



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



In the matter of:)	
)	
)	ISCR Case No. 09-08230
)	
Applicant for Security Clearance)	

Appearances

For Government: Paul M. Delaney, Esq., Department Counsel
For Applicant *Pro se*

May 10, 2011

Decision

HEINY, Claude R., Administrative Judge:

Applicant, a naturalized U.S. citizen born in Iran, maintains possession of an Iranian passport. He has a close relationship with his mother who is a citizen and resident of Iran. Applicant has failed to rebut or mitigate the security concerns under Guideline C, foreign preference and Guideline B, foreign influence. Clearance is denied.

Statement of the Case

Applicant contests the Defense Department’s (DoD) intent to deny or revoke his eligibility for an industrial security clearance. Acting under the relevant Executive Order and DoD Directive,¹ the Defense Office of Hearings and Appeals (DOHA) issued a

¹ Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DoD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DoD on September 1, 2006.

Statement of Reasons (SOR) on July 13, 2010, detailing security concerns under Guideline C, foreign preference and Guideline B, foreign influence.

On August 2, 2010, Applicant answered the SOR and requested a hearing. On October 12, 2010, I was assigned the case. On November 2, 2010, DOHA issued a Notice of Hearing for the hearing held on November 9, 2010. The Government offered Exhibits (Ex.) 1 through 3, which were admitted into evidence without objection. Applicant testified. On November 19, 2010, DOHA received the hearing transcript (Tr.).

Request for Administrative Notice

Department Counsel submitted a formal request that I take administrative notice of certain facts relating to Iran. The request and the attached documents were not admitted into evidence, but were included in the record as Hearing Exhibit 1. The facts administratively noticed are set out in the Findings of Fact below.

Findings of Fact

In Applicant's Answer, he admitted the factual allegations in the SOR. His admissions are incorporated herein. After a thorough review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is a 55-year-old design engineer who has worked for a defense contractor since November 1981, and seeks to obtain a security clearance. In March 1986, he became a U.S. citizen and in 1997, he obtained a U.S. passport. (Tr. 28, Ex. 3) In May 2008, he renewed his Iranian passport, which expires in June 2013. (Ex. 1, 3) In November 2007, Applicant visited Iran for two weeks just before and following his father's death. One year later on the one-year anniversary of his father's death, he visited Iran for a two-week period in November and December 2008. (Ex. 2)

Applicant was born in Iran and lived there for 18 years. It was his father's desire that Applicant and his brother study abroad. (Tr. 29) In 1974, Applicant came to the United States as a student planning to return to Iran following graduation and work in his father's home appliance factory. (Tr. 26, Ex. 2) In 1979, the Iranian Islamic Revolution occurred, and in 1980, war started between Iran and Iraq, which lasted until 1988. His father told him not to return to Iran. (Tr. 26) In 1981, he obtained a position with his current company.

From 1981 to 1997, Applicant's parents visited him in the United States every two to three years, sometimes staying for a year. (Tr. 27, 68) His parents would divide their stay between him and his brother, who also lived in the United States. (Tr. 31) In 1997, he obtained an Iranian passport because his parents were getting older and were no longer able to visit him in the United States. (Tr. 20) Before 1997, the only current

passport was his U.S. passport. (Tr. 21) His prior Iranian passport² had expired because he had no intention of ever returning to Iran. (Tr. 27) At that time, he had been away from Iran for 28 or 29 years.

In March 1991, Applicant married.³ His wife, an accountant, lives with him in the United States. She is a dual Iranian and U.S. citizen who acquired her U.S citizenship in 1994 or 1995. (Tr. 39, 40) His wife had come to the United States in 1986 or 1987 as a student. She obtained degrees in accounting and finance. (Tr. 42) Her father and mother were Iranian citizens, but are now deceased. (Tr. 46) His wife's five or six brothers live in the United States and are doctors and architects. (Tr. 30, 64) Applicant is not close to his wife's brothers or his wife's two or three sisters. Applicant does not know his sister-in-laws' professions or that of their spouses. One sister lives in Germany, one in Iran, and another, who lived in Iran, is now dead. (Tr. 42) With that sister's death, his wife keeps in touch with her sister's daughter, her niece, a student. (Ex. 2) His wife is not close with her siblings. (Tr. 43) Applicant has no contact with his wife's siblings. (Tr. 69)

In 2004, Applicant's wife visited Iran. She had previously visited Iran approximately ten years before in 1993 or 1994. (Ex. 2) She has visited Iran two or three times in the last 20 years. (Tr. 39) She visited Iran shortly before her mother's death. (Tr. 65) His wife's Iranian passport has not been renewed since it expired. (Tr. 73) Applicant's children were born in the United States in April 1992 and September 1984, and are dual Iranian and U.S citizens. In 2004, his children accompanied by his wife visited their grandparents. His son is attending university in the United States and his daughter is a high school junior. (Tr. 29) His son, now of military age, would be subject to military service should he return to Iran. His son has no desire to return to Iran. (Tr. 67)

Applicant's mother, a homemaker, is a citizen and resident of Iran. Applicant provides no financial assistance to his mother. His father owned factories and was financially well off. (Tr. 47) His mother is a registered alien who, until 2000, visited the United States every two or three years. Applicant talks with his mother every week or every other week by telephone. His mother is 81 years old and suffers from arthritis and she is no longer able to travel to the United States. (Tr. 63) If he were to renounce his Iranian citizenship, he could not visit his mother in Iran. The current relationship between Iran and the United States does not allow him to visit Iran on a U.S. passport. (Ex. 2) As long as his mother is alive, he will maintain his Iranian passport so he can visit her, should the need arise. (Tr. 38, 72)

² Applicant's passport was issued by the Shah's administration. He had no desire to have a new passport issued by the current Iranian government.

³ Applicant was previously married, from November 1977 to November 1982, to a citizen of the Philippines.

Applicant's brother, who owns an automobile mechanic shop, is a U.S. citizen living in the United States. (Tr. 37) Applicant talks weekly with his brother. His brother came to the United States as a student, obtaining an electrical engineering degree. (Tr. 48) His brother's children were born in and currently live in the United States. His brother last visited Iran in 2000. (Tr. 47) Applicant's two sisters are Iranian citizens living near his mother in Iran. Both are homemakers. One is married to a carpet merchant and the other to a clothing store owner. (51, 52) He talks to his sisters every six months to once a year. (Tr. 50, Ex. 2) In the last 30 years, he has spent two or three days visiting them. (Tr. 51) He has never provided his sisters with financial support. (Tr. 53)

In November 2007, upon the death of his father, Applicant inherited one-half interest in a \$60,000 condominium located in Iran. (Tr. 53) The property is rented and the rent goes to his mother. His uncle, a citizen and resident of Iran, manages the property. (Ex. 2) His uncle obtained his degree from a west coast university and is a university professor in Iran. Applicant talks with his uncle annually. (Tr. 58)

Applicant's net worth in the United States is approximately one million dollars. (Tr. 60) His only foreign asset is the half interest in the condominium. He does not consider himself an Iranian citizen. He has never voted in a foreign election. (Tr. 34) Since 1974, he has visited Iran three or four times. (Tr. 36) He has no obligation or allegiance to Iran or its government. (Ex. 2)

Iran

Iran is a constitutional Islamic republic with a theocratic system of government in which Shi'a Muslim clergy dominate the key power structures, and ultimate political authority is vested in a learned religious scholar. The United States has not had diplomatic relations with Iran since 1980. The President's National Security Strategy has stated that the United States "may face no greater challenge from a single country than from Iran."

The United States Government has defined the areas of objectionable Iranian behavior as:

- Iran's efforts to acquire nuclear weapons and other weapons of mass destruction;
- Its support for and involvement in international terrorism;
- Its support for violent opposition to the Middle East peace process;
- Its dismal human rights record; and
- Iran's intervention in the internal affairs of Iraq.⁴

⁴United States Department of State; Country Reports on Terrorism, Chapter 3 – State Sponsors of Terrorism Overview, dated April 30, 2009, United States Department of State; State Sponsors of Terrorism. (Hearing Exhibits)

The United States has designated and characterized Iran as the most active state sponsor of terrorism. Iran provides critical support to non-state terrorist groups. The Government of Iran has committed numerous, serious human rights abuses against the Iranian people. Abuses include political killings and incarceration; summary executions; disappearances; religious persecution; torture; arbitrary arrest and detention, including prolonged solitary confinement; denial of due process; severe restrictions on civil liberties - speech, press, assembly, association, movement and privacy; severe restrictions on freedom of religion; official corruption; violence and legal and societal discrimination against women, ethnic and religious minorities, and homosexuals; trafficking in persons; and child labor.

Travel to Iran remains problematic. The State Department continues to warn U.S. citizens to consider carefully the risks of travel to Iran. U.S. citizens who were born in Iran and the children of Iranian citizens—even those without Iranian passports who do not consider themselves Iranian—are considered Iranian citizens by Iranian authorities, since Iran does not recognize dual citizenship. Therefore, despite the fact that these individuals hold U.S. citizenship, under Iranian law, they must enter and exit Iran on an Iranian passport, unless the Iranian government has recognized a formal renunciation or loss of Iranian citizenship. United States and Iranian dual nationals have been denied permission to enter or depart Iran using their U.S. passport; they even had their U.S. passports confiscated upon arrival or departure. United States and Iranian dual citizens have been detained and harassed by the Iranian government. Iranian security personnel may place foreign visitors under surveillance. Hotel rooms, telephones and fax machines may be monitored, and personnel possessions in hotel rooms may be searched.

Some elements of the Iranian government and population remain hostile to the United States. Consequently, American citizens may be subject to harassment or arrest while traveling or residing in Iran. The United States Government does not currently have diplomatic or consular relations with the Islamic Republic of Iran, and therefore, cannot provide protection or routine consular services to American citizens in Iran. The Swiss Government, acting through its Embassy in Tehran, serves as protecting power for United States interests in Iran. Neither U. S. passports nor visas to the United States are issued in Tehran.

The Iranian government generally does not permit the Swiss to provide protective services for U.S. citizens who are also Iranian nationals. In addition, U.S. citizens of Iranian origin who are considered by Iran to be Iranian citizens have been detained and harassed by Iranian authorities. Nevertheless, Iran is not a known collector of U.S. intelligence or sensitive economic information, nor is it known to target U.S. citizens to obtain protected information.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief

introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which must be considered 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 overarching adjudicative goal is a fair, impartial, and commonsense 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 the interests of 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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

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 to obtain 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 safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order (EO) 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 *a/so* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline C, Foreign Preference

The security concern relating to the guideline for Foreign Preference is set out in AG ¶ 9:

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.

The guideline notes a condition that could raise security concerns under AG ¶ 10 potentially applies in this case:

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

(1) possession of a current foreign passport.

In 1986, Applicant became a U.S. citizen. However, in 1997, he obtained an Iranian passport, which he renewed in 2008. His current Iranian passport does not expire until 2013. This action was taken after he became a U.S. citizen. The condition in AG ¶ 10(a)(1) is disqualifying.

As long as his mother is alive, Applicant will maintain his Iranian passport to be able to visit her. Applicant acquired the Iranian passport not to increase his ties to Iran, but, he asserts, solely to visit his 81-year-old mother who suffers from arthritis and is no longer able to travel to the United States. However, there is no restriction on the travel permitted by his Iranian passport. The current relationship between Iran and the United States does not allow him to visit Iran on a U.S. passport. If he were to renounce his Iranian citizenship, he could not visit his mother in Iran.

Applicant does not intend to relinquish his Iranian passport. None of the mitigating conditions apply, and foreign preference concerns are not mitigated.

Guideline B, Foreign Influence

AG ¶ 6 explains the Government's security concern regarding 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.

AG ¶ 7 describes conditions that could raise a security concern and may be disqualifying in this case are:

(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;

. . .

(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.

None of the mitigating conditions apply to Applicant's relationship to his mother living in Iran. Iran is considered to be an extraordinary threat to the national security, foreign policy, and economy of the United States. Iran has been designated a state sponsor of terrorism since 1984, because of its open sponsorship of terrorism. Iran disregards the United Nations Security Council restrictions on its nuclear program. It has repeatedly been in non-compliance with the International Atomic Energy Agency program's international obligations, and it continues with its ambition to develop nuclear weapons, against the objections of many nations. Iran also has an extensive record of human rights violations. Furthermore, Iran has sought to illegally obtain U.S. military equipment and other sensitive technology. It is also enhancing its focus on U.S. intelligence activities and relies on foreign intelligence partnerships to extend its capabilities.

Finally, the United States has not had diplomatic ties or consular relations with Iran since Iran's revolution in 1979. The Iranian government does not recognize dual nationality and will treat Iranian and U.S. dual nationals solely as Iranian citizens. The United States cannot provide protection or routine consular relations to American citizens in Iran. Iranian authorities have prevented a number of American citizens, who have traveled to Iran for personal reasons, from leaving, and in some cases have detained, interrogated, and imprisoned them.

Applicant has a close relationship with his mother and communicates weekly or bi-weekly with her. He has limited contact with his two sisters, who are also citizens and residents of Iran. His contact with his sisters is limited to once or twice a year. His wife's sisters are citizens and residents of Iran, but Applicant has no contact with them and his wife has minimal contact with her siblings. On his father's death in 2007, he inherited

half interest in a \$60,000 condominium in Iran. In 2007, Applicant visited Iran for two weeks just before and following his father's death and again in 2008, on the anniversary of his father's death.

Applicant has strong ties of affection for, or obligation to, his mother. His relationship with his mother is sufficient to create "a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion." His relationship with his mother in Iran creates a concern about Applicant's "obligation to protect sensitive information or technology." For example, if the Iranian government or terrorists in Iran wanted to expose Applicant to coercion, it could exert pressure on his mother. Applicant would then be subject to indirect coercion and sensitive or classified information could potentially be compromised. The disqualifying factors in AG ¶¶ 7(a) and 7(b) apply. The disqualifying factor in AG ¶ 7(e) must also be considered.

Four of the mitigating conditions under AG ¶ 8 are potentially applicable:

(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 United States;

(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 United States, that the individual can be expected to resolve any conflict of interest in favor of the United States 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.

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

The nature of a nation's government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an Applicant's family

members are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the Government, or the country is known to conduct intelligence operations against the United States. The complicated, relationship of Iran with the United States places a significant, but not insurmountable burden of persuasion on Applicant to demonstrate that his relationship with his mother and sisters does not pose a security risk and he is not in a position to be forced to choose between loyalty to the United States and these three persons.⁵ With its human rights record, and political, economic and military rivalry with the United States, it is conceivable that Iran would target any Iranian citizen or former citizen living in the United States in an attempt to gather valuable information.

There is no evidence that terrorists or the Iranian government have approached or threatened Applicant or his Iranian relatives for any reason. There is no evidence that his mother or siblings living in Iran currently engage in activities which would bring attention to them or that they or other Iranian elements are even aware of his work. As such, there is a reduced possibility that his relatives living in Iran or he would be targets for coercion or exploitation. There is no evidence any of his foreign relatives currently works or ever worked for the Iranian government, military, or news media, or any other foreign government. None of his relatives are involved with organizations which seek to harm the United States

Applicant's close relationship with his mother is an important positive reflection of his character, but the same close relationship raises security concerns for possible foreign influence. The mitigating conditions listed AG ¶¶ 8(a) and 8(c) cannot be applied with respect to Applicant's mother. His relationship with his mother remains a concern. I find against him as to SOR ¶ 2.a.

The mitigating conditions listed in AG ¶¶ 8(a) and 8(c) do apply to his sisters. Neither sister is in position connected with the Iranian government or engaged in activities that would likely cause Applicant to be exploited or placed in a position of having to choose between them and the United States. His infrequent contacts (once or twice a year) and his relationship with his sisters, which is not close, pose a low

⁵An applicant with relatives in Iran, for example, has a heavier burden to overcome than an applicant with relatives living in Russia. 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); ISCR Case No. 07-12471 at 9 (A.J. May 30, 2008) (stating "Between January 9, 2007 and January 18, 2008, the Appeal Board decided 36 appeals involving Iran under the old guidelines, and it reversed 20 decisions granting clearances and affirmed 15 decisions denying clearances." And listing at 9 n.1 the pertinent cases). The Appeal Board has also articulated a "heightened risk" or "very heavy burden" in People's Republic of China (PRC) cases because of that country's hostility to the United States and aggressive intelligence collection efforts. See ISCR Case No. 06-24575 at 4 (App. Bd. Nov. 7, 2007) (articulating "very heavy burden" standard and reversing grant of clearance in case involving family members living in the PRC); ISCR Case No. 07-02485 at 4-5 (App. Bd. May 9, 2008); ISCR Case No. 07-02485 at 4-5 (App. Bd. May 9, 2008).

potential for forcing him to choose between the United States and Iran. He met his burden of showing there is little likelihood that his relationship with his sisters could create a risk of foreign influence or exploitation. AG ¶ 8(a) cannot be fully applied because of Iran's hostile relationship with the United States and Iran's negative human rights record, which makes it more likely that Iran would violate the law to gain classified information. I find for him as to SOR ¶ 2.b because AG ¶ 8(b) is fully applicable.

Applicant has a half interest in a condominium he inherited in 2007 upon his father's death. The condominium is worth approximately \$60,000 and all rental income generated goes to his mother. He is not involved in the rental management of the property, which is handled by his uncle, and it is Applicant's only foreign asset. He is financially stable, does not need compensation from the property, and seeks none. His net worth in the United States is approximately a million dollars. When the value of the Iranian property is compared to his United States assets, that property is not a "substantial property interest." The minimal value of the foreign property is such that it is unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure him. The mitigating condition in AG ¶ 8(f) applies. I find for him as to SOR ¶ 2.c.

Since 1974, when Applicant came to the United States as a student, he has visited Iran for only three or four times. His most recent trips were two weeks each, one in 2007, when his father was seriously ill and then died, and the other in 2008, on the one year anniversary of his father's death. He has not lived in Iran for 36 years. He has no intention of ever living there. The security significance of these two recent trips is minimal. I find for him as to SOR ¶ 2.d.

In sum, the primary foreign influence security concern is Applicant's close relationship with his mother living in Iran, who is readily available for coercion or attempts to influence.

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. A Guideline B and C decision concerning Iran must take into consideration the geopolitical situation in that country, as well as the dangers existing in Iran.⁶

The Appeal Board requires the whole-person analysis address “evidence of an applicant’s personal loyalties; the nature and extent of an applicant’s family’s ties to the U.S. relative to his [or her] ties to a foreign country; his or her ties social ties within the U.S.; and many others raised by the facts of a given case.” ISCR Case No. 04-00540 at 7 (App. Bd. Jan. 5, 2007).

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Applicant immigrated to the United States in 1974; became a naturalized U.S. citizen in 1986; has been successfully living the American dream for 36 years; and worked for a government contractor since 1981. There is no evidence of any misconduct or security violations. Applicant is considered to be a productive employee and a loyal American. Applicant is fully entrenched in the United States and is unlikely to compromise his life here. He is a mature person. Since leaving Iran at age 18, he has returned to Iran only three or four times. He does not intent to return to Iran. His family, most of his property and future are in the United States

There is no evidence Applicant has ever taken any action that could cause potential harm to the United States. He takes his loyalty to the United States seriously. Applicant’s spouse has been a naturalized U.S. citizen since 1994. His two children were born in the United States. Both he and his wife earned degrees from U.S. institutions. He is a successful member of the business community, providing services to the United States Government. His property in the United States greatly exceeds the value of his share of the condominium in Iran. The record contains no derogatory information about him. These factors show responsibility and some mitigation.

On the other hand, there are more substantial circumstances that weigh against Applicant in the whole-person analysis. I have considered the Iranian government’s hostile relationship with the United States and unwillingness to comply with international law and respect the human rights of Iranian citizens and former Iranian citizens. In 1997, Applicant obtained an Iranian passport after becoming a U.S. citizen. In 2008, he renewed that passport, which does not expire until June 2013. He retains possession of that Iranian passport. Additionally, Applicant’s contact with his mother in Iran creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion that he has not mitigated. For all these reasons, I conclude Applicant failed to mitigate

⁶ See ISCR Case No. 04-02630 at 3 (App. Bd. May 23, 2007) (remanding because of insufficient discussion of geopolitical situation and suggesting expansion of whole-person discussion).

the security concerns arising from his foreign influence and foreign preference considerations.

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, Foreign Preference: AGAINST APPLICANT

 Subparagraph 1.a: Against Applicant

Paragraph 2, Foreign Influence: AGAINST APPLICANT

 Subparagraph 2.a: Against Applicant

 Subparagraphs 2.b and d: For Applicant

Conclusion

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

CLAUDE R. HEINY II
Administrative Judge