

DATE: November 20, 2007

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| In re:                           | ) |                        |
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| -----                            | ) | ISCR Case No. 06-25891 |
| SSN: -----                       | ) |                        |
|                                  | ) |                        |
| Applicant for Security Clearance | ) |                        |
| _____                            | ) |                        |

**DECISION OF ADMINISTRATIVE JUDGE  
ELIZABETH M. MATCHINSKI**

**APPEARANCES**

**FOR GOVERNMENT**

Fahryn Hoffman, Esq., Department Counsel

**FOR APPLICANT**

David P. Price, Esq.

**SYNOPSIS**

Applicant is a dual citizen of Lebanon and the U.S. since she acquired her U.S. citizenship in August 2003. Foreign influence concerns persist because of her close bonds to her parents and sisters who are resident citizens of Lebanon, and to her brother, a Lebanese citizen living in the United Arab Emirates. Foreign preference concerns raised by her possession and use of a Lebanese passport are mitigated by her surrender of the foreign passport. Clearance is denied.

## STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. As required by ¶ E3.1.2 of Department of Defense Directive 5220.6 (Jan. 2, 1992), as amended, DOHA issued a statement of reasons (SOR) on May 7, 2007, detailing the basis for its decision—security concerns raised under Guideline B (foreign influence) and Guideline C (foreign preference) of the revised Adjudicative Guidelines (AG) issued on December 29, 2005, and implemented by the Department of Defense effective September 1, 2006. The guidelines were provided to Applicant when the SOR was issued. Applicant answered the SOR on May 31, 2007, and elected to have a hearing before an administrative judge. The case was assigned to me on July 25, 2007.

I convened a hearing on October 17, 2007, to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Two government exhibits (Ex. 1- 2) and nine Applicant exhibits (Ex. A-I) were admitted, and testimony was taken from six witnesses in addition to the Applicant. DOHA received the hearing transcript (Tr.) on October 25, 2007.

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## RULINGS ON PROCEDURE

On July 20, 2007, the government requested administrative notice be taken of several proposed facts concerning Lebanon and the organization Hizballah (Hezbollah). For source documentation the government relied on publications from the U.S. State Department<sup>1</sup> and the Congressional Research Service,<sup>2</sup> and on press releases from the U.S. Department of Justice.<sup>3</sup> Applicant did not object to my review of the government's source documents for purposes of administrative notice but expressed a general concern as to the weight and/or relevance of some of the information proposed for notice. After weighing the reliability of the source documentation and

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<sup>1</sup>See *Consular Information Sheet, Lebanon*, dated October 20, 2006 (I); *Background Note: Lebanon*, dated February 2007 (II); *Travel Warning*, dated June 14, 2007 (III); *Country Reports on Terrorism-2006*, Chapters 2 (IV), 3 (V), and 6 (VI), released April 30, 2007; *Country Reports on Human Rights Practices-2006: Lebanon*, dated March 6, 2007 (VII); and Fact Sheet *Foreign Terrorist Organizations*, dated October 11, 2005 (VIII).

<sup>2</sup>See *CRS Report for Congress: Lebanon*, dated November 28, 2006 (IX).

<sup>3</sup>The three Justice Department press releases, dated March 29, 2006 (X), March 1, 2005 ((XI), and August 9, 2005 (XII), concern criminal proceedings in U.S. District Court are hearsay and do not involve Applicant. The March 29, 2006, press release reports the indictment in the District Court, Eastern District of Michigan, of 19 individuals for operating a global racketeering conspiracy in support of Hizballah between 1996 and 2004. The March 1, 2005, press release reports the guilty plea of a U.S. resident in that same district court to conspiracy to provide material support to Hizballah, a designated foreign terrorist organization. The August 9, 2005, press release reports the guilty plea in the Eastern District of Arkansas of a Canadian-Lebanese dual citizen to criminal charges: attempting to provide material support to Hizballah, attempting to export military night vision equipment to Hizballah, conspiracy to export sensitive military equipment from the U.S. without a license, and to money laundering.

assessing the relevancy and materiality of the facts proposed, I took administrative notice of certain facts as set forth below.<sup>4</sup>

### **FINDINGS OF FACT**

DOHA alleged under Guideline B, foreign influence, that Applicant's parents (SOR ¶ 1.a), three sisters (SOR ¶ 1.c), one aunt, uncles and several cousins (¶ 1.f) are resident citizens of Lebanon; that one brother is a citizen of Lebanon living in the United Arab Emirates (U.A.E.) (SOR ¶ 1.e); that she sends her parents between \$100 and \$200 each month (SOR ¶ 1.b); and that she traveled to Lebanon in at least 1997, 1998, 2000, 2001, 2003, 2004, 2005, and 2007 (SOR ¶ 1.d). Under Guideline C, foreign preference, Applicant was alleged to be exercising dual citizenship with Lebanon and the U.S. (SOR ¶ 2.a), and to have used a Lebanese passport instead of her U.S. passport to enter and exit Lebanon in at least 2003 and/or 2004 (SOR ¶ 2.b).

When she answered the SOR, Applicant admitted the Lebanese citizenship and residency of her parents, sisters, and extended family members, the Lebanese citizenship and U.A.E. residency of her brother, her voluntary monetary support for her parents in Lebanon, and her travels to Lebanon to see them. She averred that another brother, who is a U.S. resident citizen, has applied for her parents to immigrate to the U.S. Applicant denied any preference for Lebanon despite her dual citizenship and use of her Lebanese passport. She claimed she used the passport to avoid the expense of obtaining visas. She indicated that she had surrendered her Lebanese passport and had no intent to use a Lebanese passport again.

After a thorough consideration of the pleadings, exhibits, and transcript, and having agreed to take administrative notice, I make the following findings of fact.

Applicant is a 33-year-old senior electrical engineer who earned a master's degree in electrical engineering from a public university in the U.S. in October 2002. She has worked for her current employer, a defense contractor, since about October 2002, and seeks a secret-level security clearance so that she can participate in the systems integration and further optimization of functional elements she has designed and bring her expertise to bear in the discussion of conceptual designs as the company pursues new business opportunities. Her continued employment is not contingent on the clearance.

Applicant was born in Lebanon in April 1974. She is the youngest of eight children (five daughters and three sons) born to Lebanese native citizens who are now in their early 70s. Her father was a street vendor before he retired. Her mother did not work outside the home.

Applicant graduated as valedictorian with a bachelor of science degree in electrical engineering and communications from a Lebanese university in summer 1996. In December 1996, Applicant entered into an arranged marriage to a Lebanese native who had immigrated to the U.S. Applicant first met him in 1995 when he came to Lebanon for vacation. Applicant came to the U.S. on a spouse visa after their wedding in Lebanon. The marriage lasted but one year.

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<sup>4</sup>The criminal support for Hizballah is relevant to the extent it shows Hizballah remains an active terrorist organization that continues to garner support from rouge individuals.

In May 1997, Applicant began working as a microwave design engineer in the U.S. On the recommendation of her supervisor, Applicant began graduate studies toward a master's degree in engineering at a public university in September 1997 while working full-time. Applicant was hard working, an intelligent engineer. In May 2000, Applicant started a new job as an electrical engineer for a micro circuits company. She was laid off in July 2002.

In August 2002, Applicant married her current spouse, who is a native of the U.S. They met in fall 1998 while taking the same night class in microwave engineering at the university. In mid-October 2002, Applicant was awarded her master's degree in electrical engineering.

That same month, she was hired as a digital design engineer by her current employer on the strong recommendation of the supervisor with whom she had worked closely from 1997 to 1999. He had moved on to the company three years before, and was happy to recommend Applicant because of her diligence when they worked together in the past. Applicant continued to be a conscientious employee, committed to her work, reliable, professional in her dealings with coworkers. She has consistently demonstrated critical key abilities in the field of digital, radio frequency, and analog electronic circuit design and testing. Managing engineers and coworkers familiar with her work over the past five years, but knowing little of her family situation in Lebanon, consider her to be a valuable asset, ethical, and worthy of a security clearance. Her friends have found her to be honest, sincere, willing to help, and dedicated to her family.

On August 7, 2003, Applicant became a naturalized U.S. citizen, taking an oath to renounce all foreign allegiances, to support and defend the U.S. Constitution and its laws, and to bear arms or perform noncombatant service or civilian service on behalf of the U.S. if required. On August 15, 2003, Applicant was issued her U.S. passport. In September 2003, Applicant and her spouse traveled to Lebanon to visit her family. She used her Lebanese passport to enter Lebanon so that she would not have to pay a \$20 fee required of U.S. citizens. (Tr. 175)

On November 2003, Applicant completed a security clearance application (SF 86) that was later reviewed and re-signed on July 19, 2004. Applicant disclosed that she recently acquired U.S. citizenship and a U.S. passport, but also that she was a dual citizen of Lebanon and held a Lebanese passport valid to April 30, 2006. She listed her parents and siblings only by name and date of birth (with errors as to her mother's and eldest sister's birth dates), providing citizenship information for only the siblings who had been naturalized in the U.S. and were living in the U.S. As for her parents and other siblings, "UNK" was erroneously entered in response to whether the listed family member was deceased. Applicant reported foreign travel to Lebanon in December 1997, December 1998, August 2000, August 2001, and September 2003, and weekend trips to Canada in June 2000, February 2001, March 2002, June 2002, August 2002, and September 2002.

Applicant and her spouse traveled to Lebanon to visit her parents and siblings in July 2004, July 2005, and December 2006. They took their daughter with them on the last two trips, and registered with authorities as required on all their trips. They stayed with her parents while in Lebanon at her parents' residence outside of Beirut, and had in-person contact with her three sisters during these trips. Applicant used her Lebanese passport to enter Lebanon in July 2004. The record

is inconclusive as to which passport she used to enter Lebanon in July 2005.<sup>5</sup> In February 2006, Applicant surrendered her Lebanese passport to the Consulate General of Lebanon on the advice of the investigator who had interviewed her for her background investigation,<sup>6</sup> so she entered Lebanon in December 2006 on her U.S. passport. Applicant does not intend to reacquire a Lebanese passport.

Applicant and her spouse had planned to travel to Lebanon in September 2006 but postponed the trip until December 2006 due to the war between Hizballah and Israel. During their trip in December 2006, Applicant and her spouse saw no signs of hostile activity in the vicinity of her family members, but they were unsuccessful in an attempt to go to downtown Beirut because “there was stuff going on.” (Tr. 127) They are planning to return to visit her family in December 2007, but have not yet made travel arrangements to avoid having to cancel in the event of an outbreak of hostilities in Lebanon. None of her relatives living in Lebanon has visited her in the U.S. Her parents do not speak English and it is too difficult to get a visa for them. A sister had been twice denied a visa to travel to the U.S.

If she could keep only one citizenship, Applicant would choose to retain her U.S. citizenship, although she is not willing to renounce her Lebanese citizenship to obtain a security clearance. Knowing she can lawfully keep her foreign citizenship, her preference is to remain a dual citizen (“maybe when I retire, maybe it will give me some benefits, if Lebanon is a peaceful place and I thing of maybe owning a summer house, or a winter house probably would be better, so it has maybe some benefits in the very, very, long future.”). (Tr. 174)

Applicant and her spouse own their home in the U.S. As of September 2006, the property was assessed at \$577,000. As of October 2007, the mortgage balance was \$378,050.20. (Ex. A) Applicant had her own checking and savings account in which she had a total balance on deposit of \$3,576.90. A joint savings account had \$11,442.12 on deposit. (Ex. C) Applicant is vested in a retirement account at work totaling \$61,731.87, and has \$34,397.72 in an individual retirement account. (Ex. D) Her spouse is employed by a defense contractor as a senior engineer and program manager for space components. He holds a secret-level security clearance, which was granted to him in June 2005. (Ex. E) Her spouse has \$13,655.33 in retirement assets with his current employer, \$47,675.81 in another 401(k) account, and \$26,809.31 in an individual retirement account. They also had \$3,210.61 in a college savings plan (529 plan) for their young daughter. (Ex. D) Applicant has no financial assets in Lebanon.

As of October 2007, Applicant’s parents and three of her sisters were still resident citizens of Lebanon, living within a 15-minute radius by foot. One brother was still living in the U.A.E., and

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<sup>5</sup>When she answered the SOR, which alleges that she used her Lebanese passport during her trips in at least 2003 and/or 2004 (SOR ¶ 2.b), Applicant indicated she used her Lebanese passport once in/out of Lebanon. Yet, at her hearing, she testified, “I believe I used it two times before I know I’m not supposed to use it and that was just to enter Lebanon because it was easier. There was a line for citizens, a line for non citizens, and there is a fee if you are a non, if you don’t hold a passport, so it was just a convenience at that point.” (Tr. 159) Applicant now admits that she used her foreign passport in lieu of her U.S. passport at least twice, which according to the record would have been in September 2003 and July 2004. It is not clear whether the July 2005 trip was before or after her interview with the investigator. If before, she is likely to have used her Lebanese passport on that trip but it was not clearly established.

<sup>6</sup>Little is known about the interview apart from Applicant’s testimony that she acted on the advice of the investigator with regard to her surrender of the foreign passport.

three siblings were in the U.S. Applicant had telephone contact with her parents once weekly. Applicant and her three siblings in the U.S. were each contributing \$400 monthly toward the financial support of their parents. Applicant was giving a brother her share to wire over to her parents. She and her siblings in the U.S. had recently agreed to increase their contributions from \$100 to \$400 monthly as their parents had increased prescription costs. One of Applicant's brothers has applied for their parents to immigrate from Lebanon to the U.S. Applicant's parents own their current residence, an apartment in Lebanon. They also receive rental income from land that her father inherited.

Applicant's oldest sister (sister #1) is 49 years old and employed as an elementary public school principal in Lebanon. She is a widow with four children whose ages range from 12 to 22. Applicant converses with her sister by telephone a few times a month. Applicant's next eldest sibling (sister #2) is 47 years old and is married to a pediatrician in private practice in Lebanon. Sister #2 has three children, all minors, and is employed as a public school inspector after a career as a classroom teacher. Applicant calls this sister once a month. Sister #3 in Lebanon is 45 years old and unmarried. She teaches English in a private school. Applicant speaks with her by telephone a few times a week. Sister #3 was twice denied a visa to visit Applicant in the U.S. Applicant understands it was because her sister is single and owns no property, so there was a fear that she would remain in the U.S. A brother in the U.S. (brother #2) is sponsoring this sister's immigration to the U.S., having filed an application three or four years ago.

Applicant's parents and siblings in Lebanon know that she is an engineer but she has not told them who she works for or that she is applying for a security clearance. Applicant is aware of her responsibility to report to her employer any pressure, direct or indirect, placed on her through her relatives in Lebanon. To Applicant's knowledge, none of her relatives had been targeted as of October 2007.

Applicant has two uncles, one aunt, and ten cousins who are resident citizens of Lebanon. She does not have a close relationship with these extended family members. She sees them no more than once a year when she is in Lebanon, and otherwise has no contact.

Applicant has three brothers and one sister living outside of Lebanon. The eldest (brother #1, age 43) is a dual citizen of the U.S. and Lebanon since his naturalization in the U.S. in July 2002. He has been in the U.S. more than 19 years and is engaged to a native U.S. citizen. He is a computer engineer. His fiancée is a thoracic surgeon who has a personal relationship with Applicant and her spouse. She testified to Applicant and Applicant's brother being "scared that their family is [in Lebanon] but not having any concern that the family's activities would put them in the line of danger in any way." (Tr. 95) Applicant's future sister-in-law does not doubt that Applicant would "do the right thing" if her relatives were pressured. She considers Applicant to be "very honest, very straightforward, a very strong sense of morals and ethics . . . a very caring person." (Tr. 92-93) Brother #2 is a 41-year-old mechanical engineer who lives not far from Applicant with his spouse and two-year-old daughter. In the U.S. since 1988, he is a dual citizen of Lebanon and the U.S. since his naturalization in August 2001. His spouse is a native U.S. citizen who is employed as a technical writer. Brother #3 is a 39-year-old mechanical engineer working in the U.A.E. He is married to a Russian citizen, whom he met while pursuing his bachelor's and graduate degrees in Russia. They both have permanent residency in Canada. They have a five-year-old daughter and are pursuing

Canadian citizenship. Sister #4 is a 36-year-old computer science professional working in California. She and her spouse are both naturalized U.S. citizens.

I take administrative notice of the following facts. Lebanon is a parliamentary republic at the eastern end of the Mediterranean Sea. From 1975 to 1991, it was convulsed in a religious and ethnically-driven civil war. Regional tensions persisted, with the terrorist organization Hizballah<sup>7</sup> targeting Israel from within Lebanon and Israel retaliating. Israeli troops withdrew from Lebanon in May 2000 after 22 years of Israeli occupation. The level of violence along the Israeli-Lebanon front decreased dramatically until a month-long war between Hizballah and Israel in July/August 2006. The conflict ended in a cease-fire imposed by a United Nations Security Council resolution and enforced by the presence of international peacekeeping forces in Lebanon.

Syria, which views Lebanon as part of its territory, maintained a military presence in Lebanon from March 1976 until April 2005, when it withdrew under international pressure. Syrian intelligence assets remain in Lebanon, and Syria continues to have a strong influence in Lebanese politics. Influential persons in Lebanon critical of Syrian interference in Lebanon have been targeted for assassination, and more than 32 have died since October 2004. The U.S. considers Syria to be a state sponsor of terrorism. Pro-Syrian forces, led by Hizballah, began months of massive demonstrations and occasional violence in November 2006 with the aim of bringing down Lebanon's democratically elected government.

Lebanon has a mixed record with respect to human rights. The government had taken significant steps to increase freedom of assembly and association and to prevent unauthorized eavesdropping of private citizens until the conflict between Israel and Hizballah in 2006. There were no reports of politically motivated disappearances caused by government forces, but security forces abused detainees and in some instances used torture in 2006. There were instances of arbitrary arrest, government corruption and lack of transparency, restrictions on freedom of the press, limitations on freedom of movement for unregistered refugees, violence against women and children.

Lebanon does not have a history of targeting U.S. citizens to obtain protected or sensitive information. The U.S. seeks to maintain its traditionally close ties to Lebanon, and to help preserve Lebanon's independence, sovereignty, national unity, and territorial integrity. The U.S. supports the full implementation of UN Security Council Resolution 1559 that required all remaining foreign forces withdraw from Lebanon and the disarming of all militias, including Hizballah and several Palestinian groups in Lebanon. The Lebanese government has not taken the necessary steps to disarm extralegal armed groups, including Hizballah. Hizballah has a strong bloc of supporters in Lebanon's parliament who continue to view it as a political party. The Lebanese government has taken action against extremists such as Asbat al-Ansar that has been linked to al-Qaida, but threats of attacks against western and Lebanese government interests by the extremist group Fatah Al-Islam and other militant groups led the U.S. State Department in June 2007 to strongly urge American citizens to deter travel to Lebanon.

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<sup>7</sup>Hizballah has been designated by the U.S. Department of State as a foreign terrorist organization as has Asbat al-Ansar, against which the Lebanese government has taken action. See State Department's Fact Sheet, *Foreign Terrorist Organizations*, dated October 11, 2005.

The government of the U.A.E. repeatedly condemned terrorist acts in the region in 2006, and it was generally cooperative in counterterrorism and law enforcement efforts. Cooperation has been hampered by the lack of a mutual legal assistance treaty between the U.A.E. and the U.S.<sup>8</sup>

## POLICIES

“[N]o one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has “the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information.” *Id.* at 527. The President authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960). An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue [her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).

The revised Adjudicative Guidelines set forth potentially disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. In evaluating the security worthiness of an applicant, the administrative judge must also assess the adjudicative process factors listed in ¶ 6.3 of the Directive. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant. *See* Exec. Or. 10865 § 7. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

## CONCLUSIONS

### **Guideline B—Foreign Influence**

Under Guideline B, foreign influence, foreign contacts and interests may be a security concern if the individual has divided loyalties, or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government 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 to 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). Applicant’s parents (SOR ¶ 1.a), three sisters (SOR ¶ 1.c), two uncles, an aunt, and several cousins (SOR ¶ 1.f) are resident citizens of her native Lebanon. Another brother is a Lebanese citizen living in the U.A.E. (¶ 1.e). Applicant admits she has close relationships with her parents and siblings. Her contacts with them, at least once weekly with her mother and sister #3 and monthly with her father and other siblings, bear that out. Disqualifying condition (DC) ¶ 7(a)

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<sup>8</sup>The situation in the U.A.E. is relevant because Applicant is close to her brother, who resides there. What can be distilled from the government’s source documents (*see Country Reports on Terrorism*, April 30, 2007) is generally favorable.



*(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)* is implicated.

Since immigrating to the U.S. in late December 1996, Applicant traveled to Lebanon eight times to visit her parents and sisters. She has been accompanied by her spouse since their marriage in August 2002, and they took their daughter with them in July 2005 and December 2006. These trips to Lebanon (SOR ¶ 1.d) are not security disqualifying in their own right absent evidence of any incidents during those trips that raise her vulnerability to exploitation, pressure or coercion (*see* ¶ 7(i) (*conduct, especially while traveling outside the U.S., which may make the individual vulnerable to exploitation, pressure, or coercion by a foreign person, group, government, or country*)). Routine checks and registration with authorities are not sufficient to apply DC ¶ 7(i), but the trips are relevant in that they demonstrate Applicant's bond with her parents and siblings. Similarly, Applicant's voluntary financial support for her parents at \$400 per month is not a financial interest within the meaning of DC ¶ 7(e) (*a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign-operated business, which could subject the individual to heightened risk of foreign influence or exploitation*). Rather it shows that Applicant has a strong sense of personal obligation to care for her parents. While this is certainly commendable, it heightens the risk.

Applicant does not share the same close personal relationship with extended family living in Lebanon (uncles, aunt, cousins). She has in-person contact with them at most once a year and only if they happen to come by when she is at her parents' home. Mitigating conditions (MC) ¶ 8(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 interest of a foreign individual, group, organization, or government and the interests of the U.S.*) and ¶ 8(c) (*contact or communication with foreign citizens is so casual and infrequent that there is little likelihood it could create a risk for foreign influence or exploitation*) apply in mitigation of her contacts with extended family members.

However, her frequent contact with her parents and siblings precludes favorable consideration of ¶ 8(c) relative to her immediate family. The familial bonds are too strong to satisfy the first prong of ¶ 8(a). Furthermore, Lebanon, while not known to target U.S. citizens to obtain protected information, is associated with a risk of terrorism. U.S. State Department publications chronicle the history of instability in Lebanon, and the continuing influence of Syria, which is a state sponsor of terrorism. Although Syria withdrew its troops under international pressure in 2005, covert intelligence assets remain. Moreover, as recently as November 2006, pro-Syrian forces, led by Hizballah, began months of massive demonstrations and occasional violence with the aim of bringing down Lebanon's democratically-elected government. Efforts to undermine Lebanese sovereignty create an unstable political climate that heightens the risk. Lebanon remains a very dangerous place for its citizens and visitors alike, leading the U.S. State Department in June 2007 to warn against travel to Lebanon. When Applicant and her spouse were in Lebanon in December 2006, they were prevented from traveling into Beirut, although they observed no violence or demonstrations in her parents' immediate vicinity.

Applicant argues for a distinction between the risk to physical security that exists in an unstable environment, and the types of concern that rise to the level of compromising Applicant's

ability to safeguard national security. Applicant's position makes sense only if terrorism is viewed solely as a criminal activity. Terrorism is not limited to indiscriminate acts of violence intended to incite fear. It often has political aims, and where it is allowed to operate unchecked or is condoned one has to question the ability and/or willingness of a government to protect its citizens against interference, coercion, or other abuses. Under Guideline B, the risk of terrorism within a foreign country is a relevant consideration independent of whether the foreign country is known to target U.S. citizens to obtain protected information. The DOHA Appeal Board recently found error in a DOHA administrative judge's failure to consider in depth the substantial impact of terrorist organizations operating within Lebanon. (*See* ISCR Case No. 05-11292, Apr. 12, 2007).

Applicant's parents are retired and her sisters are in the education field. There is nothing about their particular occupational endeavors that suggests military, intelligence, or security responsibilities. It is noted that sister #3 was twice denied a visa to visit her in the U.S. While there is nothing to contradict Applicant's testimony that it only was because her sister is single and owns no property, the denial of a visa raises questions about this particular sister's situation, activities, and/or associations about which little is known. Despite State Department warnings, Applicant continues to travel to Lebanon to visit her family members. She is hoping to go to Lebanon with her spouse in December 2007, but is waiting to make travel arrangements until one month before her intended departure so that she does not lose money if she has to cancel the trip due to an outbreak of hostilities. Less of a risk is associated with Applicant's brother in the U.A.E. given that country's relative stability and cooperation in fighting terrorism, although concerns persist because of his Lebanese citizenship and the strong family bonds to those in Lebanon. MC ¶ 8(a) does not apply in mitigation of the strong bonds to her immediate family members abroad.

The risk of undue foreign influence presented by Applicant's affections for her family members may yet be mitigated by countervailing strong ties in the U.S. (*See* MC ¶ 8(b) (*there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in the U.S.*)). Since immigrating to the U.S. in late December 1996, Applicant has established connections to the U.S. that weigh in her favor in assessing whether she is likely to resolve any conflict of interest in favor of the U.S. Her spouse and daughter are U.S. native-born citizens. All of her financial assets are in the U.S. (employment, home ownership, 401K and other retirement assets). She has developed close friendships here, and three of her siblings are U.S. resident citizens. She voluntarily acquired U.S. citizenship in August 2003. Yet, even with these very significant ties are relatively recent, and she has a strong desire to retain her connection through citizenship to her native Lebanon.

Applicant submits that she would immediately report any attempt at improper influence to her facility security officer. A statement of intention about what an applicant will do in the future under some hypothetical set of circumstances is not entitled to much weight, unless there is record evidence that the applicant has acted in an identical or similar manner in the past under identical or similar circumstances. *See* ISCR Case No. 99-0511 (App. Bd. Dec. 19, 2000); ISCR Case No. 01-26893 (App. Bd. Oct. 16, 2002). Applicant is reputed among her friends and coworkers to hold high ethical and moral principles, but it is not enough to mitigate the security significant foreign influence concerns that exist.

## **Guideline C—Foreign Preference**

When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States. (AG ¶ 9). A native of Lebanon, Applicant came to the U.S. after having just married a naturalized U.S. citizen who had immigrated from Lebanon. When the marriage failed, Applicant remained in the U.S. for the job opportunities and because she had the support of three siblings, who were already living here. In August 2002, she married a native U.S. citizen, and one year later became a U.S. citizen herself. In September 2003 and again in July 2004, Applicant used her Lebanese passport to travel to Lebanon to see her parents and sisters, even though she was traveling with her spouse, who held only a U.S. passport. Her active exercise of her foreign citizenship bears serious foreign preference concerns under disqualifying condition (DC) ¶ 10(a)(1) (*exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen or through the citizenship of a family member. This includes but is not limited to: (1) possession of a current foreign passport*). As someone who embraces her dual citizenship, it is simply not believable that she used her Lebanese passport solely to avoid a \$20 visa fee that she could easily afford (*see Tr. 159, 175*).

Applicant surrendered her Lebanese passport to the Lebanese Consulate in February 2006 following her interview with a government investigator. Mitigating condition (MC) ¶ 11(e) (*the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated*) applies. She is unwilling to renounce her Lebanese citizenship unless required to do so, even if it cost her a clearance. She testified it is because of some benefit of that citizenship (such as reduced property taxes) that she might enjoy on her retirement, but it is more likely her emotional and familial ties to Lebanon (*see Guideline B*) that lead her to maintain her Lebanese citizenship. Renunciation of foreign citizenship is a mitigating condition (*see MC ¶ 11(b) (the individual has expressed a willingness to renounce dual citizenship)*), but it is not required. Applicant has demonstrated her willingness to comply with DoD requirements by surrendering her Lebanese passport as soon as she became aware of the security concerns raised by the use of that passport. Although she is eligible to reacquire a Lebanese passport, she testified credibly that she has no intent to obtain a Lebanese passport in the future.

## **Whole Person Analysis**

The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is eligible for a security clearance. AG ¶ 2(a). Applicant has a record of dedicated contributions to her employer and several witnesses consider her capable of fulfilling the day-to-day fiduciary obligations of a clearance. However, this is not enough to meet her heavy burden of overcoming the foreign influence concerns. Not enough is known about her siblings' associates and activities in Lebanon. Those coworkers attesting to her security suitability know little of her family in Lebanon. The coworker who has known Applicant since 1997 was made aware of her travels to Lebanon only from reading the SOR. Moreover, she plans to continue to travel to Lebanon. Should her parents and sister #3 gain U.S. permanent residency and immigrate to the U.S., it could reduce significantly the security risk. However, as the situation now stands, I am unable to make the affirmative finding that it is clearly consistent with the national interest to grant her access to classified information.

**FORMAL FINDINGS**

|                           |                   |
|---------------------------|-------------------|
| Paragraph 1. Guideline B: | AGAINST APPLICANT |
| Subparagraph 1.a:         | Against Applicant |
| Subparagraph 1.b:         | Against Applicant |
| Subparagraph 1.c:         | Against Applicant |
| Subparagraph 1.d:         | Against Applicant |
| Subparagraph 1.e:         | Against Applicant |
| Subparagraph 1.f:         | For Applicant     |
| Paragraph 2. Guideline C: | FOR APPLICANT     |
| Subparagraph 2.a:         | For Applicant     |
| Subparagraph 2.b:         | For Applicant     |

**DECISION**

In light of all of the circumstances in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

Elizabeth M. Matchinski  
Administrative Judge