



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



In the matter of:	)	
	)	
SSN:	)	ISCR Case No. 07-09153
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Francisco Mendez, Esquire, Department Counsel  
For Applicant: Sheldon I. Cohen, Esquire

May 29, 2008

**Decision**

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MASON, Paul J., Administrative Judge:

Applicant submitted his Security Clearance Application (SCA), on June 10, 2004. On November 20, 2007, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing security concerns under foreign influence (Guideline B). The action was taken pursuant to 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 made effective within the Department of Defense for SORs issued on or after September 1, 2006.

Applicant submitted his answer to the SOR on January 9, 2008. DOHA issued a notice of hearing on March 5, 2008, and the hearing was held on April 2, 2008. Based on a careful evaluation of all the evidence in the record, Applicant's eligibility of security clearance access is granted.

At the hearing, the government submitted three exhibits (GE). The third exhibit (GE 4, administrative notice exhibit) contains facts from United States Government agency publications that describe the government of Iran, its human rights record, and the various difficulties U.S. citizens face in traveling to the country. At the hearing, testimony was taken from Applicant and four witnesses. He also submitted fifteen exhibits (AE A - AE O). DOHA received the transcript on April 10, 2008.

### **Rulings on Procedure**

I am taking administrative notice of facts recited in Department Counsel's memorandum. These facts have been culled from U.S. State Departments listed at the end of the government's Administrative Notice Memorandum. The underlying documents will be attached to the record, but are not admitted as government exhibits.

At the beginning of the hearing, Applicant moved to amend SOR 1.c. (Tr. 4) by adding a sentence to the existing allegation. The amendment reads as follows, "One half-brother (21 years old) has been approved to immigrate to the U.S. in 2001, but is awaiting his visa from the U.S. State Department." The government did not object to the proposed amendment. Pursuant to E3.1.17. of the Directive, the amendment was granted. (Tr. 4, 5)

### **Findings of Fact**

The SOR alleges in paragraph 1 that Applicant's ties and travel to Iran raise foreign influence concerns. He admitted subparagraphs 1.a., 1.c., 1.d., and 1.f. He denied subparagraphs 1.b. and 1.e. due to changed circumstances. The underlying reason for the denial to subparagraph 1.b. is that his father has been a United States (U.S.) citizen since 1984. (AE F) His mother is a citizen of Iran living with Applicant in this country, and plans to become a U.S. citizen when she is eligible in May 2008. She has a U.S. permanent resident card. (AE G) Even though Applicant's brother-in-law is a citizen of Iran (SOR 1.e.), he is now living with Applicant in the U.S., and expects to apply for U.S. citizenship in October 2009. He has his U.S. permanent resident card. (AE I)

Applicant is 38 years old and married. He is employed as a computer programmer for a defense contractor located at the Naval Research Laboratory (NRL). He has held his position since his hire in June 2004. He seeks a secret security clearance.

In December 1969, Applicant was born in Iran, and is a member of the Baha'i religious faith. See, AE L. As I shall discuss later, during his childhood, he spent a considerable amount of time at a neighbor's home, where he developed a close friendship with witness B (Applicant's best friend) and witness A (Applicant's future wife).

Applicant's parents, resident citizens of Iran, separated in about 1974 when Applicant was five or six. His father immigrated to the U.S. in 1978, and became a U.S. citizen in 1984. (AE I) Applicant's father is 88 years old, and has lived in the central part of the U.S. since 1979. (answer to SOR) Applicant's mother remarried and bore a son in (circa) 1980 and another son in approximately 1987. After their stepfather passed away in 1988, Applicant's two half-brothers viewed him as a fatherly figure and big brother.

Before his successful exit from Iran in 1991, Applicant tried unsuccessfully to leave the country three times in the 1980s. In 1983, he was 13 years old when he was supposed to travel to a location to be smuggled out of Iran. At a checkpoint along the way to meet the smuggler, someone discovered Applicant did not speak the local dialect. He was removed from a bus, and spent a week in detention where he was interrogated and beaten by security officials in their effort to obtain details of the smuggling operation. (Tr. 153-155) He revealed nothing.

Applicant tried to leave Iran a second time in 1985. This time he managed to get a little bit closer to the Iranian border (with Turkey), but had to turn back due to adverse weather conditions. He was 15 years old when security officials came to his house and arrested him.<sup>1</sup>

In December 1987, Applicant tried a third time to escape. (Tr. 156) With the help of his mother, who knew he was determined to get out of the country, he found a smuggler (with a successful smuggling background) who agreed to take him and five others to Turkey. On their way, Iranian security stopped and arrested them. AE E reflects that Applicant was arrested on December 22, 1987 and released to his parents' custody in April 1988.<sup>2</sup> During his detention, he was beaten regularly but disclosed nothing.

In 1991, Applicant received his bachelor's degree in computer science and mathematics. (Tr. 148; GE 1) During Thanksgiving 1991, he was finally permitted to leave Iran. Although he had been eligible for a green card (permanent resident card) since he was 13 years old, he could not get a passport to leave Iran until he was about 22 years old. He was required to return to Iran for five successive years to satisfy a military exemption law applicable to the eldest son in a family with no father/husband. Under Iranian law in 1991/1992, in a family with no father/husband, the eldest son was exempt from serving in the military so he could take care of his mother. This exemption was temporary and had to be renewed yearly for five years, so one's passport was valid for only one year. At the end of the five-year period, the exemption became permanent

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<sup>1</sup> AE D is verification of Applicant's arrest in 1985.

<sup>2</sup> The Iranian court advised the ministry of education of Applicant's arrest. As a result, Applicant could not enroll in the school he had been attending, and had to enroll in another school to complete his last two years of high school.

along with the passport. (Tr. 169)<sup>3</sup> Applicant surrendered his Iranian passport in October 2006.

Applicant received additional computer training in the U.S. between 1992 and 1994. (AE A) He was granted his U.S. citizenship in October 1997. (GE 1) He has worked as a software developer for six employers around the U.S. A major reason Applicant moved to the upper northwest location in the U.S. in 1999 was his desire to find more permanent employment with benefits that his previous contractor positions did not offer him. (Tr. 174) In June 2004, Applicant was hired by NRL.

In response to his oldest half-brother's request, Applicant returned to Iran to attend his half-brother's wedding. (Tr. 170) Applicant does not consider himself close to either half-brother. They speak to each other maybe three times a year on birthdays and holidays. (Tr. 171-174) The last e-mail Applicant received from his half-brothers was in 2006. (Tr. 218)

Applicant's mother is a citizen of Iran, but has lived with Applicant since June 2007. She has been a resident of the U.S since 2003; she has her U.S. resident card. (AE G) She intends to obtain her U.S. citizenship, although learning English has been a challenge for her. Previously, she was living with Applicant one out of every six months.<sup>4</sup> After each stay, she returned to Iran to take care of Applicant's youngest half-brother. When the half-brother reached 21, she moved in with Applicant permanently in June 2007. Applicant's mother calls her two sons (Applicant's half-brothers) approximately once a month, and they call her once every other month. (Tr. 205)<sup>5</sup> She has no plans to return to Iran. (Tr. 203) Although Applicant sponsored his youngest half-brother for immigration (AE K), he is aware it takes up to 10 years before siblings are granted authorization to immigrate.

On October 10, 2006, Applicant shredded his Iranian passport; this act was witnessed by his employer's supervisor, the government supervisor, and the facility security officer. (AE B) On the same day, Applicant signed a statement stating that, ". . . I would like to relinquish my Iranian citizenship in favor of a sole United States citizenship." (AE C) A requirement for working at NRL by employees from foreign countries is to relinquish their foreign passports. (Tr. 185) At some time before he shredded his passport in October 2006 (date not revealed in the record), Applicant went to the Iranian Interest Section (of the Pakistani Embassy) to turn in his passport. The Iranian officials punched a hole in the passport and returned it to him. He opined the passport was punched to alert Iranian immigration officials that the passport was

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<sup>3</sup> Applicant indicated in GE 3 that his exemption ended in 1995.

<sup>4</sup> GE 1 reveals she was living in a southwestern city of the U.S. in June 2004.

<sup>5</sup> Applicant also has two half-brothers from his father's first marriage. They were born in Iran and are naturalized U.S. citizens. (Tr. 216)

defective, and lead to possible detention of the passport holder at the Iranian border. (Tr. 187-189)

Applicant hates the Iranian government because of their mistreatment of their people, their involvement in terrorist activities, and the authoritarian form of government. (Tr. 193) If Applicant ever became the target of pressure, he stated:

I would notify the security officer first. But anybody who knows me knows that if you try to apply pressure on me for doing that I believe it's not right, you will get the exact opposite. It will make me more determined not to help them, th[a]n if they didn't put pressure. So if they arrested my half-brothers and send me threat that they will kill them, there is nothing I can do about it. I will be sad, but that will not persuade me to do anything that I believe is wrong. (Tr. 194)

Applicant would eagerly bear arms against Iran. (Tr. 195)

None of Applicant's relatives have ever been employees of or agents of the Iranian government. Witness A's father was in the Iranian Air Force for more than 20 years, but died in 1988.

Witness A, Applicant's Muslim wife, is 33 years old. She was born in Iran. She lives with Applicant. She has a bachelor of science degree in material engineering, and has several credits toward a fine arts degree. She currently is an assistant manager at a clothing store in the area. She has known Applicant for approximately 25 years, having met him when she was about eight years old, and he was 13 at the time. Her brother (witness B) was Applicant's classmate in school. Even though witness A was conscious that Applicant's religion was different from her religion, the two families had a good relationship.

When witness A was 23 years old (1997), she, her mother and witness B (her brother) were smuggled out of Iran. Their departure became imminent after A's brother and their mother received threats of harm for asking questions about their father's demise.<sup>6</sup> Witness A's mother was detained for 3 days as a result of her informal investigation into her husband's death.

About 10 days after witness B was threatened (Tr. 88), he, witness A, and their mother sold what they could, then exited Iran. They left their house and some property behind. After entering Turkey, they flew to Thailand for about three weeks before landing in Canada during Thanksgiving 1997. On their arrival, they contacted the immigration office who declared their refugee status. The immigration office released

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<sup>6</sup> For several years following their father's death, they assumed his death resulted from natural causes. However, as the years passed, they became less certain and more concerned because of the different reasons the Iranian government supplied for his death. (Tr. 85-88)

them to witness A's aunt. There is no additional evidence regarding the aunt of witness A.

Witness A, witness B, and their mother, received their permanent resident status cards in Canada. Witness A found work in the retail business, and also enrolled in some fine arts classes. Witness A's mother, who is still a permanent resident of Canada (Tab J), landed employment as an administrative secretary in a computer office. (Tr. 96)

When witness A, witness B, and their mother arrived in Canada at her aunt's house in 1997, Applicant coincidentally happened to be there because it was Thanksgiving. Over the next few years, Applicant visited witness A and her family more frequently, especially after he moved to an upper northwest location in the U.S. in 1999. Applicant and witness A began dating and were married in Canada in August 2001.

About five years passed before witness A moved to the U.S. because of the circumstances of September 11, 2001. She relented after much persuasion on his part to persuade her to come to U.S. She changed her mind after he was accepted for the job in the local area in June 2004.

Witness A received her U.S. green card in 2006 (Tab H), and plans to apply for her U.S. citizenship in about six months. She has lived with Applicant since approximately October 2006. (GE 3) Applicant's mother came to live with Applicant in June 2007, and Witness B came to live with Applicant in October 2007. Witness A has no desire to return to Iran. She has no family members left in the country. (Tr. 108)

Witness A enjoys the U.S. She testified:

I love every moment of it. I - - first of all, I live with my husband finally, which is like incredible. And the reactions that people have to the fact that I was born in Iran and there is nobody - - everybody think that, you know, people are going to react to you like really differently. They are going to treat you as enemy, but I found it - - I found that people are very well-educated.

They know that if some crazy person in some distant land trying to do harm to other people, it has nothing to do with me. I love this country. I came here to change my life. I came here to have a better life. They don't judge me by that perception. They judge me by who I am, which is amazing, which is amazing. (Tr. 104-105)

Witness A believes Applicant is very honest. She also considers him to be endowed with strong convictions. She testified:

If he believes in something that is right, nothing can change his mind. Nothing. I mean, he had been arrested for to flee Iran a few times. And every time they tried to get information from him to, you know make him say who was smuggling - - you know, what was the plan and everything.

He never said a word about any of that, because he didn't believe that's the right thing to do. And I personally really admire that. (Tr. 106,107)

Witness B, 38 years old, was born in Iran, and is still a citizen of the country. He has been Applicant's best friend since childhood. He is aware of Applicant's unsuccessful attempts to leave Iran in the 1980s. In a conversation Applicant had with witness B, an aunt Applicant no longer has any contact with, alerted Iranian security officials of Applicant's plans to escape in December 1987. Applicant has not seen or talked with that aunt since his arrest in 1987, according to witness B. (Tr. 137-139)

As witness A indicated earlier in her testimony, she, witness B, and their mother were successfully smuggled out of Iran in 1997,<sup>7</sup> leaving their possessions behind.<sup>8</sup> Applicant's wife (witness A), witness B, and their mother lived in Canada from 1997 to 2007, with witness B employed as a computer store manager, and a budding photographer in his spare time. Witness B and his wife, who he married in 2004, came to live with Applicant in October 2007. No additional information was presented regarding witness B's wife. Their mother continues to live in Canada. Witness B has been a permanent U.S. resident since October 2007 (AE I),<sup>9</sup> and intends to become a U.S. citizen. Witness B testified that he did not know of any contact Applicant may have had with any family members or friends in Iran. (Tr. 141-143)

### **Character Evidence**

The library director at the NRL testified he supervises the contract that Applicant works on. Through daily interaction, the director has found Applicant a reliable and trustworthy person. (AE M)<sup>10</sup> Other positive attributes the director has found in Applicant's performance are his habit for dependably gauging how long it will take to get a project completed, and then completing the job in a timely fashion. (Tr. 48) When Applicant began working at the NRL site, he spoke to the director about his unsuccessful escapes from Iran, and his overall dislike for the Iranian government. (Tr. 49) The director was present when Applicant shredded his Iranian passport in October 2006. (AE B)

Applicant's immediate supervisor has worked with Applicant since 2004. He believes Applicant is a diligent and trustworthy employee. Applicant told the supervisor about the terrible conditions in Iran, and his imprisonment for trying to leave the country.

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<sup>7</sup> Witness B has not returned to Iran since his escape from the country in 1997. (Tr. 138)

<sup>8</sup> Applicant's counsel proffered that witness B would testify to the same facts as witness A.. Department Counsel had no objection to abbreviating witness B's testimony. (Tr. 124)

<sup>9</sup> Just as his sister had done, witness B had to obtain his permanent alien status in Canada before qualifying to receive his U.S. green card.

<sup>10</sup> The favorable character statement was signed by eight people in Applicant's chain of command, including the superintendent of the Technology Division at NRL.

(Tr. 70) The supervisor witnessed Applicant shred his Iranian passport in October 2006. (AE B) Though he could not remember whether he saw Applicant sign AE C (renunciation of citizenship), the supervisor recalled Applicant's explanation that, since Iran does not allow renunciation of citizenship, Applicant wanted to do what he could to show he did not want to be a citizen of Iran. (Tr. 73)

### **Administrative Notice**

Since the Muslim clergy came to power in the early 1980s, the Islamic Republic of Iran has fostered a poor human rights record through repression of its people<sup>11</sup> as well as through mistreatment of U.S.-Iranian dual citizens.<sup>12</sup> The Iranian government has pursued weapons of mass destruction<sup>13</sup> and supported terrorist activities throughout the Middle East.<sup>14</sup> Applicant credibly testified that he knows and abhors Iran's ugly human rights practices inside the country, and the country's promotion of terrorism abroad.

### **Policies**

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 flexible rules of law. Recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The Administrative Judge's ultimate adjudicative goal is a fair, impartial and common sense decision. According to the AG, the entire process is a careful, thorough evaluation 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 national security is the paramount consideration. AG ¶ 2b. requires that "[a]ny doubt concerning personnel being considered for access to

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<sup>11</sup> *Country Reports on Human Rights Practices - 2006 Iran*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, dated March 6, 2007.

<sup>12</sup> *Travel Warning: Iran*, U.S. Department of State, Bureau of Consular Affairs, dated January 3, 2008.

<sup>13</sup> *Background Note: Iran*, U.S. Department of State, Bureau of Near Eastern Affairs, dated June 2007.

<sup>14</sup> *Country Reports on Terrorism 2006, Chapter 3 - State Sponsors of Terrorism overview*, U.S. Department of State, Office of the Coordinator for Counterterrorism, dated April 30, 2007; *Making America Safer by Defeating Extremists in the Middle East*, State by President of the United States, released by the Office of the White House Press Secretary, August 28, 2007; *Annual Threat Assessment for the Senate Select Committee on Intelligence*, Director of National Intelligence, February 5, 2008.

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. 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 is not restricted to normal duty hours. Rather, the relationship is an-around-the-clock responsibility between an applicant and the federal government. 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.

### **Foreign Influence (FI)**

The security issues connected to foreign influence are familial ties, contacts, and/or proprietary/financial interests that could be used to generate a heightened risk of forcing an applicant into a position of having to choose between the foreign entity and the U.S.

### **Analysis**

“Foreign contacts and interests result in security concerns where those contacts and interests create divided loyalties, or may be manipulated or induced by a foreign entity that is harmful to U.S., or is vulnerable to pressure or coercion by any foreign entity. Decisions under this guideline should include the foreign country where the contact or financial interest is located, including, but not limited to whether the foreign government targets U.S. citizens to obtain protected information and/or is associated with the risk of terrorism.”

The government has established a preliminary basis for denying Applicant’s security clearance application. His spouse, his mother, his half brothers, his mother-in-law, and his brother-in-law are citizens of Iran. His family’s Iranian citizenship, when considered in light of Iranian’s authoritarian government, characterized by poor human rights and terrorist practices, could result in the compromise of classified information because it makes Applicant potentially vulnerable to coercion and pressure. Foreign Influence (FI) disqualifying condition (DC) 7.a. (*contact with a foreign family member,*

*business or professional associate, friend, or other person who is a citizen of or a resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion)* applies. Applicant's two half-brothers are still resident citizens of Iran. However, while still a citizen of Iran, Applicant's spouse has had her U.S. permanent resident card since October 2006, and anticipates becoming a U.S. citizen in about six months. She has been living with Applicant since October 2006. She has no relatives she maintains contacts within Iran, and has no intention of returning to the country.

Applicant's mother is still a citizen of Iran, but has permanently lived with Applicant since June 2007. She too has her U.S. permanent resident card and anticipates citizenship in the near future. Applicant's father has been living in the central part of the U.S. since 1979, and has been a U.S. citizen since 1984.

Applicant's mother-in-law is a citizen of Iran, but has been a permanent resident of Canada since the late 1990s. Applicant's brother-in-law has been a resident citizen since October 2007. He has no plans to return to Iran, and intends to become a U.S. citizen.

FI DC 7.b. (*connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information*) applies. The fact that Applicants family members, except for his father, are still citizens of Iran constitutes a potential for conflict that shifts the burden to Applicant to show why he will resolve the conflict in favor of the U.S. As noted in the preceding paragraph, the geographical location and official residency status of his family members, except for his two half-brothers, has changed. In addition, his mother, his spouse, and his brother-in-law have their green cards, and intend to apply for U.S. citizenship.

FI DC 7.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*) also applies based on fact that Applicant's spouse has a U.S. permanent resident card she received in October 2006, and has been living with Applicant for over a year. Applicant's mother has her U.S. permanent resident card she received in September 2003, and has lived with Applicant twice a year until she moved in permanently in July 2007. While Applicant's half-brothers still reside in and are citizens of Iran, Applicant has sponsored the younger half-brother for eventual immigration to the U.S.<sup>15</sup> Applicant's mother-in-law is still a citizen of Iran, but she is a permanent resident of Canada, and has lived there since the late 1990s. Applicant's brother-in-law received his U.S. permanent residency card in October 2007, and has

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<sup>15</sup> While the Appeal Board has held that the security concerns arising from the presence of Applicant's family members in Iran is not mitigated by possibility of a swift and safe departure from Iran, I still recognize that Applicant is doing what he can to comply with the immigration laws so that his brother can eventually emigrate to the U.S. See, ISCR Case No. 01-20908 (App. Bd. Nov. 26, 2003)

lived with Applicant since that date. Though Applicant's family members remain targets and conduits for influence due to their Iranian citizenship, I do not find that, considering the evidence as a whole, they pose the same heightened risk of influence under FI DC 7.d. as they did before the changes of residence.

Since Applicant's family members are citizens of Iran, whose government has a hostile relationship with the government of the U.S. Applicant bears a heavy burden of showing his family members do not pose a security risk. ISCR Case No. 01-26983 (October 16, 2002)

Three of the six mitigating conditions (MC) under the FI guideline may apply to the facts and circumstances of this case:

*FC MC 8.a. (the nature of the relationships with foreign persons, the country in which these persons are located, or the position 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.);*

*FI MC 8.b. (there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is minimal, or the individual has such deep and long lasting 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);*

*FI MC 8.c. (contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation).*

Even though Applicant's spouse, mother, mother-in-law, and brother-in law are still citizens of Iran, they are either official residents of Canada or the U.S., and have rights and legal protections consistent with their resident status in both countries. They do not intend to return to Iran, but they do intend to become U.S. citizens. Applicant's wife (witness A) is an assistant manager in retail in the U.S. She had the same employment while in Canada for about ten years. Witness A's mother, who was detained for three days in Iran in the 1990s, has been a secretary in Canada for a long time. The record is silent on the avocation of Applicant's mother. Applicant's brother-in-law was a store manager and photographer in Canada, and is pursuing photography in the U.S. None of the listed family members were employees or agents of the Iranian government. Leaving Iran in 1997 because of the threats and detention, and having achieved permanent residency status first in Canada and eventually in the U.S., it is my commonsense view that the chances of pressure being exerted on and through his immediate family members to Applicant in the future is extremely low. The mitigating evidence presented under FI MC 8.a. resolves SOR 1.a., 1.b., 1.d., and 1.e. in Applicant's favor.

The chances of Applicant succumbing to foreign exploitation/pressure are reduced even more by his convincing testimony of his strong feelings against the Iranian government, and the steps he would take to resist and report attempts to influence him. Though a person's intentions about a future event may not be entitled to much weight,<sup>16</sup> Applicant's teenage history of detention, intimidation, and torture at the hands of Iranian security officials in the 1980s for trying to escape the country persuades me to conclude he will fulfill out his stated intention regarding the protection of classified information. Applicant's past conduct in not disclosing information to the Iranian authorities (about details of the smuggling operation and/or involvement of his mother) justifies complete confidence he will employ the same resistance efforts to successfully repel any coercive or non-coercive effort at foreign influence in the future. Having weighed the entire record, I believe Applicant's sense of loyalty to the U.S. and his job at NRL outweighs his relationships with his half-brothers, resident citizens of Iran. The character witness testimony, and the fact-based testimony of witness A and B indicate he will resolve any conflict in favor of the interests of the U.S., and consistent with FI MC 8.b. SOR 1.c. is found in Applicant's favor.

FI MC 8.c. is inapplicable to this case. Even though Applicant's contacts with his half brothers are less than four times a year, those contacts added to his mother's contacts (although she has no plans to return to Iran) cannot be considered casual and infrequent.

### **Whole Person Concept (WPC)**

My finding for Applicant under the FI guideline must still be evaluated in the context of nine variables known as the whole person concept. In evaluating the relevance of an individual's conduct, the administrative judge should consider the following factors: (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 the participation was 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. Applicant was 22 years old when he arrived in the U.S. in 1997, and under a permanent resident status in this country. He had two degrees from an Iranian university, and he pursued additional computer training just after he emigrated to the U.S. He has held several computer jobs in the U.S. before landing the NRL position in June 2004. He received his U.S. citizenship in 1997.

Applicant obtained an Iranian passport in 2002, but his only trip back to Iran was in 2002 when he attended his half-brother's wedding. Even though he knew he could not relinquish his citizenship in 2006, he tried to turn in his passport at the Iranian Interest Section of Pakistani Embassy. Just before he had his Iranian passport

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<sup>16</sup> ISCR Case No. 02-26826 (November 12, 2003).

shredded in October 2006, he signed a statement (which was witnessed) communicating his intention to relinquish his Iranian citizenship.

It is my predictive decision that given (1) Applicant's personal experiences with detention, intimidation and beatings as a teenager, (2) his disapproval of the dreadful practices of the Iranian government inside and outside the country, and (3) his comprehension of the government's increased security concerns to foil any potential avenues for foreign influence, I am confident Applicant will successfully resist and report foreign influence in the future. The praiseworthy character testimony strengthens my confidence that Applicant will stand by his stated intentions. Considering the evidence in the context of the whole person model, Applicant has met his heavy burden of mitigating the security concerns arising from the residency and citizenship of his family members. His trip to Iran in 2002 was prompted by a desire to see his older half-brother's wedding. Applicant's trip for his family member's wedding in Iran has no independent security significance under the FI guideline. See, ISCR Case No. 02-26978 (App. Bd. Sept. 21, 2005) SOR 1.f. is resolved in Applicant's favor.

### **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 Influence, Guideline B):	FOR APPLICANT
Subparagraph 1.a.	For Applicant
Subparagraph 1.b.	For Applicant
Subparagraph 1.c.	For Applicant
Subparagraph 1.d.	For Applicant
Subparagraph 1.e.	For Applicant
Subparagraph 1.f.	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 eligibility for a security clearance. Eligibility for access to classified information is granted.

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Paul J. Mason  
Administrative Judge