



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



In the matter of:	)	
	)	
XXXXXXXXXX, XXXXX	)	ISCR Case No. 07-02712
SSN: XXX-XX-XXXX	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Paul M. Delaney, Esquire, Department Counsel  
For Applicant: Nick Katsiotis, Personal Representative

September 5, 2008

**Decision**

TUIDER, Robert J., Administrative Judge:

Applicant mitigated security concerns pertains to Foreign Preference, but failed to mitigate security concerns pertaining to Foreign Influence. Clearance is denied.

**Statement of the Case**

Applicant submitted his Electronic Questionnaires for Investigations Processing (e-QIP) on October 7, 2005. On October 18, 2007, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the Government's security concerns under Guidelines B (Foreign Influence) and C (Foreign Preference). The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant answered the SOR on November 29, 2007, and requested a hearing before an Administrative Judge. DOHA received Applicant's answer to SOR on December 7, 2007. Department Counsel was prepared to proceed on December 19, 2007, and I received the case assignment on December 24, 2007. DOHA issued a notice of hearing on January 16, 2008, scheduling the case for February 14, 2008. The hearing was held as scheduled.

The Government offered Government Exhibits (GE) 1 through 4, which were received without objection. Applicant offered Applicant's Exhibits (AE) A through C, which were received without objection, and testified on his own behalf. DOHA received the hearing transcript (Tr.) on February 27, 2008.

### **Procedural Rulings**

#### **Amendment of SOR**

Department Counsel moved to amend the SOR correcting the case number from 06-02712 to 07-02712. Without objection from the Applicant, I granted Department Counsel's motion. Tr. 9-11.

#### **Administrative Notice**

Department Counsel submitted a Request for Administrative Notice (Exhibit (Ex.) I(A)), requesting that I take administrative notice of the summary of facts contained in Ex. I(A) as well as those facts in Exs. I through X. Without objection from Applicant, I took administrative notice of the documents offered by Department Counsel, which pertained to Iran. (Tr. 24-26).

Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 05-11292 at 4 n.1 (App. Bd. Apr. 12, 2007); ISCR Case No. 02-24875 at 2 (App. Bd. Oct. 12, 2006) (citing ISCR Case No. 02-18668 at 3 (App. Bd. Feb. 10, 2004)); *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n.4 (3d Cir. 1986)). The most common basis for administrative notice at ISCR proceedings, is to notice facts that are either well known or from government reports. See Stein, ADMINISTRATIVE LAW, Section 25.01 (Bender & Co. 2006) (listing fifteen types of facts for administrative notice). Various facts pertaining to Iran were derived from Exs. I(A), and I through X as contained *infra* under the subheading "Iran" of this decision.

### **Findings of Fact**

In his Answers to the SOR, Applicant admitted the SOR allegations with explanations. His admissions are incorporated herein as findings of fact. After a thorough review of all evidence of record, I make the following additional findings of fact.

Applicant is a 48-year-old owner of a company in which he serves as president and chief executive officer. He describes himself as a “fire protection expert” and “the one that actually determines what needs to be done to make the construction safe and prepare all of the life safety measures and fire protection measures” as it pertains to sprinklers and fire alarms. Tr. 34-35, 47-48, 133. He is a first time Applicant for a security clearance and if granted a clearance he would have greater access to secure Government job sites in which his company provides services. Tr. 48-50,161-165.

Applicant was born in December 1959 in Iran, where he was raised, and educated. GE 1, Tr. 37-38. His father was a career Air Force officer and served in the Iranian Air Force from 1949 to 1979. Tr. 38-40. In approximately 1978, Applicant’s father was assigned to a military base in the U.S. Tr. 129-130. Applicant along with his mother and one of his sisters accompanied his father to the U.S., leaving the other sister behind in Iran.

In approximately 1980 following the overthrow of the Shah of Iran in 1979, Applicant’s father was expelled from the U.S. after the U.S. broke diplomatic relations with Iran in April 1980.<sup>1</sup> Applicant, his mother and sister remained in the U.S. and took up permanent residence. After Applicant’s father returned to Iran, he retired from the Air Force, and in approximately 1982, he returned to the U.S. reuniting with his family. He then took up permanent residence in the U.S. Applicant’s father does not receive a military retirement from the Iranian government as a result of residing in the U.S. Tr. 37-41, 132-133.

Shortly after Applicant arrived in the U.S., he enrolled in a two year college where he studied the English language. He later transferred to a prestigious university where he was awarded a bachelor of science degree in mechanical engineering in May 1982. From approximately May 1982 to May 1985, he was enrolled in a joint master’s/Ph.D. program in mechanical engineering at the same university. He completed all of his course work for those degrees and completed his thesis, but did not receive his degrees because he did not present or defend his thesis. GE 1, Tr. 45-47, 130-131.

Applicant is not married and does not have any dependents. He was previously married two times. His second marriage was from May 2000 to January 2003, and his first marriage was from April 1993 to August 1994. Both of his former wives were Iranian born and both marriages ended by divorce. Applicant does not maintain contact with either of his former spouses. GE 1, Tr. 50.

Applicant became a U.S. citizen in August 1995, and was issued a U.S. passport in March 1997. He renewed his U.S. passport in February 2007. The only valid passport he holds is his U.S. passport. GE 1, Tr. 51-54. In order to travel to Iran, Applicant applied for an Iranian passport, which was issued to him in February 1998 and expired in February 2003. He does not intend to visit Iran again and nor does he have any intention on renewing his Iranian passport. GE 2, Tr. 51-52. Applicant holds dual

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<sup>1</sup> For further information, see AE I (*Background Note: Iran*, U.S. Department of State, Bureau of Near Eastern Affairs, dated June 2007).

citizenship with the U.S. and Iran by operation of Iranian law. He expressed a willingness to renounce his Iranian citizenship and stands ready to do so if requested or required. GE 4.

Applicant has four immediate family members. Their relationship to Applicant/brief description follows:

Father. He was born March 1933 in Iran, and is now 75. He served in the Iranian Air Force as an officer from 1949-1979 until he retired. He has lived in the U.S. continuously since 1978 except for a brief period from 1980 to 1982, discussed *supra*. He currently holds U.S. permanent resident alien status (green card) issued in August 1986. Applicant stated his father plans on applying for U.S. citizenship. His Iranian passport expired in February 2008. When Applicant's father returned to the U.S. in 1982, he owned his own jewelry store pursuing his "hobby" as a master jeweler and watch maker. His father is now retired and owns several rental properties and lives off his investments. GE 1, GE 2, Tr. 38-42, 132-135.

Mother. She was born August 1936 in Iran, and is now 72. She is a career housewife. She has lived in the U.S. continuously since 1978. She became a naturalized U.S. citizen in August 1997, and was issued a U.S. passport in October 2007. She held an Iranian passport, which expired in April 2008. GE 1, GE 2.

Sister. She was born May 1955 in Iran, and is now 53. She is a career housewife. She lives in Iran with her husband, who is a certified public accountant, and retired from an Iranian government agency. Since retiring, he has been working for a private firm. Applicant's sister and her husband applied for and received their green cards in January 2008. They plan to move to the U.S. as soon as they make the necessary preparations. Applicant stated, "I'm guessing it's going to take them about a year to make the final move." For now, Applicant's sister and her husband remain in Iran. Applicant's sister and her husband have three adult sons in their early 20s, who also plan to move to the U.S. and will do so when they complete the required paperwork to immigrate to the U.S. Applicant testified his sister calls him "[p]robably twice a year maybe." Applicant's mother and sister 'are in much more frequent contact." GE 1, Tr. 121-123, 135-140. (SOR ¶ 1.a.) Neither Applicant's sister nor her husband are associated or connected with the Iranian government. GE 4.

Sister. She was born August 1964 in Iran, and is now 44. She is employed as a computer analyst for a private firm. She has lived in the U.S. continuously since 1978. She became a naturalized U.S. citizen in February 1996. She is on her second marriage, and has one son from her first marriage. Her first husband and her current husband are from Iran, and both now live in the U.S. Her husband is a general contractor. Tr. 107-112.

Since moving to the U.S. in 1978, Applicant has visited Iran on three occasions. In March 1998, Applicant traveled to Iran and stayed four months for the purpose of visiting his 53-year-old sister. In May 1999, Applicant visited Iran for about two weeks

for the purpose of attending the wedding ceremony for his second marriage. In October 1999, Applicant and his then second wife visited Iran for ten days to attend his former father-in-law's funeral. Applicant used his Iranian passport on all three occasions to enter and exit Iran. GE 4.

Applicant stated his loyalties are with the U.S., that he considers himself to be a loyal U.S. citizen, and that if he were approached by anyone soliciting classified information from him, he would report such an overture to proper authority. He does not have any foreign contact with any foreign national other than his sister in Iran. Tr. 118-123. He has worked at approximately seven U.S. embassies and various military installations in the U.S. and abroad. Tr. 34-36. All of Applicant's assets are U.S.-based, which include his home, office building, several automobiles, and his retirement account. He estimates his net worth to be at \$4 million. He belongs to three professional engineering-related organizations. Tr. 141-144.

Applicant received three solid recommendations from business colleagues. Included in their letters or statements are that Applicant is "very loyal and an asset to this country," that Applicant is a "great example of a hardworking individual living the American dream," and Applicant is "of the highest moral character and [is] a dedicated citizen of the United States of America." All of Applicant's references describe him as trustworthy and recommend him for a clearance. AE A – C.

## **Iran<sup>2</sup>**

I take administrative notice of the following facts. Iran is a "theocratic Islamic republic in which Shi'a Muslim clergy dominate the key power structures." Iran engages in clandestine efforts to acquire nuclear weapons and other weapons of mass destruction (WMD) in defiance of the International community, sponsors international terrorism, intervenes in the internal affairs of Iraq, is arming terrorists in Iraq, undermines the Middle East peace process, and violates the human rights of the Iranian people. The United States and its allies are attempting to block Iran's goals of obtaining nuclear weapons and other WMD and to counter Iran's efforts to destabilize Iraq and other the Middle East countries.

Iran is one of the most active state sponsors of terrorism. The United States is concerned about the possibility that terrorists could eventually obtain WMD from Iran. Iran supports terrorists who attack Israel and Shiite militias who pursue sectarian violence in Iraq. Iranian born, naturalized U.S. citizens, should carefully consider the risks of travel in Iran because they are still considered Iranian citizens by Iranian authorities. The Iranian government has harassed and detained dual citizens of the United States and Iran.

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<sup>2</sup> The contents of the Iran section are taken in whole or in part from Exs. I through X.

## Policies

The purpose of a security clearance decision is to resolve whether it is clearly consistent with the national interest to grant or continue an applicant's eligibility for access to classified information.<sup>3</sup>

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

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The Administrative Judge's controlling adjudicative goal is a fair, impartial and common sense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept." The Administrative Judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security."<sup>4</sup> In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

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

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

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<sup>3</sup> See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

<sup>4</sup> *Egan*, *supra*, at 528, 531.

permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

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

## **Analysis**

### **Guideline B, Foreign Influence**

Under Adjudicative Guideline ¶ 6, the Government’s concern is:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, he or she may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.

AG ¶ 7 sets out two conditions that could raise a security concern and may be disqualifying in this case, including:

- (a) contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion; and
- (b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual’s obligation to protect sensitive information or technology and the individual’s desire to help a foreign person, group, or country by providing that information.

The mere possession of close family ties with a person in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if only one relative lives in a foreign country and an applicant has contacts with that relative, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information.<sup>5</sup> Applicant has frequent contacts and a close

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<sup>5</sup> See ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001).

relationship of affection and/or obligation with his sister. His 53-year-old sister, her husband, and their three children are resident citizens of Iran. His parents and 44-year-old sister and her family live near the Applicant and see each other frequently. Applicant's close relationship with his sister in Iran is shown by his frequent telephone contacts with her either directly or vicariously through his immediate family members in the U.S. Although Applicant's sister and her husband plan to immigrate to the U.S., they have not done so. Applicant and his family can fairly be described as a close family. Applicant also took the time off from work and incurred the expense to visit his sister in Iran for four months in 1998. These contacts create a risk of foreign pressure or attempted exploitation because there is always the possibility that Iranian agents or terrorists may exploit the opportunity to obtain information about the United States. His connection to his family members also creates a potential conflict of interest because his relationships are sufficiently close to raise a security concern about his desire to help them by providing sensitive or classified information.

These close relationships create a heightened risk of foreign pressure or attempted exploitation because Iran and the United States' relationship is far from friendly. His connections to his Iranian family also create a potential conflict of interest because his relationships are sufficiently close to raise a security concern about his desire to help his family by providing sensitive information. Applicant's relationship with his sister creates this "heightened risk" because of his contact, direct and vicarious, with his sister in Iran. Applicant's sister and her husband are in the process settling their affairs in Iran before moving to the U.S., which has yet to occur.

The government produced substantial evidence raising these two potentially disqualifying conditions, and the burden shifted to Applicant to produce evidence and prove a mitigating condition. The burden of disproving a mitigating condition never shifts to the government.

Three Foreign Influence Mitigating Conditions under AG ¶ 8 are potentially applicable to these disqualifying conditions:

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

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

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

After considering the totality of the facts and circumstances in Applicant's case, I conclude that only mitigating condition AG ¶ 8(b) partially applies.

Applicant has not traveled to Iran since 1999, and he became a U.S. naturalized citizen in 1995. AG ¶ 8(b) partially applies because Applicant has developed a sufficient relationship and loyalty to the United States, that he can be expected to resolve any conflict of interest in favor of the United States' interests. He has lived in the United States for approximately 30 years. He is a naturalized U.S. citizen and all of his financial and business interests are in the United States. Applicant has established himself as an American citizen and a successful businessman. He has a track record of diligent labor in the development of his company. Although this mitigating condition is partially applicable, it is insufficient to overcome the foreign influence security concerns.

He has contacts and close relationships with his parents and sister living in the United States, and they all have contacts and a close relationship with his sister in Iran. In particular, Applicant's 44-year-old sister and mother stay in close contact with his 53-year-old sister living in Iran.

Guideline ¶ 8(a) and 8(c) do not apply. Applicant did not establish "it is unlikely [he] will be placed in a position of having to choose between the interests of [his Iranian family] and the interests of the U.S." His frequent contacts and close relationships with his sister in Iran could potentially force him to choose between the United States and Iran. He did not meet his burden of showing there is "little likelihood that [his relationships with his Iranian family members] could create a risk for foreign influence or exploitation."

The nature of Iran's government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that 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 United States. The hostility of Iran to the United States places a "very heavy burden of persuasion" on Applicant to demonstrate that his immediate family members in Iran (visiting or living in Iran) do not pose a security risk and he will not be placed into a position to be forced to choose between loyalty to the United States and his Iranian family members.<sup>6</sup> With its adversarial stance and its negative human rights record, it is likely that Iran would target

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<sup>6</sup> See ISCR Case No. 02-13595 at 3 (App. Bd. May 10, 2005) (stating an applicant has "a very heavy burden of persuasion to overcome the security concerns" when parents and siblings live in Iran). See also ISCR Case No. 04-11463 at 4 (App. Bd. Aug. 4, 2006) (articulating "very heavy burden" standard when an applicant has family members living in Iran).

any citizen in an attempt to gather classified or sensitive information from the United States.

Applicant's sister and her husband and are in the process of moving to the U.S. His sister's three children also plan to move to the U.S. at some point in the future. When that occurs, most if not all of the concerns identified in Applicant's case, will be alleviated. In the interim, the potential for exploitation and coercion remains. On the other hand, there is no evidence that his sister or husband and children work for the Iranian government or military or any news media. There is no evidence that the Iranian government has approached any of his Iranian family for any reason, and in particular, has not approached them recently about Applicant. There is no evidence that his family living in Iran currently engages in activities which would bring attention to themselves or that they are even aware of her work.

Notwithstanding, Foreign Influence mitigating conditions cannot be applied in this case, and the security concerns cannot be fully mitigated because there is no reason for Iran to contact his relatives about Applicant until he receives access to classified information. Even taking for granted that his Iranian family members currently have low-key non-controversial lifestyles, and that the Iranian government has not contacted them about Applicant in the past, such factors are insufficient to mitigate the security concerns because of the nature of the Iranian government and its relationship to the United States.

### **Guideline C, Foreign Influence**

Under Adjudicative Guideline ¶ 9, the Government's concern is:

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

AG ¶ 10 sets out one condition that could raise a security concern and may be disqualifying in this case:

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

(1) possession of a current foreign passport.

Applicant applied for an Iranian passport after becoming a U.S. citizen in order to visit Iran. He did so because Iran would not recognize his U.S. passport. He was issued his Iranian passport in February 1998 and it expired in February 2003. He has not renewed nor does he intend to renew his Iranian passport.

Three Foreign Preference Mitigating Conditions under AG ¶ 11 are potentially mitigating to this disqualifying condition:

- (a) dual citizenship is based solely on parent's citizenship or birth in a foreign country;
- (b) the individual has expressed a willingness to renounce dual citizenship; and
- (e) the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated.

Although dual citizenship was not alleged, the subject of Applicant's dual citizenship was developed during the Government's cross-examination. Such dual citizenship was derived from his birth to Iranian parents in Iran. He expressed an unconditional willingness to renounce his Iranian citizenship. Applicant last used his Iranian passport in 1999, approximately nine years ago. Applicant's Iranian passport has long since expired and he has no interest or desire in renewing it. This concern is deemed mitigated under AG ¶¶ 11(a), 11(b), and 11(e).

### **Whole Person Concept**

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

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

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

Applicant strongly averred his loyalty to the United States, that he considers himself to be an American, and his desire to continue his work on U.S. government facilities here and abroad. Applicant has lived in the U.S. for 30 years and has been a naturalized citizen for 14 years. When he became a U.S. citizen, he swore allegiance to the United States. His 44-year-old sister and his mother are also a U.S. citizens, and live in the U.S. His father is a U.S. permanent resident.

Notwithstanding, Applicant travelled to Iran on three separate occasions in March 1998, May 1999, and October 1999. He has an immediate family member, a sister, who at least for now, is a resident citizen of Iran. Applicant and his family enjoy a close relationship and look forward to being united as a family in the U.S. Applicant has strong ties of affection and or obligation to his parents and sisters, including the one in Iran. Because Applicant's sister and her family live in Iran, they are vulnerable to coercion or exploitation by Iran. Applicant's statement about his loyalty to the United States 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.

There is no evidence he has ever taken any action which could cause potential harm to the United States, or that he lacks honesty and integrity. He credibly stated that he takes his loyalty to the United States very seriously. He has the respect and trust of his business colleagues. There is no evidence that he has revealed to his family in Iran the nature of his work or about applying for a security clearance.

Numerous circumstances weigh against Applicant in the whole person analysis. Iran is seeking WMD and Iran's government is currently in an adversarial position with respect to the United States. More importantly for security purposes, Iran seeks sensitive or protected U.S. information. Applicant spent the first 18 years of his life in Iran, which can arguably be referred to as his formative years. He was born in Iran and received his pre-college education in Iran. He has family members who are Iranian citizens living in Iran, and his parents remain in touch with Applicant's sister and their relatives living in Iran. Applicant has frequent and non-casual direct and vicarious contact with his sister living in Iran. These contacts create a risk of foreign pressure or attempted exploitation because there is always the possibility that Iranian agents or terrorists may attempt to use Applicant's family members living in Iran to obtain information about the United States.

"Because of the extreme sensitivity of security matters, there is a strong presumption against granting a security clearance. Whenever any doubt is raised . . . it is deemed best to err on the side of the government's compelling interest in security by denying or revoking [a] clearance." *Dorfmont v. Brown*, 913 F.2d 1399, 1401 (9<sup>th</sup> Cir. 1990). After weighing the disqualifying and mitigating conditions, all the facts and circumstances, in the context of the whole person, I conclude he has not mitigated the security concerns pertaining to foreign preference. The evidence leaves me with doubts as to Applicant's security eligibility and suitability. However, at such time as Applicant's immediate family members currently living in Iran do successfully immigrate to the U.S., the security concerns identified in this decision may well be alleviated.

For reasons discussed *supra*, I conclude Applicant has failed to mitigate the concerns arising from his foreign influence security concerns.

### **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
Paragraph 2, Guideline C:	FOR APPLICANT
Subparagraph 2.a.:	For Applicant

### **Conclusion**

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

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ROBERT J. TUIDER  
Administrative Judge