The program was approved by the state licensing board.⁹

On June 25, 2001, Applicant refused a random urine screen because he was using hydrocodone without a prescription in violation of his Consent Agreement. He admitted himself to an inpatient treatment center on June 30, 2001. At that time, he signed a new agreement that again required him to complete treatment, attend weekly group counseling sessions and self-help meetings. On July 27, 2001, Applicant completed his inpatient treatment program. In November, 2001, the Board allowed Applicant to reinstate his pharmacy license with the stipulation that he practice under the supervision of a licensed pharmacist.

Applicant relapsed in 2002. He was using a nonprescribed medication, and as a result, his license as a pharmacist was again put on probation. On February 10, 2003, Applicant reported positive for propoxyphene. He appeared before the Board of Licensing Examiners and signed a new contract on April 16, 2003. This legally binding contract requires him to attend 90 self-help meetings in 90 days, Relapse Prevention Treatment, attend weekly peer group counseling sessions and attend 3 self-help meetings per week and submit 24 random urine screens per year. This consent agreement is valid until 2008.¹⁰

Applicant is not allowed to work in a retail pharmacy setting under the 2003 agreement. He works for the defense contractor where there is no access to medications. He has one more year in the program. He enjoys his work and is praised for his exemplary adherence to the standard of the profession.¹¹ He remains drug free and abides by the program guidelines. He actively participates in group therapy. He has a sponsor in his 12 step program.¹² He wishes to remain in a setting that has

⁵Tr. 28.

⁶Tr. 56.

⁷Tr. 29.

⁸Tr.42.

⁹AE E (Letter of Compliance from State Board, dated March 30, 2007) at 1.

¹⁰AE G (Consent Agreement, dated March 1, 2003) at 1-4; Tr. 50.

¹¹AE D (Letter of Reference from defense contract employer, dated March 30, 2007) at 1.

¹²Tr.79.

nothing to do with the dispensing of medications. He finds his current employment rewarding and less stressful.¹³

Applicant's use of the non-prescribed medications partially relates to his marital problems. He does not minimize his actions, but was depressed for a period of time, and did not know how to cope. He worked long hours and cared for his family. He admits experimenting to gain a sense of calm. The medications were taken from the stock bottle on the shelf. At one point, he took a pain pill every three or four hours.¹⁴ However, he reports this was not a routine.¹⁵ He now has the tools to deal with his problems. He currently takes prescribed medication for depression.¹⁶

Applicant's mother is a citizen and resident of Iran. His father divorced his mother when Applicant was nine months old, and he was not allowed to see his mother. His wife, who he married in Cyprus in 1990, lives with him in the U.S. She was born in England but her parents are from Iran. Applicant has two sons who were born in the U.S. He has not spoken to his mother in 17 years. The only time he saw her after his parents' divorce was his wedding in Cyprus. He does not have any contact with his father. However, he telephones his aunt in Iran once a month. She is almost 70 years old and is a homemaker. Applicant reports that she is his only family.¹⁷

His wife speaks to her mother in Iran. They are trying to bring her to the U.S. as a permanent resident. Applicant filed a Petition for his mother-in-law with the Department of Homeland Security in 2005.¹⁸ They received a letter from the National Visa Center in 2006, requesting more information for his mother-in-law's immigrant visa.¹⁹ Applicant's father-in-law is deceased.

Applicant has one brother-in-law in Iran. His wife speaks to her brother, who owns a private business, three or four times a year. His wife traveled to Iran approximately 10 years ago to visit her family. Applicant has never returned to Iran, and he does not wish to return to Iran. He values his life in the U. S. and his ability to provide for his family.

Applicant loves his job. He considers himself loyal to the U. S. He denies that he has a preference for Iran to the United States. He enjoys working and living in the U. S. He considers himself a good citizen.²⁰

¹³Tr.52.

¹⁴Tr. 61.

¹⁵Tr. 63.

¹⁶Tr. 87.

¹⁷Tr.132-133.

¹⁸AE B (Petition for Alien Relative, Department of Homeland Security, dated September 18, 2005) at 1-2.

¹⁹AE C (Letter from National Visa Center, dated June 30, 2006) at 1-3.

²⁰Applicant's memorandum, dated September 2006, at 1.

The U.S. Government's concerns with Iran's policies are: (1) its clandestine efforts to acquire nuclear weapons and other weapons of mass destruction (WMD), (2) its sponsorship of international terrorism, (3) its intervention into the internal affairs of Iraq, (4) its aggressive efforts to undermine the Middle East peace process, and (5) its human rights violations against its own people.²¹

The U.S. designates Iran as a state sponsor of terrorism, one of a half-dozen countries, and characterizes it as "the most active state sponsor."²² As a state sponsor of terrorism, Iran provides critical support to non-state terrorist groups.²³ Iran regularly provides "unique safe haven, substantial resources and guidance to terrorists organizations."²⁴ As a state sponsor of terrorism with nuclear ambitions, Iran poses a "grave WMD terrorism threat."²⁵ Iran supports terrorist activity against the U.S. forces in Iraq.

POLICIES

The President has "the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information." In Executive Order 10865, *Safeguarding Classified Information Within Industry* (Feb. 20, 1960), the President set out guidelines and procedures for safeguarding classified information and determining trustworthiness within the executive branch.

To be eligible for a security clearance or access to sensitive information, an applicant must meet the security guidelines contained in the Directive. The revised Adjudicative Guidelines set forth potentially disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. Additionally, each security decision must be a fair and impartial commonsense decision based on the relevant and material facts and circumstances, the whole-person concept, along with the adjudicative process factors listed in paragraph 6.3 of the Directive and AG paragraph 2(a).

Because the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept," all available, reliable information about the person, past and present, favorable and unfavorable, should be considered in making a meaningful decision. The Adjudicative Process factors which an administrative judge should consider are: (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 voluntariness of participation; (6) the presence or absence of rehabilitation and other pertinent behavioral changes; (7) the motivation for the conduct; (8) the

²¹Background Note at 8; U.S. Department of State, Office of the Coordinator for Counterterrorism, *Country Reports on Terrorism -2005*, dated April 2006, (Reports on Terrorism) at 21.

²²Reports on Terrorism at 171 and 173.

²³*Id.* at 171.

²⁴*Id.* at 173.

²⁵*Id.*

potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Based upon a consideration of the evidence as a whole, I find the following adjudicative guidelines most pertinent to the evaluation of the facts in this case:

Guideline B - 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.

Guideline H - Drug Involvement: Use of an illegal drug or misuse of a prescription drug can raise questions about an individual's reliability and trustworthiness, both because it may impair judgement and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations.

Guideline E - Personal Conduct: 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.

Since the protection of the national security is the paramount consideration, the final decision in each case must be arrived at by applying the standard that the issuance of the trustworthiness eligibility is "clearly consistent with the interests of national security" or "clearly consistent with the national interest."²⁶ For the purposes herein, despite the different wording in each, I have concluded all of the standards are the same. 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 that are grounded on mere speculation or conjecture.

In the decision-making process, the burden of producing evidence initially falls on the government to establish a case which demonstrates, in accordance with the Directive, that it is not clearly consistent with the national interest to grant or continue an applicant's access to sensitive information.²⁷ If the government meets its burden, the heavy burden of persuasion then falls upon the applicant to present evidence in refutation, explanation, extenuation or mitigation sufficient to

²⁶The Directive, as amended by Change 4, dated April 20, 1999, uses 'clearly consistent with the national interest' (Sec. 2.3; Sec.2.5.3; Sec 3.2.; and Sec. 4.2.; Enclosure 3, Sec. E3.1.1.; Sec. E3.1.2.; Sec. E3.1.2.5.; Sec. E3.1.2.6.; and Sec. E3.1.2.7.), "clearly consistent with the interests of national security" (Enclosure 2, Sec. E2.2.3.); and "clearly consistent with national security" (Enclosure 2, Sec. E2.2.2.).

²⁷ISCR Case No. 96-0277 (July 11, 1997) at 2.

overcome the doubts raised by the government's case, and to ultimately demonstrate it is clearly consistent with the national interest to grant or continue the applicant's eligibility.²⁸

A person who seeks access to sensitive information enters into a fiduciary relationship with the government predicated upon trust and confidence. It is a relationship that transcends normal duty hours and endures throughout off-duty hours as well. Because of this special relationship, the government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to sensitive information. Decisions under this Directive include, by necessity, consideration of the possible risk that an applicant may deliberately or inadvertently fail to protect or safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of sensitive information. Any doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of national security.²⁹

One additional comment is worthy of note. Applicant's allegiance, loyalty, and patriotism are not at issue in these proceedings. Section 7 of the Executive Order 10865 specifically provides that industrial security clearance 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." Trustworthiness determination decisions cover many characteristics of an applicant other than allegiance, loyalty, and patriotism. Nothing in this decision should be construed to suggest I have based this decision, in whole or in part, on any express or implied decision as to Applicant's allegiance, loyalty or patriotism.

CONCLUSIONS

Upon consideration of all the facts in evidence, and after application of all appropriate legal precepts, factors, and conditions, I conclude the following with respect to each allegation set forth in the SOR.

Foreign Influence

Applicant's mother, mother-in-law, aunt, and brother-in-law are residents and citizens of Iran. This raises a security concern, under Foreign Influence Disqualifying Condition (FI DC) AG ¶ 7 (a) *contact with a foreign family member, business, or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure or coercion.*

When the Government's initial burden has been met and a disqualifying condition raised, the burden shifts to the Applicant to go forward with evidence in rebuttal, explanation, or mitigation, which is sufficient to overcome or outweigh the Government's case.

Although one of Applicant's relatives (his mother-in-law) is in the process of emigrating to the U. S. and he has no contact with his mother or father, the group of relatives are considered as a

²⁸ISCR Case No. 94-1075 (August 10, 1995) at 3-4; Directive, Enclosure 3, Para E3.1.15.

²⁹Directive, Enclosure 2, Para. E2.2.2

whole.³⁰ Even if only one relative lives in Iran, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information. *See* ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006). 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. ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001). However, such ties do raise a security concern under FI DC 7 (a) and Applicant is required to present evidence of rebuttal, extenuation or mitigation sufficient to meet his burden of persuasion that it is clearly consistent with the national interest to grant or continue a security clearance for him. *Id.*

Security concerns based on foreign influence can be mitigated by showing that any of the six foreign influence mitigating conditions (FI MC) exist. FI MC AG ¶ 8(a) recognizes that security concerns are reduced when *the nature of the relationships with foreign persons, the country in which these persons are located, or the positions of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S.* The Appeal Board has decided that Applicant must prove that his family members, cohabitant or associates are not in a position to be exploited in a way that could force Applicant to choose between the person(s) involved and the U.S. ISCR Case No. 02-14995 at 5 (App. Bd. July 26, 2004).

The Appeal Board has also interpreted language in the mitigating condition as an absolute standard; i.e., an applicant must affirmatively prove that there is no possibility that anyone might attempt to exploit or influence a foreign relative or acquaintance in the future.³¹

This mitigating condition focuses on a very specific type of threat - the risk of a foreign entity exploiting an applicant's foreign relatives in such a way as to cause an applicant to act adversely to the U. S. The Appeal Board has limited the applicability of FI MC 1 where there is a history of terrorist activity in the foreign country in question.³²

Applicant's mother, mother-in-law, aunt, and brother-in-law are citizens of Iran, but they do not work for the government of Iran. The evidence does not establish that his family members living in Iran are in any way associated with the government.

The nature of a nation's government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable to government coercion. The risk of coercion, persuasion or duress is significantly greater if the foreign country has an authoritarian government, a family member is dependent upon the government, or the country is known to conduct intelligence operations against the United States. The hostility of Iran to the United States places a "very heavy burden of persuasion" on Applicant to demonstrate that

³⁰*See e.g.* ISCR case No. 02-24566 at 3 (App. Bd. July 17, 2006) (noting security concerns because applicant's brother and mother in-law live in Iran).

³¹ISCR Case No. 03-17620 at 4 (App. Bd. Apr. 17, 2006)("[FI MC] 1 does not apply because, as is well settled, it requires that Applicant demonstrate that his relatives are not in a position which could force Applicant to choose between his loyalty to them and his loyalty to the United States.") ISCR Case. No.03-02382 at 5 (App. Bd. Feb. 15, 2005).

³²ISCR Case. No. 03-22643 (App. Bd. Jun. 24, 2005); ISCR Case No. 02-22461 at 5 (App. Bd. oct. 22, 2005).

his immediate family members in Iran do not pose security risk and he is not in a position to choose between loyalty to the United States and his family members.³³ With its adversarial stance and its dismal human rights record, it is conceivable that Iran would target any citizen in an attempt to gather information from the United States.

There is no evidence that his mother, mother-in-law, aunt, or brother-in-law are or have been, political activists, challenging the policies of the Iranian government. Likewise, there is no evidence that these relatives work for the Iranian government or military. There is no evidence that the Iranian government has approached any of his Iranian family for any reason, nor is there evidence that his family living in Iran engages in activities that would bring attention to themselves or that they are even aware of his work. As such there is a reduced possibility that they would be targets for coercion or exploitation by the Iranian government, which regularly seeks to quiet those who speak out against it. Applicant deserves some credit because of the reduced possibility that Iran will exploit his family, but this mitigating condition cannot be applied in this case because even if there was substantial evidence of the family members' low-key noncontroversial lifestyle, and the fact that the Iranian government has not contacted them about Applicant in the past, such factors are insufficient to support the application "because of the nature of the Iranian government and its relationship to the United States." *See* n.33, *infra* (explaining that absence of evidence does not shift burden to government to prove anything in security clearance cases).

FI MC AG ¶ 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 U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest* applies because Applicant has been in the U. S. for 30 years. His wife and family are with him in the U.S. His sons are U.S. citizens and his mother-in-law is in the process of emigrating to the U.S. He has no contact with his mother or father. He does not wish to return to Iran. He has not been to Iran since he left 30 years ago.

FIMC AG ¶ 8 (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* does not apply in this case. Applicant has monthly contacts with his Aunt by telephone. His wife calls her mother frequently and he speaks to her brother several times a year.³⁴

Applicant's statement about his loyalty to the U. S. is credible, and there is no reason to believe that he would take any action which could cause potential harm to his U.S. family or to this country. If the Iranian government should threaten harm to his family member living in Iran to contact him, I am persuaded that he would report this activity to the U.S. authorities. There is no evidence that he has revealed to his family in Iran the nature of his work or about applying for a position of public trust. I cannot, however, find that Applicant has mitigated the government's security concerns as to Guideline B because the absence of evidence does not overcome the heavy burden the Appeal Board has established through case law concerning applicant's from Iran.

³³*See* ISCR Case No. 04-11463 at 4 (App. Bd. Aug. 4, 2006).

³⁴*See* ISCR Case. No. 04-09541 at 2-3 (App. Bd. Sept. 26, 2006).

Drug Involvement

Applicant admits that he used pain killers, without a prescription, with varying frequency from 1999 until February 2003. He tested positive several times for a prescription drug in 2001 and 2002. This raises Drug Involvement Disqualifying Condition (DI DC) AG ¶ 25 (a) (*any drug abuse*) and 25 (b) (*testing positive for illegal drug use*).

Applicant has been in recovery since 2000, when he voluntarily entered a treatment program. Despite his relapses, he is following his treatment program under the State Board Program, and no longer uses drugs. He has been sober for four years. Applicant attends self-help meetings, group therapy, and is subject to random drug screening. He is in compliance with all the requirements under his Consent Agreement. He completed outpatient treatment after his relapse in 2001 and 2003. Applicant's pharmacy license is restricted at this point by the State Board to an environment in which he does not dispense drugs. He has been successful in this environment since 2003 and enjoys the work. He has insight into his problems with stress and depression. He currently takes prescription medication for the depression and works with his physician closely in monitoring his health. His probation status ends in 2008. Thus Drug Involvement Mitigating Condition (DI MC) AG ¶ 26 (b) *a demonstrated intent not to abuse any drugs in the future, such as: (2) changing or avoiding the environment where drugs were used; (3) an appropriate period of abstinence* applies. Thus, Applicant has mitigated the security concerns under Drug Involvement.

Personal Conduct

Applicant was terminated from two pharmacies for stealing prescription drugs from the inventory and using them without a prescription in 2001 and 2003. He also failed two drug screening tests while under his consent agreement with the state board. His license was put in a probationary status. Personal Conduct Disqualifying Condition (PC DC) AG ¶ 16 (d) *credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability...* is raised in this case.

Applicant acknowledged his problem, obtained counseling and continued to work diligently to retain his license. He paid restitution and bound himself to a Consent Agreement so that he could continue to recover and yet change his behavior. Despite relapse, he persevered and is on the last year of a 5 year probation. He recognized that it may well serve him to avoid the retail component of his role as a pharmacist. Thus, Personal Conduct Mitigating Condition (PC MC) AG ¶ 17 (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 the inappropriate behavior, and such behavior is unlikely to recur* applies in this case.

Whole Person

In all adjudications, the protection of our national security is the paramount concern. The objective of the security clearance process is the fair-minded, commonsense assessment of a person's life to make an affirmative determination that the person is eligible for assignment to sensitive duties. As noted above, the adjudicative process is a careful weighing of a number of variables in considering the whole person concept. It recognizes a person be viewed by the totality of his or her

acts, omissions, motivations and other variables. Each case must be adjudged on its own merits, taking into consideration all relevant circumstances, and applying sound judgment, mature thinking, and careful analysis.

I considered both the record evidence and Applicant in light of the whole-person concept. Foreign influence does not involve misconduct, voluntariness of participation, rehabilitation and behavior changes, etc.³⁵ Accordingly, the eighth adjudicative process factor is probably the most relevant. The eighth factor provides, " the potential for pressure, coercion, exploitation or duress." Iran's government is hostile to the United States and does not conform to widely accepted norms of human rights. Applicant has close, multiple family member who live in Iran. He has frequent contact with them. Under the circumstances, there is a significant possibility of pressure, coercion, exploitation or duress.

As indicated in the statement of facts, there are many other countervailing, positive attributes to Applicant's life as a U.S. citizen. He is patriotic, loves the U. S. and would not permit Iran to exploit him. he has close ties to the United States. his closest family members are his wife and two children. They are U.S. citizens and live with him. Because his wife and children live in the U.S., they are not vulnerable to coercion or exploitation, except possibly indirectly through relatives, who still live in Iran. Applicant has lived in the United States for 30 years. He and his wife are attempting to have his mother-in-law emigrate to the U.S. The "whole person" analysis in a Guideline B case should include "the totality of an applicant's conduct and circumstances including the realistic potential for exploitation as well as the eight factors discussed in the previous paragraph. In this case, Applicant's potential for exploitation is low. I base this finding on his credible and sincere testimony, and I do not believe he would compromise national security, or otherwise comply with Iranian threats. However, the absence of evidence under the Appeal Board's jurisprudence is of very limited probative value and information about his strong connections to the U. S. are insufficient to outweigh Guideline B concerns. After weighing the disqualifying and mitigating conditions, all facts and circumstances, in the context of the whole person, I conclude Applicant has not mitigated the trustworthiness concerns pertaining to foreign influence. Because any doubts must be resolved in favor of national security, I find the allegations regarding foreign influence in the government's favor. Eligibility is denied.

FORMAL FINDINGS

Formal Findings For or Against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline B:	AGAINST APPLICANT
Subparagraph 1.a:	AgainstApplicant
Subparagraph 1.b:	Against Applicant
Paragraph 2, Guideline E:	FOR APPLICANT

³⁵The concerns under personal conduct and drug involvement are mitigated and thus, I do not address them.

Subparagraph 2.a: For Applicant
Subparagraph 2.b: For Applicant

Paragraph 3, Guideline H: FOR APPLICANT

Subparagraph 3. a: For Applicant
Subparagraph 3. b: For Applicant
Subparagraph 3.c: For Applicant

DECISION

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

Noreen A. Lynch
Administrative Judge