

KEYWORD: Foreign Influence

DIGEST: Applicant is a native of Iran who was granted asylum after the 1979 revolution ended his military career serving the Shah. He renounced Iranian citizenship and, with his Italian-born wife and daughters, are long-time U.S. citizens. His highly successful engineering career with a major corporation led to his selection by top management, with high-level government concurrence, to an important and demanding position requiring a clearance. His ties and relations in the U.S. weighed against minimal family contact in Iran, his character and history of protecting sensitive and classified information under identical circumstances, and the absence of any Iranian government contact with his family to date mitigated foreign influence security concerns. Clearance is granted.

CASENO: 06-26148.h1

DATE: 09/14/2007

DATE: September 14, 2007

_____)	
In re:)	
)	
-----)	ISCR Case No. 06-26148
SSN: -----)	
)	
Applicant for Security Clearance)	
_____)	

**DECISION OF ADMINISTRATIVE JUDGE
DAVID M. WHITE**

APPEARANCES

FOR GOVERNMENT

Jeff A. Nagel, Esq., Department Counsel

FOR APPLICANT

Scott M. Badami, Esq.

SYNOPSIS

Applicant is a native of Iran who was granted asylum after the 1979 revolution ended his military career serving the Shah. He renounced Iranian citizenship and, with his Italian-born wife and daughters, are long-time U.S. citizens. His highly successful engineering career with a major corporation led to his selection by top management, with high-level government concurrence, to an important and demanding position requiring a clearance. His ties and relations in the U.S. weighed against minimal family contact in Iran, his character and history of protecting sensitive and classified information under identical circumstances, and the absence of any Iranian government contact with his family to date mitigated foreign influence security concerns. Clearance is granted.

STATEMENT OF THE CASE

_____ Applicant applied for a security clearance on October 26, 2005, in conjunction with his employment by a defense contractor. On February 28, 2007, 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 Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended. The SOR detailed reasons, under Guideline B (Foreign Influence) of the revised Adjudicative Guidelines (AG),¹ why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant a security clearance for Applicant, and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

Applicant responded to the SOR allegations in a notarized letter dated April 10, 2007, and elected to have a hearing before an administrative judge. The case was then assigned to me on May 9, 2007. A notice of hearing was issued on June 4, 2007, and the hearing was held as scheduled on July 13, 2007. The Government offered two exhibits that were marked as Government Exhibits (GE) 1 and 2, and admitted without objection. The Government also submitted a request for administrative notice of certain facts concerning Iran. Applicant's counsel made a relevance objection to some of the contents of the supporting documents and to two of the facts of which the Government requested notice. After an explanation that irrelevant material would not be considered, which was accepted by counsel, administrative notice was taken of the truth of the proffered facts, subject to a determination whether they were relevant and material to deciding contested issues. The motion is marked Hearing Exhibit (HE) I, with supporting government documents I through IX attached.² Concerning the source documentation, the government relied on publications of the

¹*Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (August 2006) as implemented by Under Secretary of Defense Memorandum of Aug. 30, 2006, for use in adjudication of all cases in which an SOR had not been issued by Sept 1, 2006. These revised AG replaced those found in enclosure 2 of the Directive, which is pending revision to incorporate them. Copies of the applicable AG were provided to Applicant with the SOR.

²Tr at 13-17.

Department of State,³ the Congressional Research Service,⁴ and the President,⁵ and two Statements for the Record by the CIA Director before Senate Committees.⁶ Applicant testified, and offered 20 exhibits that were marked Applicant Exhibits (AE) A through T, and admitted without objection. DOHA received the hearing transcript (Tr.) on July 25, 2007.

FINDINGS OF FACT

Applicant admitted the truth of some factual allegations (while denying or asserting mitigation of the related security concerns) set forth in SOR ¶¶ 1.a, 1.b, and 1.c (in part) pertaining to foreign influence under AG B. Those admissions are incorporated herein as findings of fact. He denied the factual allegations in SOR ¶¶ 1.d and 1.e. After complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following findings of fact.⁷

Applicant is a 60-year-old employee of a major defense contractor seeking a security clearance for the first time. He was born in Iran and, like his father, served in the Iranian armed forces before the 1979 overthrow of the Shah. In that capacity, he worked closely with U.S. armed forces serving in and around Iran, and received training in the U.S. He was an engineering graduate student in the United States when the Iranian revolution completely changed the country in which he had grown up. In 1980, he, his European-born wife and their elder (and at the time, only) daughter sought and were granted political asylum. They made this decision to never return to Iran with the concurrence of the rest of his family. Their second daughter was born later in the U.S.

Applicant renounced his Iranian citizenship in 1980 in connection with his asylum application. He, his wife, and their elder daughter became naturalized U.S. citizens in 1989. None of them have ever returned to Iran, and they affirmatively intend never to do so. Since 1980, Applicant has worked in increasingly responsible engineering and management positions for his current employer. Until recently, his work has not required a security clearance, but has involved working with highly sensitive, proprietary technical and commercial information. He has operated under, and complied with, secrecy, proprietary information, and code of conduct agreements throughout his 27-year career. To his knowledge, none of his family members have ever been approached by the present government of Iran concerning his life or work in the U.S. Although they

³See *Background Note: Iran*, dated Oct. 2006 (I); *Consular Information Sheet: Iran*, dated Apr. 3, 2006 (II); *Travel Warning: Iran*, dated Oct. 10, 2006 (III); *Country Reports on Human Rights Practices - 2006: Iran*, dated Mar. 6, 2007 (V); and *Country Reports on Terrorism 2005*, dated Apr. 2006 (VI).

⁴See *Iran: U.S. Concerns and Policy Responses*, dated Apr. 2, 2007 (IV).

⁵See *The National Security Strategy of the United States of America*, dated Mar. 16, 2006 (IX).

⁶See *Statement for the Record Senate Select Committee on Intelligence*, dated Jan. 11, 2007 (VII); and *The Current Situation in Iraq and Afghanistan Statement for the Record before the Senate Armed Services Committee*, dated Nov. 15, 2006 (VIII).

⁷These findings are intentionally phrased in general terms to avoid identification of the individuals involved. Omission of some specific facts raised by the evidence does not mean that the facts or supporting evidence were not considered. To the contrary, all were carefully evaluated. These facts are not in dispute, and are supported by GE 1 and 2, AE A through T, Applicant's written response to the SOR (and Exhibits A through Q attached thereto), dated Apr. 10, 2007, and the testimony of the three witnesses during the hearing (Tr. at 27-103).

know that he has been financially successful, none of them know any details of his professional life.

Based on his track record of accomplishment and his highly respected character, Applicant was personally selected by the president and CEO of his company for the highly demanding position he has held for the past two years with an interim security clearance. His two immediate supervisors, both of whom testified in person and in writing concerning his outstanding character, trustworthiness, and loyalty to the U.S., are top tier managers in the company. One is a retired three-star officer who has held a security clearance for over 40 years and formerly acted as a classifying authority. Both expressed supreme confidence in Applicant's ability to properly safeguard classified and other sensitive information, as he has done to date. He has shown his integrity by properly reporting program problems that arose under his cognizance even though he could have suffered personally as a result. Based on having worked with him closely, they were confident that he would promptly disclose any questionable contacts or other potential security concerns even if that could result in adverse personal consequences.

Before Applicant came to the U.S., he bought a two-room apartment in Teheran, Iran, with financial assistance from his father. After the Iranian revolution, his parents divorced and his mother moved into the apartment. She still lives there, together with one of his sisters and his brother who are also unmarried. Applicant has had nothing to do with the apartment since coming to the U.S., has no remaining financial interest in it, and has no say over what happens to it. He presumes that once his mother passes away, his sister and brother will continue to live there, but that is out of his control. Applicant owns several homes in the United States, and his net worth is more than ten million dollars. He renounced any property interest in the apartment in Iran.

Applicant's father passed away several years ago. Although he was in Europe at the time, and was very saddened by his father's death, he did not travel to Iran for the funeral. His mother is quite old and frail. He will not go to Iran for her funeral either, when the time comes. He is never going to go back to Iran for the same reasons he sought and was granted asylum in the U.S. He considers himself to be fully an American citizen, and the Iran in which he once lived no longer exists. He is very much against the policies and anti-western conduct of the current Iranian government, and would do nothing that might be of any assistance to them. He credibly testified of his pride and dedication to working to enhance the national defense capabilities of the United States, and support for our national policies toward Iran.

As noted, Applicant's mother is a citizen and resident of Iran. He last saw her in 1979 when she visited him in the U.S. His eldest sister and brother live with her in Iran now, and are also Iranian citizens. The brother returned to Iran from studying engineering abroad shortly after Applicant came to the United States in 1978. The two have not seen each other since about 1976. Applicant speaks to his family in Iran by phone about once a year, and they only discuss how the family is doing, never anything professional or technical. The brother has worked his whole career as a civilian construction engineer, building buildings for a private contractor. He never worked for the Iranian, or any other, government.

Applicant's eldest sister was previously married to a U.S. citizen and lived in the U.S. with a green card. She and her husband of twenty years had two children, who are U.S. citizens and residents. She returned to Iran after their divorce, to live with and care for her mother. She visits the U.S. every three or four years to see her children and siblings living here. She and Applicant speak by telephone once or twice a year, usually during the same phone call with his mother and brother.

She has never worked outside her home. As the eldest sibling, she became entitled to receive her father's government pension when he died because her parents divorced. She and her mother subsist comfortably on this pension, and Applicant sends them no money because it is illegal to send funds into Iran. If the pension were cut off, Applicant's other siblings in Iran could and would support their mother. Their father's pension was restored to him when he returned to Iran as a very old man, many years after he went into exile following the revolution. The pension was restored in return for his not claiming any payments that might have been due to him during his absence.

Applicant has two sisters slightly younger than he is. One lives in the U.S. with her husband, who recently retired from a career working for the U.S. Government. She moved to the U.S. in the 1980s. She and her husband became naturalized U.S. citizens in 1990. The other sister was educated in the U.S. during the early 1970s, then returned to Iran as a high-level government manager under the Shah. After the revolution she was fired because of her gender, married, and had two sons who are medical doctors. She and her sons are now living and working in the U.S. on green cards. Applicant's fourth sister, born when he was a teenager, was educated in England where she met her Iranian husband. They now live in Iran, subsisting off income from the private wealth and land holdings of her husband's family, but frequently travel to England. Applicant, the one sister, and his deceased father, all lost their government positions working for the Shah after the revolution. None of his other family members ever worked for the Iranian government.

The facts set forth in the Government's request for administrative notice are supported by the accompanying source documentation and are incorporated herein as being true. In summary, Iran's clandestine efforts to obtain weapons of mass destruction, sponsorship of international terrorism, intervention into Iraq's internal affairs and support for militants there, efforts to destabilize the Middle East, and human rights violations against its own people are of major concern. As a committed U.S. citizen, Applicant shares all of these concerns, and opposes Iranian actions in these regards. Two major areas of concern relevant to this security clearance decision arise from these administratively noticed facts. First, Iran is hostile to the United States and actively opposes western policies and goals in the Middle East. There is no direct evidence in the record concerning Iranian espionage activity toward or within the U.S., but this hostile relationship supports the inference that Iran would seek to damage or counter U.S. military capabilities by seeking to obtain classified and sensitive information when possible. Second, Iran's support for terrorist activities⁸ and its internal human rights abuses demonstrate a ruthlessness and disregard for human life and liberty in pursuit of anti-western and internal security policies. Iran does not recognize renunciation of citizenship by those born there, and has detained and harassed naturalized U.S. citizens traveling there. Applicant is aware of the dangerous nature of the regime, and intentionally minimizes his contact with family members there to a brief telephone call about once a year in order to minimize the chances of drawing government attention to their relationship to him.

POLICIES

⁸As administratively noticed, Iran is designated "the most active state sponsor of terrorism," by the U.S. State Dept. in *Country Reports on Terrorism 2005*, *supra* n. 3, at 173.

The revised AG that replaced Enclosure 2 of the Directive set forth adjudicative guidelines which must be considered in the evaluation of security suitability. In addition to brief introductory explanations for each guideline, the adjudicative guidelines are divided into disqualifying conditions (DC) that may raise security concerns, and mitigating conditions (MC) that may reduce or negate security concerns. Applicable DCs and MCs must be considered in deciding whether to grant, continue, deny or revoke an individual's eligibility for access to classified information. Conditions that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, under Guideline B: Foreign Influence, are set forth and discussed in the conclusions section below.

An administrative judge need not view the adjudicative guidelines as inflexible, ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines are intended to be applied in conjunction with the factors set forth in the Adjudicative Process provision of the Directive,⁹ to assist the administrative judge in reaching fair and impartial, common sense decisions.

The entire decision-making 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, in addition to the applicable guidelines, 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 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. While foreign influence security concerns are not based directly on the conduct of the applicant, the Appeal Board nevertheless recognizes that whole person analysis considering any applicable factors from the foregoing list, as well as other pertinent matters such as an applicant's personal attachments, the relative nature and extent of the applicant's U.S. and foreign family and social ties, and his or her record of service to the U.S.¹⁰

Protection of the national security is the paramount consideration, so the final decision in each case must be arrived at by applying the standard that issuance of a clearance must be clearly consistent with the interests of national security. Any doubt as to whether access to classified information is clearly consistent with national security must be resolved in favor of the national security.¹¹ 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.

⁹AG ¶ 2.

¹⁰ISCR Case No. 05-03250 at 4 (App. Bd. Apr. 6, 2007); ISCR Case No. 04-02511 at 4 (App. Bd. Mar. 20, 2007); ISCR Case No. 04-11369 at 4 (App. Bd. Mar. 16, 2007); ISCR Case No. 04-11414 at 4 (App. Bd. Mar. 5, 2007); ISCR Case No. 05-03846 at 5-6 (App. Bd. Nov. 14, 2006); ISCR Case No. 04-12363 at 2 (App. Bd. Jul. 14, 2006).

¹¹AG ¶¶ 2(b), 2(c).

In the decision-making process, facts must be established by “substantial evidence.”¹² The burden of producing evidence initially falls on the government to establish a case which demonstrates, in accordance with the Directive, it is not clearly consistent with the national interest to grant or continue an applicant's access to classified information. “Department Counsel is responsible for presenting witnesses and other evidence to establish facts alleged in the SOR that have been controverted.”¹³ “The applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and [Applicant] has the ultimate burden of persuasion as to obtaining a favorable clearance decision.”¹⁴ Once it has met its initial burden of production, the burden of persuasion (including any burden to disprove a mitigating condition) never shifts to the government.¹⁵

A person applying for access to classified information seeks to enter 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. It is because of this special relationship that the government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. Decisions under this Directive include, by necessity, consideration of the possible risk an 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 specifically provides that any adverse industrial security clearance decision shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned,” so a decision to deny an individual a security clearance is not a determination as to the loyalty of the applicant. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

CONCLUSIONS

As set forth in the Regulation, every recommended personnel security decision must be a fair and impartial overall common sense decision based on all available evidence, both favorable and

¹²“Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the record.” ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). “This is something less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge’s] finding from being supported by substantial evidence.” *Consolo v. Federal Maritime Comm’n*, 383 U.S. 607, 620 (1966). “Substantial evidence” is “more than a scintilla but less than a preponderance.” *See v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994).

¹³Directive ¶ E3.1.14.

¹⁴Directive ¶ E3.1.15.

¹⁵ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005); “The Administrative Judge [considers] the record evidence as a whole, both favorable and unfavorable, evaluate[s] Applicant’s past and current circumstances in light of pertinent provisions of the Directive, and decide[s] whether Applicant ha[s] met his burden of persuasion under Directive ¶ E3.1.15.” ISCR Case No. 04-10340 at 2 (App. Bd. July 6, 2006).

unfavorable. The decision must be arrived at by applying the standard that the grant or continuance of a security clearance or access to classified information is clearly consistent with the interests of national security.

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.¹⁶

Applicant's mother, brother, and two of his four sisters are citizens of and reside in Iran. This raises potential for security concerns under foreign influence disqualifying condition (FI DC) 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"). The mere existence of foreign family members is not sufficient—the nature of Applicant's contact with them must be examined to determine whether it creates a heightened risk of foreign exploitation, inducement, manipulation, pressure or coercion. "Heightened" is a relative term, denoting increased risk over some normally existing risk that can be said to be inherent anytime a family member lives subject to a foreign government. One factor that heightens the risk in Applicant's case is the nature of the Iranian government and its hostility toward U.S. interests, as compared to other countries around the world. While the Appeal Board states there is no *per se* rule involving any country, they have held that the nature of the Iranian regime creates a particularly heavy burden on applicants with close relatives there to show that it is clearly in the national interest to grant them access to classified information.

Except for the nature of the Iranian regime, very little about Applicant's contacts with his Iranian family members creates any heightened risk. He has normal family affection for his mother and siblings, but has chosen to forsake ever traveling to Iran to see them in person. Their contact is intentionally limited to one short telephone call per year, on average, during which only family welfare is discussed. He has intentionally chosen this limited contact to minimize risk they will be tied to him or be subject to government attention over foreign contacts. He has more frequent contact with his sisters who reside in the U.S. and are not subject to the Iranian government. This situation has existed for more than 27 years, during which no member of his family has been bothered by the Iranian government about his activities. Such government interest would have been more likely years ago, when his service to the Shah's armed forces was more widely known and of potential concern to those in power there. While there can be no absolute certainty, the absence of any Iranian exploitation, inducement, manipulation, pressure or coercion through his family contacts for 27 years is strong evidence that risk of it happening in the future is low.

¹⁶AG ¶ 6.

FI DC 7(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 this information”) also applies to Applicant’s Iranian connections. There need not be evidence of an actual conflict of interest to raise security concerns. The potential conflict, arising from Applicant’s family ties to Iranian citizens and residents, is sufficient to shift the burden to him to disprove its existence, or otherwise mitigate the concerns. Applicant convincingly testified that he has no desire to help Iran, or any other foreign person, group or country, by providing sensitive information. To the contrary, he strongly opposes the policies and practices of the Iranian government. The only conflict situation under which he might find that providing sensitive information could help a foreign person to whom he has connections would be the coercion, inducement, or threat scenario envisioned under FI DC 7(a). As discussed above, there is very slight, if any, heightened risk of this happening, and I am convinced that he would not disclose any sensitive information under those, or any other circumstances. He would protect the information and report the matter to company security personnel and the FBI.

The only other FI DC that is asserted by the Government, or addressed by any evidence in the record, is FI DC 7(e) (“a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign-operated business, which could subject the individual to heightened risk of foreign influence or exploitation”). Applicant once owned the apartment in Teheran in which his mother, brother and eldest sister now reside. He has neither paid any expenses nor received any rent from the apartment since 1979, and has essentially abandoned any property interest to his family there. The record does not support characterizing his property interest in that apartment as “substantial,” particularly in light of his substantial wealth in the U.S. He has no interest in the apartment that could subject him to heightened risk of foreign influence or exploitation independent of an attempt at such influence through threats to the family members themselves as covered by FI DC 7(a). Accordingly, FI DC 7(e) does not apply to raise any independent security concerns. No other FI DC applies.

Foreign influence mitigating condition (FI MC) 8(a) (“the nature of the relationships with foreign persons, the country in which those 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, or government and the interests of the U.S.”) does apply in part to reduce security concerns under FI DC 7(a) or (b). As noted above, the nature of his relationship intentionally involves infrequent telephone conversations involving only family welfare matters. None of his family members now in Iran ever worked for any Iranian government. He and one sister who is now living in the U.S. worked only for the former government of the Shah. None of his family members in Iran has been approached or bothered by the government there concerning Applicant’s U.S. activities in the more than 27 years since he was granted asylum here, including the past two during which he has held an interim security clearance in his present position. As noted above, there is no possible absolute guarantee, but such a guarantee is not required by the term, “unlikely.” This historical evidence is as compelling as any could be to demonstrate the unlikelihood that Applicant will be placed in a position of having to choose between the interests of his family in Iran and those of the U.S.

FI MC 8(b) (“there is no conflict of interest, either because the individual’s sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest”) also applies to mitigate any

remaining security concern from the unlikely possibility that Iran might seek to exploit Applicant through his family. Applicant permanently renounced any loyalty or obligation to Iran in 1980, and with his family's blessing determined never to return there or, probably, see them again. He would have been killed had he returned, and he dedicated himself to becoming an American. He honestly professes natural familial affection for his mother and, to lesser extent, his siblings. However, that affection is so substantially outweighed by his integrity, loyalty and sense of duty to the United States, to his employer, and to his family here (as proven by his professional accomplishments, reputation, and character witness testimony), that he clearly would resolve any conflict that might arise in favor of the U.S. interest.

FI MC 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. Applicant is in regular, though intentionally infrequent, contact with his Iranian family members. There is a rebuttable presumption that an applicant's contacts with family members are not casual.¹⁷ Particularly in light of the Appeal Board's recent holding that "casual" means unplanned or fortuitous,¹⁸ he did not rebut this presumption. Moreover, Applicant himself minimizes communication to reduce any risk to his family in Iran from contact with him, in recognition that it could create risk of harm to them independent of any access he may or may not have to sensitive information. Accordingly, the nature of these communications is not independently mitigating, although they are relevant to determining the nature of the relationships and Applicant's loyalties as discussed above.

Although I found no security concerns arising under FI DC 7(e) based on the apartment in Teheran, its minimal monetary value relative to Applicant's U.S. property holdings, and its fungible nature as an apartment in which his relatives can reside would completely mitigate any such concerns under FI MC 8(f) ("the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual"). None of the remaining FI MCs apply.

Whole Person Analysis

I have considered the "whole person" concept in evaluating Applicant's risk and vulnerability in protecting our national interests. He is a mature, responsible, dedicated, long-term employee of a major defense contractor. He rose through the ranks from an entry-level engineering position and was hand-picked by the company's top executive from many possible candidates for his current position requiring a clearance. Very senior and experienced civilian and former military supervisors compellingly testified concerning Applicant's trustworthiness, responsibility and integrity even in the face of significant personal risk. They provided credible, independent evidence of his history of compliance with security procedures and regulations, protecting highly sensitive

¹⁷ISCR Case No. 04-02511 at 4 (App. Bd. Mar. 20, 2007); ISCR Case No. 05-04648 at 4-5 (App. Bd. Jan. 24, 2007).

¹⁸ISCR Case No. 04-08870 (App. Bd. Nov. 29, 2006). This holding essentially renders this FI MC inapplicable to telephonic communications unless contact results from dialing a wrong number.

technical and business information throughout his 28-year career, and while holding an interim clearance for the past two years without incident or any attempted contact from Iran.

Applicant, his Italian-born wife, and two daughters are long-time U.S. citizens. They have annual telephonic contact with his mother and three of five siblings still living in Iran. All family members intentionally minimize this contact to avoid problems with the Iranian government independent of any information security concerns. Two of his sisters and their families also reside in the U.S. All of his ten million dollars worth of assets are held in the U.S., and all of his social and professional contacts are here. Since 1978, he has never returned to Iran, even for his father's funeral. He never will return to Iran while it is governed by an unfriendly regime to which he has no loyalty – only animosity.

Applicant's Iranian family's only tie to the Iranian government is his sister's receipt of her father's government pension. This is not income on which they rely for survival, as the brother has a successful private engineering career and the youngest sister married sufficiently well to provide any necessary resources. They live rent-free in the apartment Applicant formerly purchased with his father, but in which he has neither ability nor desire to exercise any ownership interest. Applicant's father also lived in exile for many years after the Iranian revolution. In old age, he returned to Iran and apparently settled any remaining government animosity toward his family due to former service to the Shah, because they restored his pension. For 27 years, Applicant's mother and some of his siblings have been resident citizens of Iran while he lived in the U.S. under a grant of asylum and eventual citizenship. They do not know the particulars of his work, but do know he has a successful career of increasingly responsible work for a major company. At no time have his family members been contacted or bothered by the Iranian government concerning Applicant's status or activities. Should there have been such interest, it would in all likelihood have happened before now. This history, and his family members' private and low-profile lives in Iran, combine to reduce the potential for pressure, coercion, exploitation or duress to absolute minimum levels, even taking full consideration of the nature of the country involved. Considering the whole person, together with applicable FI DC and FI MC considerations, Applicant has met the particularly heavy burden of mitigating all potential security concerns arising from his family members or former property in Iran. Accordingly, I find that it is clearly in the interest of national security to grant or continue his access to classified material.

FORMAL FINDINGS

Formal Findings For or Against Applicant on the allegations set forth in the SOR, as required by Paragraph 25 of Enclosure 3 of the Directive are:

Paragraph 1, Guideline B:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant

DECISION

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is granted.

David M. White
Administrative Judge