

DATE: December 27, 2006

In re:

SSN: -----

Applicant for Security Clearance

CR Case No. 06-05855

DECISION OF ADMINISTRATIVE JUDGE

MARY E. HENRY

APPEARANCES

FOR GOVERNMENT

John Bayard Glendon, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant and his wife were born and raised in the Islamic Republic of Iran. They became United States citizens in 1995. His son was born in the United States. His family lives with him in the United States. Security concerns have been raised because his elderly father, father-in-law, two brothers, and brother-in-law are citizens and residents of Iran, and his sister-in-law and her husband are citizens of Iran and the United Kingdom, residing in the United Kingdom. Because of his close family ties, Applicant has not mitigated the security concerns arising from possible foreign influence. Clearance is denied.

STATEMENT OF THE CASE

On June 12, 2006, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant, pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified. The SOR detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Specifically, the SOR set forth security concerns arising under Guideline B (Foreign Influence), of the Directive. DOHA recommended the case be referred to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. On June 29, 2006, Applicant submitted a notarized response to the allegations. He requested a hearing.

This matter was assigned to another administrative judge on July 5, 2006 and reassigned to me on August 25, 2006. DOHA issued a Notice of Hearing on August 31, 2006, and an Amended Notice of Hearing on September 13, 2006. Applicant agreed to waive the 15-day notice of hearing required as to the amended notice. I conducted a hearing on September 20, 2006. The government submitted two exhibits, which were marked and admitted into evidence as Government Exhibits 1 and 2. Applicant submitted five exhibits, which were marked and admitted into evidence as Applicant's Exhibits A through E. I took administrative notice of six documents marked and admitted as Administrative Notice I through VI. The hearing transcript (Tr.) was received on September 28, 2006.

FINDINGS OF FACT

Applicant admitted the factual statements describing his connections to Iran under Guideline B in subparagraphs 1.a. through 1.h. (1) Those admissions are incorporated as findings of fact. After a complete review of the evidence in the record and upon due consideration, I make the following findings of fact.

Applicant is a 54-year-old senior principle mechanical engineer for a defense contractor. He has worked for this contractor for two years. He completed a security clearance application (SF 86) in January 2005. (2)

Applicant was born and raised in the Islamic Republic of Iran (Iran). He immigrated to the United States (U.S.) in 1976 on a student visa. Subsequent to his arrival, he obtained a masters degree and a doctorate degree from major U.S. universities. He married his wife, who was born and raised in Iran, in Germany in 1984. Their marriage allowed her to immigrate to the U.S. because as a student, he had an F-1 visa (student). He and his wife became naturalized U.S. citizens in 1995, and he applied for a U.S. passport the same day. His son, who is 6 years old, is a U.S. citizen by birth. He considers the United States as his place of birth since becoming a U.S. citizen. His wife and son live with him in the United States. (3)

Because he and his wife were born and raised in Iran, Iran considers them citizens as well as their son. Applicant never served in the Iranian military. He arrived in the U.S. 30 years ago on an Iranian passport, which he renewed twice, before allowing it to expire. Should he decide to travel in Iran, he would need an Iranian passport. Iran will not issue him a tourist visa based on his U.S. passport, since he was born in Iran. He last traveled to Iran in the summer of 1979. His wife last traveled to Iran in the early 1990s and his son has never been to Iran. (4)

Applicant's mother died. His 80-year-old father resides in Iran and is a citizen of Iran. His father has a U.S. permanent resident card (green card). His father has periodically traveled to the U.S. at his own expense, the last time in 2001. Applicant paid for his parents plane ticket for a visit to the U.S. in the early 1990s, but has not provided any other financial support to his family. His father is a retired small business owner (grocery store), who derives his retirement income from the shop rental and savings. His father gets medical insurance through Applicant's older brother, but does not receive a government pension. Applicant speaks by telephone with his father every two weeks. Their conversations focus on family, health, weather or special events, and lasts only a short time. He is close to his father. At the hearing, he acknowledged that if his father were sick, he would like to visit him in Iran. (5)

Applicant's two brothers are Iranian citizens by birth and reside in Iran. One brother works for a telecommunications company owned by the Iranian government. Applicant and this brother communicate regularly by e-mail. They talk by telephone every two months or so. His other brother works as a high school teacher. He has not spoken with this brother in 1 ½ to 2 years, and does not communicate with him by e-mail. Both brothers incomes are paid through the Iranian government. He provides no financial support to his brothers. His brothers cannot get visas to visit the U.S., nor are they involved in political activity, protests against the Iranian government, or members of the press. Their wives do not work outside their homes. (6)

Applicant's father-in-law is 72, and an Iranian citizen living in Iran. He is a retired Army officer, who served under the Shah. He has been retired from the Army with a military pension since the end of the Shah's government. He has a U.S. permanent resident card (green card), and visits the U.S. every year, staying for about two months. Applicant pays his father-in-law's travel expenses to the U.S. Applicant's sister-in-law lives in England with her husband and children. His sister-in-law and her husband are citizens of the United Kingdom and Iran. Applicant's wife speaks by telephone with her sister about once a week and he speaks with his sister-in-law about once a month. Applicant and his wife have visited them in the United Kingdom several times. His wife's brother is an Iranian citizen living in Iran. His wife talks with her brother a few times a year. He does not provide financial support for his wife's siblings. (7)

Applicant voted in an Iranian election on his only visit to Iran since coming to the U.S. Now that he is a U.S. citizen, he votes in U.S. elections. He also testified that he would retire to Iran if this regime goes away and democracy is established. His family is Muslim. To his knowledge, the Iranian government has not arrested or persecuted any family

member or confiscated family property.⁽⁸⁾

Applicant's supervisor testified on his behalf. His supervisor describes him as forthright, honest and highly respected by management and his peers. His supervisor has full confidence in his loyalty to the U.S. and requests that his clearance be granted, at least at the confidential level. His colleagues and friends describe him as a dedicated and hard-working employee, who is loyal and honest. He recently received the Distinguished Committee Service Award from his employer.⁽⁹⁾

In support of his contention that he is not a security risk, Applicant made the following argument at the hearing:

"...the Country of Iran is hijacked by a bunch of extremist fanatics and that doesn't mean that 70 million people are agents of this regime..." and "... being born in Iran does not make you an agent of that government and having association with people who are of Iranian ancestry does not make you a security vulnerability."⁽¹⁰⁾

I take administrative notice of the following facts. Iran is an authoritarian, constitutional, theocratic republic, dominated by the Shi'a Muslim clergy.⁽¹¹⁾ Human rights violations continue, particularly against journalists who speak out against Iran's current government, minority religions, such as the Baha'i faith, and political activists, who oppose the current ruling regime.⁽¹²⁾ Serious mistreatment of prisoners occurs.⁽¹³⁾ Although human rights violations are prohibited by law, the Iranian government does not enforce the law.⁽¹⁴⁾ The current Iranian government supports and actively sponsors terrorism, especially against the U.S.⁽¹⁵⁾

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines which must be considered in the evaluation of security suitability. An administrative judge need not view the adjudicative guidelines as inflexible ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines, when applied in conjunction with the factors set forth in the adjudicative process provision in Paragraph E2.2., Enclosure 2 of the Directive, are intended to assist the administrative judge in reaching fair and impartial common sense decisions.

Included in the guidelines are disqualifying conditions and mitigating conditions applicable to each specific guideline. Although the presence or absence of a particular condition or factor for or against clearance is not outcome determinative, the adjudicative guidelines should be followed whenever a case can be measured against this policy guidance. In addition, each security clearance decision must be based on the relevant and material facts and circumstances, the whole-person concept, and the factors listed in the Directive. Specifically, these are: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct; (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 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.⁽¹⁶⁾

The sole purpose of a security clearance determination is to decide if it is clearly consistent with the national interest to grant or continue a security clearance for an applicant.⁽¹⁷⁾ The government has the burden of proving controverted facts.⁽¹⁸⁾ The burden of proof is something less than a preponderance of the evidence.⁽¹⁹⁾ Once the government has met its burden, the burden shifts to the applicant to present evidence of refutation, extenuation, or mitigation to overcome the case against him.⁽²⁰⁾ Additionally, an applicant has the ultimate burden of persuasion to obtain a favorable clearance decision.⁽²¹⁾

No one has a right to a security clearance,⁽²²⁾ and "the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials."⁽²³⁾ Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.⁽²⁴⁾ Section 7 of Executive Order 10865 specifically provides 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." The decision to

deny an individual a security clearance is not necessarily a determination as to the allegiance, loyalty, and patriotism of an applicant. ⁽²⁵⁾ It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

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

Foreign Influence - Guideline B: A security risk may exist when an individual's immediate family, including cohabitants, and other persons to whom he or she may be bound by affection, influence, or obligation are not citizens of the United States or may be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information. Contacts with citizens of other countries or financial interests in other countries are also relevant to security determinations if they make an individual potentially vulnerable to coercion, exploitation, or pressure. Directive ¶ E2.A.2.1.1.

CONCLUSIONS

Under Guideline B, a potential for foreign influence raises questions regarding an applicant's willingness or ability to protect classified information and are relevant to security concerns "if they make an individual potentially vulnerable to coercion, exploitation, or pressure." Directive ¶ E2.A.2.1.1. To determine if a concern exists, an administrative judge must consider the facts of record under the eight disqualifying conditions.

Upon consideration of all the facts in evidence, and after application of all appropriate adjudicative factors, I conclude the following with respect to the allegations set forth in the SOR.

In this case, Foreign Influence Disqualifying Condition (FI DC) E2.A3.1.2.1 (*An immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country*) applies. Directive ¶ E2.A.2.1.3.1 defines "immediate family members" to include a spouse, father, mother, sons, daughters, brothers, and sisters. Applicant's father and two brothers live in and are citizens of Iran. This "could create the potential for foreign influence that could result in the compromise of classified information. The mere possession of family ties with a person in a foreign country is not, as a matter of law, disqualifying under Guideline B. ⁽²⁶⁾ However, such ties do raise a *prima facie* security concern sufficient to require an applicant to present evidence of rebuttal, extenuation or mitigation sufficient to meet the applicant's burden of persuasion that it is clearly consistent with the national interest to grant or continue a security clearance for him. ⁽²⁷⁾

Although the definition of family member in ¶ E2.A.2.1.3.1 does not include in-laws, the Appeal Board has opined that it includes a rebuttable presumption that a person has ties of affection for, or obligation to, the immediate family members of the person's spouse. *See* ISCR Case No. 02-31154 at 4, fn. 4 (citing ISCR Case No. 01-03120 (App. Bd. Feb. 20, 2002))(App. Bd. Sept. 25, 2005). Applicant's father-in-law and one brother-in-law are Iranian citizens living in Iran. His sister-in-law and her husband are Iranian and British citizens living in the United Kingdom. In light of the Appeal Board's decision, his in-laws may also pose a security risk because of residence or citizenship or both.

Guideline B sets forth several factors which may mitigate the government's concerns about an applicant's security worthiness. An applicant may mitigate the disqualifying condition under Foreign Influence Mitigating Conditions (FI MC) E2.A.2.1.3.1 (*A determination that the immediate family member(s), (spouse, father mother, sons, daughters, brothers, sisters), cohabitant, or associate(s) in question are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person(s) involved and the United States*). Notwithstanding the facially disjunctive language of FI MC 1, Applicant must prove that his family members, cohabitant or associates are not agents of a foreign power, and are not in a position to be exploited by a foreign power in a way that could force Applicant to chose between the person(s) involved and the U.S. ⁽²⁸⁾

50 U.S.C. § 1801(b) defines "agent of a foreign power" to include anyone who acts as an officer or employee of a foreign power in the United States, engages in international terrorism, or engages in clandestine intelligence activities in the U.S. contrary to the interests of the U.S. or involving a violation of the criminal statutes of the United States. The definition was added to 50 U.S.C. § 438 by the Intelligence Authorization Act for Fiscal Year 1995, Public Law 103-

359, October 14, 1994, and subsequently included in the Directive through Change 4, dated April 20, 1999.

The Appeal Board, however, does not apply the statutory definition of "agent of a foreign power." Instead, the Appeal Board has held that "An employee of a foreign government need not be employed at a high level or in a position involving intelligence, military, or other national security duties to be an agent of a foreign power for purposes of Foreign Influence Mitigating Condition 1." ISCR Case No. 02-24254, 2004 WL 2152747 (App. Bd. Jun. 29, 2004). In a series of decisions, the Appeal Board applies a broad definition. *See* ISCR Case No. 03-10954 at 3 (App. Bd. Mar. 8, 2006) (attorney/consultant to an entity controlled by a foreign ministry is an "agent of a foreign power"); ISCR Case No. 03-19101 at 6 (App. Bd. Jan. 21, 2006) (part-time secretary for the Ministry of Religion is an "agent of a foreign power"); ISCR Case No. 02-2454 at 4-5 (App. Bd. June 29, 2004) (employee of a city government was an "agent of a foreign power"); ISCR Case No. 03-04090 at 5 (App. Bd. Mar. 3, 2005) (employee of the Israeli government is an "agent of a foreign power"); ISCR Case No. 02-29143 at 3 (App. Bd. Jan. 12, 2005) (a member of a foreign military is an "agent of a foreign power").

The second prong of Mitigating Condition 1 (Directive, ¶ E2.A2.1.3.1) provides that it is potentially mitigating where the "associate(s) in question are not . . . in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person involved and the United States." The Appeal Board interprets this language as establishing 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. *See* ISCR Case No. 03-17620 at 4 (App. Bd. Apr. 17, 2006) ("MC1 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).⁽²⁹⁾

Mitigating Condition 1 does not, by its express terms, exclude from consideration applicants with relatives or associates in countries where terrorism has occurred, any more than it excludes person from countries where there are foreign governments, foreign political organizations, or foreign non-governmental organizations. Rather, it focuses on a very specific type of threat—the risk of a foreign power exploiting an applicant's foreign relatives in such a way as to cause an applicant to act adversely to the interests of the United States. The Appeal Board holds Mitigating Condition 1 does not apply where there is a history of terrorist activity in the foreign country in question. ISCR Case No. 03-22643, 2005 DOHA Lexis 159 (App. Bd. Jun. 24, 2005); ISCR Case No. 02-22461 at 5 (App. Bd. Oct. 22, 2005).

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. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, or the country is known to conduct intelligence operations against the U.S.

The government produced substantial evidence to establish the disqualifying conditions. The burden shifted to Applicant to produce evidence to rebut, explain, extenuate, or mitigate the facts. Applicant's closest family members are his wife, a U.S. citizen, and son, who is a U.S. born citizen. They live with him in the U.S. His wife is very close to her sister, who resides in the United Kingdom with her family. His immediate family in the U.S. and his in-laws in the United Kingdom have no Iranian governmental connections and are not agents of a foreign power. Because these family members are in the U.S. or in the United Kingdom, they are not vulnerable to coercion or exploitation by Iran. The Applicant has mitigated the government's concerns as to these family members.

Applicant's remaining family members live in Iran. His father, who is a citizen of Iran, is a retired small business owner who provides his own retirement income. He does not depend upon Applicant for financial support. His brothers are citizens of Iran and live there. One works as a high school teacher and one works for a telecommunications company. The government ultimately provides their income, including medical coverage for Applicant's father. His father-in-law receives a military retirement pension. His brother-in-law lives in Iran. Under the current Appeal Board decisional law, these family members are "agents of a foreign power" because they live in Iran and some work for employers funded by the Iranian government.

His retired, elderly father and retired, elderly father-in-law live quietly. They are not, and have not been, political

activists or journalists, challenging the policies of the Iranian government. Likewise, his brothers and brother-in-law are not politically active, and do not work directly for the current Iranian government or military or news media. His family members' religion is Muslim, thus, they are not targeted by the Iranian government because of their religious beliefs. Because these family members live quietly, avoid activities which would bring attention to themselves and are unaware of his work, they are not likely targets for coercion or exploitation by the Iranian government, which regularly seeks to quiet those which speak out against it. He has no contact with extended family members or old friends still living in Iran. Despite their lack of political or journalistic activism, their Muslim religion, and no previous governmental activity against his family members by the Iranian government, the Appeal Board decisions hold that his family in Iran could be subject to coercion and exploitation by the Iran government. *See* ISCR No, 04-12500 at 3 (App. Bd. Oct. 26, 2006). Thus, I conclude that Applicant has not mitigated the government's security concerns under FI MC E2.A2.1.3.1 as to these family members.

FI MC E2.A2.1.3.3 (*Contact and correspondence with foreign citizens are casual and infrequent*) applies to allegation 2.b as to the one brother because Applicant has not spoken or otherwise communicated with this brother in at least 18 months. Thus, his contacts with this brother are infrequent and casual. Applicant talks regularly with his father and his other brother by telephone. He also frequently communicates with this brother by e-mail. His father-in-law comes to the U.S. at least once a year, and he visits his sister-in-law and her family in the United Kingdom often. His contacts with these family members are frequent and not casual. *See* ISCR No, 04-12500 at 4 (App. Bd. Oct. 26, 2006). He has not mitigated the government's concerns. [\(30\)](#)

Finally, none of the individual family circumstances discussed above are determinative. Rather, these circumstances must be considered together under the "whole person concept", which includes consideration of Applicant's evidence of his family's absence of governmental connections; financial dependence, or lack thereof, on the government; or business connections susceptible to industrial espionage. To ignore such evidence would establish a virtual per se rule against clearing applicants with foreign family ties.

In 2006, the Appeal Board addressed Guideline B cases involving relatives in Iran on at least seven occasions. While there is no *per se* requirement to deny clearances for United States citizens with relatives living in Iran, in 2006 all four Appeal Board cases involving Judge's decisions approving clearances were reversed. *See* ISCR Case No. 04-12500 (App. Bd. Oct. 26, 2006); ISCR Case No. 04-09541 (App. Bd. Sep. 26, 2006); ISCR Case No. 04-11463 (App. Bd. Aug. 4, 2006); ISCR Case No. 02-24566 (App. Bd. July 17, 2006). All three Appeal Board decisions involving Judge's decisions denying clearances were affirmed. *See* ISCR Case No. 02-28838 (App. Bd. Jun. 12, 2006); ISCR Case No. 03-23259 (App. Bd. May 10, 2006); ISCR Case No. 03-10954 (App. Bd. Mar. 8, 2006), *see also* ISCR Case No. 03-23236 (App. Bd. Feb. 17, 2006) (holding that delivery of Iranian passport to employer was insufficient to demonstrate relinquishment of passport). The Appeal Board has made it clear that the character of the Iranian government and an applicant's contacts with family members living in Iran weighs very heavily towards denial of a clearance.

While the nature of Iran's government, its human rights record, and its relationship with the U.S. are clearly not determinative, they are relevant factors to be considered. The nature of Iran's government, its human rights record, and its relationship with the United States create "a very heavy burden of persuasion to overcome the security concerns raised by the fact that the Applicant has family members living in Iran." ISCR Case No. 04-11463 at 4 (App. Bd. Aug. 4, 2006) (making findings about Iran's relationship with the United States and the potential for foreign influence, reversing Administrative Judge and ordering denial of clearance).

Applicant credibly testified about his love of and loyalty to the U.S. His U.S. family comes first. He would not take any action which could cause potential harm to his U.S. family. However, he is very close to his father and one brother in Iran. If his father became ill, he would return to Iran to visit, and to do so he must obtain an Iranian passport. Should he return to Iran for any reason, Applicant could be placing himself or family members at risk for harm should he have a security clearance. The Iranian government actively supports terrorism, especially against the United States, his adopted homeland. The Iranian government's stance places members of his family at risk for coercion, exploitation, or pressure which could cause Applicant to choose between protecting classified information and his family. His close family ties would make it difficult for him to permit harm to his family. His employer speaks highly of his skills and work ethic, and does not believe he is a security risk. However, based on the Appeal Board's decisional law and his strong family ties, I find that it is not clearly consistent with the national interest to grant a security clearance to Applicant.

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: Against Applicant

Subparagraph 1.b: Against Applicant

Subparagraph 1.c: Against Applicant

Subparagraph 1.d: Against Applicant

Subparagraph 1.e: For Applicant

Subparagraph 1.f: For Applicant

Subparagraph 1.g: For Applicant

Subparagraph 1.h: For Applicant

DECISION

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 a security clearance for Applicant. Clearance is denied.

Mary E. Henry

Administrative Judge

1. Applicant's response to the SOR, dated June 29, 2006, at 1-2.
2. Government Exhibit 1 (Applicant's security clearance application, dated January 27, 2005) at 1-2; Tr. at 29, 35.
3. Tr. at 27, 30, 32, 36-37, 62-63; Government Exhibit 1, *supra* note 2, at 1.
4. Tr. at 31-33, 43, 54, 57, 59-60.
5. *Id.* at 38-41, 44-46, 54-55, 58.
6. *Id.* at 42-43, 47-49, 60-61.
7. *Id.* at 49-53.
8. *Id.* at 31-32, 46, 55, 70, 83.
9. *Id.* at 67; Applicant Exhibit B (Undated letter from supervisor); Applicant Exhibit C (Letter, dated September 15, 2006); Applicant Exhibit D (Letter, dated September 8, 2006); Applicant Exhibit E (Letter, dated August 29, 2006).
10. Tr. at 28-29.
11. Administrative Notice II (U.S. Department of State, Iran: Country Reports on Human Rights Practices 2005) at 1.
12. *Id.* at 2-28.

13. *Id.*

14. *Id.*

15. Administrative Notice I (U.S. Department of State Background Note: Iran August 2005) at 3-6; Administrative Notice III (U. S. Department of State, Country Reports on Terrorism 2005) at 2.

16. Directive,, ¶ E2.2.1.1. through E2.2.1.9.

17. ISCR Case No. 96-0277 at 2 (App. Bd., July 11, 1997).

18. ISCR Case No. 97-0016 at 3 (App. Bd., December 31, 1997); Directive, ¶ E3.1.14.

19. *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

20. ISCR Case No. 94-1075 at 3-4 (App. Bd. Aug. 10, 1995); Directive, ¶ E3.1.15.

21. ISCR Case No. 93-1390 at 7-8 (App. Bd. Decision and Reversal Order, January 27, 1995); Directive, ¶ E3.1.15.

22. *Egan*, 484 U.S. at 531.

23. *Id.*

24. *Id.*; Directive, ¶ E2.2.2.

25. Executive Order No. 10865 § 7.

26. ISCR Case No. 99-0424, 2001 DOHA LEXIS at 33-34 (App. Bd. Feb. 8, 2001)

27. *Id.*

28. ISCR Case No. 02-14995 at 5 (App. Bd. July 26, 2004); *see* 50 U.S.C. § 1801(b) (defining "agent of a foreign power").

29. The Appeal Board finds it legal error to consider any of the following facts because they are not "dispositive": a foreign relative's fragile health (ISCR Case No. 02-29403 at 4 (App. Bd. Dec. 14, 2004)); a foreign relative's advanced age (ISCR Case No. 02-00305 at 7 (App. Bd. Feb. 12, 2003)); a foreign relative's financial independence (ISCR Case No. 02-31154 at 6 (App. Bd. Sep. 22, 2005)); the number of family members in a foreign country (ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2005)); the fact that foreign relatives spend part of each year in the U.S. (ISCR Case No. 02-31154 at 6 (App. Bd. Sep. 22, 2005)); the lack of any connection between the foreign relative and the foreign government in question (ISCR Case No. 02-31154 at 6 (App. Bd. Sep. 22, 2005)); the absence of any attempt at exploitation in the past (ISCR Case No. 03-15205 at 4 (App. Bd. Jan. 21, 2005)); the lack of a relative's financial dependency upon an applicant (ISCR Case No. 03-15205 at 4 (App. Bd. Jan 21, 2005)); a foreign country's friendly relationship with the U.S., its stable, democratic government, or its extensive foreign military agreements with the U.S. (ISCR Case No. 02-22461 at 5-6 (App. Bd. Oct. 27, 2005)).

30. Foreign Influence Mitigating Conditions E2.A2.1.3.2 (*contacts with foreign citizens are the result of official United States Government business*), E2.A2.1.3.4 (*The individual has promptly reported to proper authorities all contacts, requests, or threats from persons or organizations from a foreign country, as required*), and E2.A2.1.3.5 (*foreign financial interests are minimal and not sufficient to affect the individual's security responsibilities*) do not apply because Applicant's contacts in Iran are personal, not for official United States government business; he does not own property in Iran; and he has not been contacted by foreign officials for any reason.