



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



In the matter of:)	
)	
)	ISCR Case No. 07-02955
SSN:)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Paul M. DeLaney, Esquire, Department Counsel
For Applicant: Kevin B. McCoy, Esquire

June 16, 2008

Decision

RIVERA, Juan J., Administrative Judge:

Applicant mitigated the foreign preference and foreign influence security concerns arising from his possession of an Armenian special residency document, ownership of investment properties in Armenia, and his relationship and contacts with Armenian and Iranian citizens. Eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted his Electronic Questionnaire for Investigations Processing on November 8, 2005. On July 13, 2007, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the Government's security concerns under Guideline C (Foreign Preference) and Guideline B (Foreign Influence).¹

¹ 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 (Answer) on October 4, 2007, and requested a hearing before an Administrative Judge. The case was assigned to me on December 19, 2007. DOHA issued a notice of hearing on December 24, 2007. The hearing was convened as scheduled on January 23, 2008. The government offered exhibits (GE) 1 through 3, which were admitted without objection.² Applicant testified on his own behalf, and presented 11 exhibits, marked AE 1 through 11, which were received without objection.³ DOHA received the transcript of the hearing (Tr.) on January 29, 2008.

Findings of Fact

In his answers to the SOR, Applicant admitted SOR ¶ 1.b, ¶ 2.a (in part), and ¶¶ 2.b - d, and ¶¶ 2.f-i with explanations. He denied ¶¶ 1.a, 2.a (in part), and ¶ 2.e. 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 47-year-old electrical engineer working for a defense contractor. He was born in Iran. His family's ethnic background is Christian-Armenian and he considers himself Armenian. In 1977, at age 16, he entered the United States under a student visa and has never been back to Iran (Tr. 22). He came to the United States seeking educational opportunities. His father paid for Applicant's travel and educational expenses (Tr. 185). Applicant finished his last two years of high school in the United States. From 1979 to 1984, he attended a U.S. university where he received a bachelor's degree in electrical engineering (Tr. 94). He was granted asylum in 1984, and became a naturalized U.S. citizen in 1994 (Tr. 21-22). He was issued a U.S. passport shortly thereafter.

After college, Applicant worked 12 years as an electrical engineer for a construction company. He then worked two years as a project engineer for a U.S. state government. Between 1999 and January 2005, Applicant worked as a senior electrical engineer for a U.S. corporation, upgrading electrical systems on numerous U.S. overseas facilities (Tr. 24-25, 98). To have access to the facilities and perform his job, he was issued a secret security clearance in 1999, which was upgraded to a top secret security clearance in 2003 (Tr. 26). During this period, he traveled to 28 different foreign countries, including Middle East countries using an official U.S. government passport. He applied for the renewal of his top secret security clearance in March and November 2005.

While working overseas (from 1999 to 2003), Applicant owned a house in the United States and considered the United States his domicile. In 2003, Applicant was

² GE 3 was marked for identification and considered for administrative notice only.

³ AE 11 was timely submitted post-hearing. I kept the record open to allow Applicant time to submit additional documentation. Department Counsel's memorandum, stating no objections to me considering Applicant's post-hearing submission is included in AE 11.

traveling frequently and spending so much time outside of the United States that he decided he had no need for his own home. To save money, he sold his home and started using his sister's address in the United States as his home address (Tr. 27).

In January 2005, Applicant's employer lost his contracts with the government. Applicant then entered into a one-year consulting contract with his former employer to perform the warranty work required of his former employer for all the overseas jobs they performed (Tr. 29). In February 2006, Applicant started working for his current employer, the government contractor who won the overseas contracts. He became a permanent employee in December 2006 (Tr. 40). Applicant's employer encouraged him to live in Armenia because it was time efficient and cost effective for the contractor. His residence in Armenia allowed Applicant to use Armenia as a staging place from where to travel to the many different job sites throughout Europe (Tr. 41).⁴

Applicant's father passed away in Iran in 1993. He did not attend his father's funeral. He believes he cannot go back to Iran because he left Iran before the Iranian Revolution; he is a Christian-Armenian, and he requested asylum in the United States. Applicant stated his intent never to return to Iran (Tr. 23). Applicant has no immediate family members in Iran. To his knowledge, none of his extended family members living in Iran work for the Iranian government, and they are practicing Christians.

Applicant's mother and two sisters were born in Iran. In 1996, his mother immigrated to the United States and became a naturalized U.S. citizen (Tr. 127-130). His mother has a brother and a sister living in Iran. Applicant believes his mother has contact with her siblings approximately twice a year, usually during the Christmas holidays (Tr. 138). However, he claimed not to know for sure since he does not live with his mother. Sister "A" immigrated to the United States in 1986 as a refugee. She finished college in the United States, became a dentist, and married a U.S. citizen (Tr. 32-34). Sister "B" immigrated to the United States in 1999 and is in the process of applying for U.S. citizenship. She lives with Applicant's mother and is employed by the same university the sister attends (Tr. 34-36). Applicant testified he has little or no contact with the Iranian community in the United States. He has no property or any financial interests in Iran.

Applicant traveled to Armenia for the first time in 1994. His mother and sister travelled to Armenia from Iran to meet with him there. This was the first contact Applicant had with his mother since 1977 when he left Iran (Tr. 189). In 2000 and 2004, he travelled to Armenia with a friend (a naturalized U.S. citizen from Armenia) and stayed in Armenia for approximately 30 days during each visit (Tr. 28, 105, 108).

During his 2004 visit, Applicant requested an "Armenian Special Residency Status Document," which he received in January 2005. The document entitled Applicant to some of privileges reserved for Armenian citizens such as the ability to purchase land (Tr. 124), to open two bank accounts (Tr. 126), and to travel to Armenia without a visa

⁴ AE 1 (Letter from current employer, dated 1/16/2008).

(Tr. 117). According to Applicant, the "Special Residency Status Document" was issued to him because he is of Armenian decent. He was not required to apply for Armenian citizenship, or to be an Armenian permanent resident for him to receive the Special Residency Status (Tr. 120). Applicant credibly testified he never applied for Armenian citizenship, and that he never was considered an Armenian permanent resident. Applicant convincingly testified he is a proud American citizen, and that he would never relinquish his U.S. citizenship (Tr. 121). Applicant's "Special Residency Status Document" identified Applicant as a U.S. national (Tr. 36, AE 3).

Applicant explained that the "Special Residency Status Document" was not an Armenian passport or an Armenian travel document because it could not be used to enter Armenia or any other country. It only allowed him to substitute it for an Armenian visa provided it was used in conjunction with his U.S. passport (Tr. 55). On numerous occasions during his hearing, Applicant expressed his willingness to surrender the Armenian document (Tr. 54, 182). On January 29, 2008, at Applicant's request, his company's facility security officer destroyed Applicant's "Armenian Special Residency Status Document" (AE 12).

Applicant lived in Armenia from January to August 2005, most of the year in 2006, and from January to May of 2007. Applicant explained he liked the country and its people and wanted to explore his ancestral home. In 2005, when he started his consulting contract to perform the warranty work required for numerous overseas jobs, Applicant decided to expend time in Armenia and to use the country as his home base. Staying in Armenia in between jobs was less expensive and more time efficient than living and traveling from the United States.

In October 2005, Applicant met his now wife. An Armenian friend living in the United States introduced him to an Armenian resident with the purpose of helping Applicant find an Armenian wife (Tr. 99, 101). Applicant felt an Armenian wife would have less trouble adapting to his work and travel schedule. His wife worked as a bank teller in Armenia. In November 2005, he took his mother to Armenia to meet his fiancé and formalize his engagement (Tr. 39). Applicant disclosed to the government contractor, and to the government, his foreign contacts as well as his intent to marry a foreign person (Tr. 46-47, AE 2). Applicant testified he was told it was okay to marry an Armenian citizen because they were from a country friendly to the United States (Tr. 49).

Applicant married his wife in Armenia in May 2006. She was granted a U.S. visa in June 2006 and they traveled to the United States in October 2006. Applicant's wife is currently living in the United States. She has U.S. permanent resident alien status (Tr. 56, AE 4). Applicant's wife's mother and two siblings are citizens and residents of Armenia (Tr. 140). Her mother and sister always have been homemakers (Tr. 58). His sister-in-law's husband served two years in the Armenian army (Tr. 144). Since then, he has worked in a power plant (Tr. 146). Her brother is an auto mechanic. Applicant and his wife have telephone contact with her immediate family members and other relatives approximately twice a month (Tr. 148).

In 2005, Applicant bought five real estate properties in Armenia for investment purposes, these include:

(a) A condo he purchased in January 2005 for \$40,000, with a current estimated value of \$54,000. Applicant lived in the condo while visiting Armenia. As of August 2007, when Applicant and his wife left Armenia, the condo has been empty. Applicant has been actively attempting to sell the condo with the assistance of his brother-in-law (Tr. 159-162).

(b) In May 2005, he bought a \$175,000 plot of land with two other partners (Armenian born U.S. naturalized citizens). Applicant's had a one-third share interest in the investment. Applicant sold the property in 2007 after receipt of the SOR (Tr. 163-168).

(c) In September 2005, Applicant bought a \$20,000 property. He sold it for \$37,000 after receipt of the SOR (Tr. 169-171).

(d) In December 2005, Applicant purchased a \$27,000 plot of land. As of the day of the hearing, the property was on the market for sale.

(e) Applicant also purchased a \$34,000 property with a cousin. His cousin is a citizen of Iran who has been living in the United States as a permanent resident alien since 1999. As of the day of the hearing, the property was on the market for sale (Tr. 174-175).

Applicant learned about the Government's security concerns regarding his foreign investments and living overseas after receipt of the SOR in July 2007. He immediately placed all the properties for sale, and sold two of them between July and October 2007. He also gave his wife a power of attorney to sell the properties on his behalf so that he could surrender the Armenian Special Residency Status Document (Tr. 59-61). Applicant testified his brother-in-law is assisting with the sale of the other three properties.

Around 2005-2006, Applicant opened two bank accounts in Armenia to facilitate his real estate transactions and living in Armenia. As of August 2007, both bank accounts were closed (Tr. 69, AE 6).

Applicant has numerous extended family members (uncles and cousins) who are citizens and residents of Iran. He has had no contact with his extended family members in Iran since he left Iran in 1977, except for an uncle and a cousin who attended Applicant's November 2005 engagement party in Armenia. Applicant testified both his uncle and cousin are practicing Christians. His cousin works as a secretary and his uncle a typewriter technician. Since 2005, Applicant has had telephonic contact with his uncle once a year during Christmas and New Year (Tr. 74-77). His last contact with his cousin was in the spring of 2006. Applicant called his cousin to congratulate her on her

engagement (Tr. 137). To his knowledge, his mother's contacts with her family in Iran are infrequent. He has no reason to believe anyone in Armenia could exercise any influence over him or his wife to force him to act in a way contrary to U.S. interests.

Applicant owns a \$532,500 home in the United States which he purchased in August 2007. His equity in the home is over \$200,000 (AE 11). Applicant also owns a vehicle with a value of around \$14,000. Additionally, Applicant has liquid assets that include approximately \$490,000 invested in U.S. bank accounts, IRAs, a retirement plan (401(k)), and money market accounts (AE 11).

Applicant's evidence included two statements; one from the vice president of the company he works for, and the other from a senior supervisor, both of whom have known Applicant for approximately two years. Additionally, he submitted statements from two friends who have known him for over 23 years. In their opinion, Applicant is a loyal American citizen who poses no risk to the interests of the United States. All of his references provided solid recommendations concerning Applicant's moral character and overall behavior. All of them recommended Applicant for a security clearance.

I take administrative notice of the following facts. Armenia is a constitutional republic with a developing economy. Historically, Armenia was the first nation to adopt Christianity as a state religion. More than 90% of its population is nominally affiliated with the Armenian Apostolic Church. Ethnically 95% of the population is Armenian. In the 1920, Armenia was invaded by the Red Army and became a Soviet Republic until the collapse of the Soviet Union. In 1991, it declared its independence from the Soviet Union.

Since then, the United States has made a concerted effort to help Armenia in its transition to a democratic form of government and a free-market economy. These efforts include providing over \$1.5 billion in humanitarian and technical assistance, participating in several trade agreements, and closely working with international financial institutions to help develop Armenia's economy.

Armenia's human rights record is poor. Its government, military and police forces do not respect the human rights and freedoms provided for in its constitution. Additionally, there are concerns about Armenia's elections being tainted with widespread corruption.

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. Iran does not recognize dual citizenship. The Iranian government has harassed and detained dual citizens of the United States and Iran.

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.⁵

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."⁶ 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.

⁵ See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

⁶ *Egan*, *supra*, at 528, 531.

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

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

Analysis

Guideline C, Foreign Preference

Under Guideline C the government’s concern is that “[w]hen 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 ¶ 9.

Applicant traveled to Armenia in 1994, 2000, and 2004. In 2003, he sold his home in the United States while working for a government contractor overseas because he was not using it. He was frequently traveling throughout Europe and the Middle East as part of his job. In 2004, based on his Armenian ethnic background, Applicant requested “Armenian Special Residency Status” to conduct business in Armenia. He was issued an Armenian Special Residency Status document that granted him special privileges and rights, i.e., to purchase land, open bank accounts, and enter the country without a visa.

Between 2005 and 2006, Applicant used his Special Residency Status to open two bank accounts, and to buy five real estate properties, albeit for investment purposes. Applicant established his residence, and lived in Armenia for most of the year during 2005, 2006, and almost half of the year in 2007. The Armenian Special Residency Status document, in conjunction with his U.S. passport, allowed Applicant to travel in and out of Armenia without need for an Armenian visa.

Applicant’s actions raise security concerns under Guideline C. Foreign preference disqualifying condition AG ¶ 10(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 . . . (3): accepting educational, medical, retirement, social welfare, or other such benefits from a foreign country, and AG ¶ 10 (b) action to acquire or obtain recognition of a foreign citizenship by an American citizen.”

The Government produced substantial evidence of the disqualification conditions in AG ¶¶ 10(a)(3) and 10(b), 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.⁷

Applicant credibly testified he never intended to show allegiance to Armenia, to renounce his U.S. citizenship, or to become an Armenian national. Applicant merely wanted to minimize his travel time and improve his efficiency while working overseas for a government contractor by using Armenia as a convenient stop in between jobs. Concerning the properties, he explained he bought them as an investment.

AG ¶ 11 provides for six foreign influence mitigating conditions that are potentially applicable:

- (a) dual citizenship is based solely on parents' citizenship or birth in a foreign country;
- (b) the individual has expressed a willingness to renounce dual citizenship;
- (c) exercise of the rights, privileges, or obligations of foreign citizenship occurred before the individual became a U.S. citizen or when the individual was a minor;
- (d) use of a foreign passport is approved by the cognizant security authority.
- (e) the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated;
- (f) the vote in a foreign election was encouraged by the United States Government.

None of these six mitigating conditions under AG ¶ 11 are directly applicable to the facts of this case. Notwithstanding, I find that Applicant's actions after being made aware of the security concerns mitigate the Foreign Preference security concerns. On January 29, 2008, at Applicant's request, his company's facility security officer shredded Applicant's "Armenian Special Residency Status document." Applicant credibly testified he was not aware his investments in Armenia or his living in Armenia could raise security concerns. After made aware of the security concerns, Applicant immediately moved back to the United States with his new wife, closed his two Armenian bank accounts, and began to dispose of his real estate investments in Armenia. He sold two of the properties and is diligently attempting to sell the remaining three properties.

⁷See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

Guideline B, Foreign Influence

Under Guideline B, the government's concern is that:

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 ¶ 6.

AG ¶ 7 sets out four 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;
- (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;
- (d) sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion; and ,
- (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.

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.⁸

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

Applicant has frequent contacts and a close relationship of affection and/or obligation with his wife, and as a consequence with his wife's mother and siblings. The closeness of the relationship between his wife and her family is shown to some extent by his wife's contacts with her mother and siblings. These contacts create a risk of foreign pressure or attempted exploitation because there is always the possibility that Armenian agents or terrorists may exploit the opportunity to obtain information about the United States. His connection to her family members also creates a potential conflict of interest because his relationship is sufficiently close to raise a security concern about his desire to help his wife or his wife's family by providing sensitive or classified information. Applicant also has numerous extended family members (uncles and cousins) who are residents and citizens of Iran

The government produced substantial evidence raising these four 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.

Four 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;

(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; and,

(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.

After considering the totality of the facts and circumstances in Applicant's case, I conclude that Applicant's favorable information is sufficient to mitigate the Foreign Influence security concerns.

Applicant's close relationship with his wife and his wife family creates a risk of foreign pressure or attempted exploitation. However, in light of Armenia's history and current diplomatic and economic relationship with the United States, I do not believe Applicant's contact with his wife and her family members in Armenia create a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion. Available information suggests Armenia's government does not have a history of targeting American citizens to obtain U.S. information. Armenia and the United States have diplomatic and economic relations, and the United States is currently assisting Armenia with billions of dollars in economic and technical aid. Also, there is no evidence Armenia's government has ever collected or is collecting U.S. military, economic, or technical information. Under the circumstances of this case, it is unlikely that Applicant will be placed in a position of having to choose between the interests of a foreign individual or government and the U.S. interests.

AG ¶ 8(b) 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 31 years, during which he finished high school and attended college. He has been a naturalized U.S. citizen for 14 years. Applicant's mother and two siblings live in the United States. All of his financial and business interests were in the United States until 2005 when he decided to make some investments in Armenia and to live in Armenia for his personal convenience and that of his employer, a U.S. contractor providing services to the U.S. government overseas. Applicant has established himself as a proud American citizen and a successful engineer. He has worked hard for two U.S. contractors overseas for approximately nine years, and has established a track record of diligent labor. Immediately after being made aware of the government's security concerns, Applicant diligently started the process of divesting himself of the foreign bank accounts and investments. More importantly, Applicant immediately returned to the United States with his wife to make the United States their home.

Applicant's extended family members (uncles and cousins), who are residents and citizens of Iran, raise a more serious security concern. 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 extended family members in Iran do not pose a security risk and that it is unlikely he will be placed in a position of having to choose between the interests of the United States and the interests

of his Iranian family members.⁹ With its adversarial stance and its negative human rights record, it is likely that Iran would target any citizen in an attempt to gather classified or sensitive information from the United States. AG ¶¶ 7(a) and (b) apply.

Applicant has had limited or no contact or communication with most of his Iranian relatives since he left Iran in 1977. He has maintained some contact with the uncle and a niece who attended his 2005 engagement party in Armenia. Since then, Applicant has had telephone contact with his uncle once or twice a year during the holidays. Overall, I find Applicant's contact with his extended family members is so casual and infrequent that there is little likelihood that it could create a risk of foreign influence or exploitation. I also considered that none of his relatives work for the Iranian government or military or any news media. AG ¶¶ 8(b) and (c) apply.

Concerning Applicant's financial investments in Armenia, as of the hearing date, he owned three real estate properties with a combine value of approximately \$115,000. He has no other foreign investments. Comparing the value of his foreign investments with his U.S. investments, Applicant owns significantly larger investments in the United States. These include a \$532,500 home with an accumulated equity of over \$200,000, and approximately \$500,000 in liquid assets in a 401(k) retirement plan, IRA, mutual fund investments, and bank accounts. I favorably considered that after Applicant learned about the Government's security concerns regarding his foreign investments and his living in a foreign country, he immediately placed all of his real estate investments for sale, and closed his two foreign bank accounts.

Although the security concern remains because Applicant still owns investment properties in Armenia, his diligent actions to divest himself of the investments, and moving back to the United States weigh in Applicant's favor. I also considered in Applicant's favor that his employer, a government contractor, encouraged him to live abroad in order to improve efficiency in the delivery of services to the government and to reduce financial expenses. Considering the record as a whole, I find the value and nature of Applicant's foreign investments, when viewed in light of his actions and value of investments in the United States, are such that they are unlikely to result in a conflict of interest and could not be effectively used to influence, manipulate or pressure Applicant. AG ¶ 8(f) applies.

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):

⁹ 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).

(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 credibly averred his loyalty to the United States, his desire to help the United States, and his desire never to surrender his U.S. citizenship. Applicant has lived in the United States for close to 28 years and has been a naturalized citizen for 14 years. When he became a U.S. citizen, he swore allegiance to the United States. He finished high school and obtained his college degree in the United States. Since then, he has been a productive member of the American society and worked diligently for government contractors for close to nine years. Applicant has not travelled to Iran since 1977 and has casual and infrequent contact with extended family members in Iran. His mother and one of his sisters are residents and citizens of the United States. His other sister and Applicant's wife live in the United States and are in the process of applying for naturalization. After being made aware of the government's security concerns, Applicant diligently started the process of divesting himself of the foreign bank accounts and investments. More importantly, Applicant returned to the United States with his wife to make the United States their home.

After weighing the disqualifying and mitigating conditions, all the facts and circumstances, in the context of the whole person, I conclude he has mitigated the security concerns pertaining to foreign preference and foreign influence.

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

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant's security clearance. Eligibility for access to classified information is granted.

JUAN J. RIVERA
Administrative Judge