



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



In the matter of:)
)
 [Name Redacted]) ISCR Case No. 18-02285
)
 Applicant for Security Clearance)

Appearances

For Government: Rhett E. Petcher, Esq., Department Counsel
For Applicant: *Pro se*

03/25/2019

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant was born in the United States but raised in his parents' native Lebanon. He returned to the United States for graduate school and intends to remain here permanently. He relinquished all of his rights to assets inherited from his father in Lebanon. The risk of undue foreign influence cannot be ruled out because his mother and sisters currently reside in Lebanon. Yet Applicant has persuaded me that he can be counted on to act in the interest of the United States. Clearance is granted.

Statement of the Case

On October 5, 2018, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing security concerns under Guideline B, foreign influence. The SOR explained why the DOD CAF was unable to find it clearly consistent with the national interest to grant or continue security clearance eligibility for him. The DOD CAF took the action under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG) effective within the DOD on June 8, 2017.

Applicant responded to the SOR on November 1, 2018, and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On January 8, 2019, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On January 15, 2019, I scheduled a hearing for February 14, 2019.

At the hearing, two Government exhibits (GEs 1-2) were admitted. A December 31, 2018 letter forwarding the proposed GEs to Applicant and a list of the GEs were marked as hearing exhibits (HEs II-III) for the record but not admitted in evidence. At the Government's request and without objection from Applicant, I agreed to take administrative notice of several facts pertinent to Lebanon, as set forth in a December 31, 2018 Request for Administrative Notice-Lebanon, which was entered into the record as HE I.¹ Fifteen Applicant exhibits (AEs A-O) were admitted in evidence without objection. Applicant testified, as reflected in a transcript (Tr.) received on February 27, 2019.

Findings of Fact

The SOR alleges under Guideline B that Applicant's mother is a citizen of Lebanon (SOR ¶ 1.a); that his sister is a dual citizen of the United States and Lebanon currently residing in Lebanon and working for a Lebanese company (SOR ¶ 1.b); that another sister is a resident citizen of Lebanon employed by an international organization (SOR ¶ 1.c); that a friend is a resident citizen of Lebanon (SOR ¶ 1.d); and that a friend is a dual citizen of Lebanon and Mexico residing in Lebanon (SOR ¶ 1.e). Additionally, the SOR alleges that Applicant owns an apartment valued at \$80,000 (SOR ¶ 1.g) in Lebanon, and that he co-owns two apartments valued at \$95,000 and \$50,000 (SOR ¶¶ 1.f and 1.j), an office valued at \$17,000 (SOR ¶ 1.k), and two bank accounts with deposits of \$83,000 and \$65,000 (SOR ¶¶ 1.h and 1.i) in Lebanon.

Applicant submitted a detailed response to the SOR allegations in which he summarized that, while he inherited assets in Lebanon from his father, he issued a power of attorney to his mother to sell or dispose of his shares; that his sisters and mother are in Lebanon only because his two sisters are currently assigned there by their respective employers, a U.S. company and an international humanitarian organization; that he does not maintain any close or regular contact with friends in Lebanon; and that his security

¹ The Request for Administrative Notice—Lebanon was based on four documents from the U.S. State Department: *Lebanon 2017 Human Rights Report*, issued April 20, 2018; *Lebanon Travel Advisory*, issued September 4, 2018; *Lebanon International Travel Information*, issued September 14, 2018; and *Country Reports on Terrorism 2017*, issued September 2018. Consistent with the administrative judge's obligation in Guideline B cases to make decisions to the greatest extent possible in the context of current political conditions in the country at issue (see ISCR Case No. 05-11292 (App. Bd. Apr. 12, 2007)), I have also reviewed the State Department's *Lebanon 2018 Human Rights Report*, which was issued on March 13, 2019. For information about U.S.-Lebanon relations, I have reviewed the State Department's Fact Sheet dated July 30, 2018, *U.S. Relations with Lebanon*. The human rights report and the fact sheet may be accessed at www.state.gov.

officer and his supervisors attest to his responsibility, reliability, trustworthiness, and his loyalty to the United States. (Answer.)

After considering the pleadings, exhibits, and transcript, I make the following findings of fact:

Applicant is a 24-year-old systems engineer, who has worked for his current employer, a defense contractor, since June 2017. He is seeking to obtain a security clearance for his duties. (GE 1; Tr. 33, 38.)

Applicant was born to Lebanese citizens in the United States. He acquired derivative Lebanese citizenship from his father. (GEs 1-2.) He denies that he currently holds Lebanese citizenship (Tr. 37-38), although there is no evidence that he has taken steps to formally renounce his Lebanese citizenship. (GE 2.) Applicant held a Lebanese passport, renewed in October 2013 for another five years, which he surrendered to his employer with a request that it be destroyed. He signed a disposition certificate. (GE 1; AE C.)

Applicant has two sisters, ages 28 (sister #1) and 27 (sister #2). Shortly after sister #1 was born in Lebanon, Applicant's parents came to the United States with the intention of joining his father's relatives in their business. (Tr. 73.) After sister #2 and Applicant were born in the United States, Applicant's parents moved the family back to Lebanon for a job opportunity for Applicant's father. Lebanese Christians, they resided in a Christian-dominated area of Lebanon. Applicant attended high school in Lebanon from September 2009 to June 2012. (GEs 1-2; Tr. 55.)

Applicant planned to attend college in the United States, but his father was diagnosed with terminal cancer. (Tr. 41.) His father, who worked in real estate in Lebanon, died in September 2012. (GE 1; Tr. 68.) In January 2013, Applicant enrolled in an "American systems school" in Lebanon in January 2013. Applicant accelerated his coursework and earned his bachelor's degree in mechanical engineering in Lebanon in December 2015. (AE H; Tr. 41.) In January 2016, Applicant, his mother, and sister #2 came to the United States. Sister #1, who was already employed in Lebanon by an international humanitarian organization, came for a one-month vacation. (GE 1; Tr. 41-43.) Applicant held both U.S. and Lebanese passports at that time. (GE 2.)

Applicant pursued his master's degree in aerospace engineering in the United States from January 2016 to May 2017. Sister #2 enrolled in college here, and at their mother's urging, sister #1 took a leave of absence from her employer and came to the United States for studies in her chosen field. (GE 1; Tr. 43-44.) Sister #1 had a degree from a university in Lebanon. (Tr. 73-74.)

In February 2017, Applicant was offered a job with his current employer. (GE 2; AE C.) On March 12, 2017, Applicant completed and certified to the accuracy of a Questionnaire for National Security Positions (SF 86). He disclosed that he was a dual citizen of the United States and Lebanon, but he had surrendered his Lebanese passport

to the defense contractor and requested its destruction. He had taken no action to renounce his Lebanese citizenship. Among his foreign travel, he listed a trip to Lebanon from May 2016 to August 2016. Applicant disclosed that sister #2 was a dual citizen of the United States and Lebanon (SOR ¶ 1.b); that his mother and sister #1 were Lebanese citizens (SOR ¶¶ 1.a, 1.c); and that his mother and sisters were residing with him in the United States. Sister #1 and their mother had immigration petitions pending in the United States since September 2016 and December 2016 under his sponsorship. Applicant also disclosed that he had close and continuing contact with two foreign nationals within the last seven years. He had occasional telephone contact to as recently as December 2016 with a Lebanese resident citizen (SOR ¶ 1.d) and with a dual citizen of Lebanon and Mexico residing in Lebanon (SOR ¶ 1.e). Concerning foreign financial interests, Applicant listed his co-ownership with his mother and siblings of assets in Lebanon inherited on his father's death consisting of two apartments and an office valued at \$95,000 (SOR ¶ 1.f), \$50,000 (SOR ¶ 1.j), and \$17,000 (SOR ¶ 1.k), and two bank accounts worth approximately \$83,000 (SOR ¶ 1.h) and \$65,000 (SOR ¶ 1.i). Applicant was sole owner of another apartment in Lebanon valued at \$80,000 (SOR ¶ 1.g), which "was written to [him] by [his] father when [he] was still a minor and prior to him passing away." (GE 1.)

Applicant earned his master's degree in May 2017 with a 4.0 grade point average on a 4.0 scale. (AEs H, K.) He started working for his employer in June 2017. (GE 2.) On December 4, 2017, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). Applicant indicated that he initially acquired his Lebanese passport through his parents, and that it had been destroyed by his employer's security office. He expressed that he had no intention of renewing it. He confirmed that he holds dual citizenship with Lebanon and the United States, but he has no obligations to Lebanon and did not maintain his foreign citizenship to protect any foreign interest. He indicated that he would be willing to renounce his Lebanese citizenship if required. Applicant indicated that his mother had acquired U.S. permanent residency, but also that his mother and sisters had returned to Lebanon. About the two Lebanese citizens listed as foreign contacts on his SF 86, Applicant stated that they did not have any affiliation with a foreign government. He had no update to the information previously provided about his assets in Lebanon. Applicant explained that he considered the financial assets to be his parent's property, and he added that he was in the process of trying to move money from Lebanon to the United States. He denied any intention of returning to Lebanon permanently. (GE 2.)

Applicant obtained a U.S. passport in May 2012 with a scheduled expiration date in May 2022. In January 2017, he had to obtain a new U.S. passport because he changed his name. (GEs 1-2.) On January 12, 2018, Applicant was re-interviewed to obtain information about his passports and foreign travel. Applicant used his Lebanese passport to travel to Turkey in 2014 and to Lebanon because he felt it was safer using it rather than his U.S. passport, although he used his U.S. passport when entering the United States. Applicant related that his allegiance is to the United States over other nations and that no foreign associates know that he is under consideration for a security clearance. (GE 2.)

Applicant traveled to Lebanon in August 2018 on his U.S. passport to visit his mother and sisters and to divest himself of his inherited assets in Lebanon. On August 26, 2018, he irrevocably waived his interest in the assets inherited from the estate of his father and his right to inherit from his mother on her death. On August 30, 2018, he gave a general power of attorney to his mother to represent him in any legal matter in Lebanon, including matters of real estate and banking, and to divest him of his ownership interests. (AE A; Tr. 33-34, 54.) Applicant attested that his mother took action to have him removed from all those foreign assets, but then stated, "I do hope that my mom actually completed the documents." (Tr. 58-59.) If he discovers that she has not done so, he plans to ask her to take him off the bank accounts. (Tr. 59.)

Applicant's mother has never worked outside the home. (GE 1; Tr. 62.) She lives off the assets she inherited on her spouse's death. (Tr. 56.) She does not rent out the properties and is waiting for the economy to improve in Lebanon before selling them. (Tr. 67.) Applicant has a close relationship with his mother. They converse by telephone frequently including as recently as the morning of Applicant's security clearance hearing. As of February 2019, Applicant's mother and sister #2 were living together in Lebanon. (Tr. 63.) Applicant testified that his mother intends to obtain U.S. citizenship and live permanently in the United States, but that she plans to stay in Lebanon "at least [until] one of [his sisters] actually comes back." He testified that his mother does not want to leave both of his sisters alone in Lebanon, and that there is no date set for his sisters' employments to end in Lebanon. (Tr. 50-51.) Applicant understands that there are security issues in Lebanon. In the event of any attempt to pressure him, such as through his mother were she to be kidnapped, Applicant responded that his first reaction would be to inform his security officer at work and seek guidance. (Tr. 61.)

According to Applicant, sister #1's initial request for U.S. permanent residency has been approved. (Tr. 46.) As an employee of an international humanitarian organization since 2010 or 2011, sister # 1 has been posted in Lebanon, but she had traveled to other countries for her work involving refugees. She is always escorted by security staff when she leaves her work premises. (Tr. 34, 37, 46-47.) Applicant has occasional contact with his sister #1, approximately once a month to once every two months by telephone. Sister # 1 is married, and her spouse works in real estate. (Tr. 48-49.) Sister #1 and her spouse live above Applicant's mother and sister #2 in the same building in Lebanon. (Tr. 63.) Applicant was not asked about, and he provided no details, about his sister's marriage, to include when it occurred or how it affects her plan to immigrate to the United States.

Sister #2 graduated from college in the United States. (Tr. 35.) She is a civil engineer and works for a U.S. company. She is presently assigned to duties in Lebanon because she speaks Arabic. Sister #2 is considering applying for work with Applicant's employer in the United States. (Tr. 35-36.)

Applicant testified that when he completed his SF 86, he realized that his foreign contacts could be a security concern, and he resolved to have no further contact with the friends (SOR ¶¶ 1.d and 1.e). (Tr. 52-53.) Applicant has friendly relations with his father's cousins who live nearby in the United States. They are like uncles to him. He visits them

occasionally and celebrates holidays with them. They have lived in the United States for several decades and own several businesses, including a restaurant and nightclub. (Tr. 60, 69-71.) One of his relatives served on a city council in his community in the United States. (Tr. 72.) Applicant has paternal aunts and uncles in Lebanon with whom he, his mother, and his sisters are not on good terms. (Tr. 68.)

Applicant's current annual salary with his defense-contractor employer is \$80,000. (AE M; Tr. 61.) He has approximately \$29,786 in banking deposits and \$7,720 in a retirement account in the United States. (AEs I-J.) He attends church services weekly and contributes financially to his parish. (AE L; Tr. 60.) He belongs to a sports club, where he plays soccer in a registered league with some co-workers. (AE O; Tr. 60.) He is also a member of two professional organizations in his career field. (AE O.)

Work and Character References

Applicant, who has no had access to classified information, is tasked with ensuring compliance with International Traffic in Arms Regulations (ITAR). (Tr. 39.) He has earned several awards at work for his accountability, and his collaboration on projects. (AE G.) A mechanical engineering manager, who has held a Secret clearance since April 2006, manages all of Applicant's work assignments, reviews a large amount of his work product, and mentors him. This manager is aware of the SOR and has discussed the security concerns with Applicant. He described Applicant as "a model of honesty and integrity." Applicant has always been attentive to detail, completely trustworthy and accurate in his handling of controlled technology, and transparent with information relative to his application for a clearance. This manager has not observed anything about Applicant's behavior to question his allegiance to the United States or his ability to protect classified information. He believes Applicant is "first and foremost an American" and dedicated to the warfighter. (AE F.)

A systems engineer who works on another project met Applicant when they were in graduate school together. They worked together daily on classwork. In his experience, Applicant was a "smart and effective college student" disciplined in his studies. Applicant exhibits respect for rules in all environments, and he has protected their employer's proprietary and intellectual property. In his opinion, Applicant takes his U.S. citizenship seriously. He has observed Applicant to honor U.S. war dead on Memorial Day and to celebrate the U.S.' Independence Day "in a truly American way." Applicant has expressed to him a desire to help the United States further its technology and promote scientific achievements. (AE E.)

A principal systems engineer, who has worked for the defense contractor for some 35 years and has held a Secret clearance for 30 years, also recommends Applicant for a DOD clearance. Applicant supports a program on which this engineer is the program lead by performing hardware systems assessments and classifications. This engineer has reviewed the SOR. He has experienced Applicant as someone who has always been reliable, responsible, and trustworthy. Applicant "shows up earlier than asked, works hard, and carries himself in a polite, respectful manner." (AE B.)

A senior security specialist at Applicant's worksite has held Secret or Top Secret security clearances since 1987. She attests that Applicant approached her with a request to have his Lebanese passport destroyed, and he signed a disposition certificate. Applicant has been proactive in completing all security requirements ahead of schedule. He has not given this security officer any reason to question his allegiance to the United States or to believe that he has divided loyalties. Based on their professional interactions, she is of the opinion that Applicant will not be manipulated, coerced, or induced into helping a foreign power. (AE C.)

A cousin of Applicant's father has worked in the United States since earning his master's degree in 1987. Employed as a senior program manager for a medical device company for the past 18 years, this relative has had the opportunity to interact with Applicant in the last three years. He was impressed by Applicant's dedication in his desire to earn highest grades in his master's degree studies. Applicant has shown himself to be very honest and dependable, passionate about his work, and extremely motivated to succeed in his job. He has no doubt that Applicant would put the interest of the United States ahead of any other country. (AE D.)

Administrative Notice

Lebanon is a parliamentary republic that, from gaining its independence in 1943, apportions government authority among a Maronite Christian president, a Shia speaker of its parliament, and a Sunni prime minister. After more than two years of political deadlock, Lebanon's parliament elected President Michel Aoun. Parliamentary elections held in May 2018 were peaceful and generally considered fair and free from regional influence. As of the end of 2018, the process of forming a government under the direction of Prime Minister designate Saad Hariri was underway. Neighboring Syria has long influenced Lebanon's foreign policy and internal policies. Hizballah's political power in Lebanon makes consensus on any anti-Hizballah legislation impossible.

The United States seeks to maintain its traditionally close ties with Lebanon, and to help preserve its independence, sovereignty, national unity, and territorial integrity. Since 2006, the United States has provided more than \$2 billion in bilateral foreign assistance to Lebanon to support strengthening state institutions and security agencies after years of Syrian hegemony; to bolster vital public services; to preserve the multi-sectarian character of Lebanon; and to counter Hizballah's influence and false narrative for retaining its arms in Lebanon. Along with the international community, the United States supports full implementation of United Nations Security Council Resolutions 1559, 1680, and 1701 for the disarming of all militias, delineation of the Lebanese-Syrian border, and the deployment of the Lebanese Armed Forces throughout Lebanon. The United States is Lebanon's primary security partner. U.S.-provided aircraft, munitions, vehicles, and training have increased the capability of the Lebanese Armed Forces to fight violent extremism. U.S. assistance has also bolstered the Lebanon's Internal Security Forces in its efforts to prevent, counter, and respond to criminal and terrorist threats; to secure and safeguard Lebanon's territory and people; to interdict items of proliferation concern; and to extend the rule of law throughout the country.

Lebanon has a free-market economy that is largely service-oriented with growth in the banking and tourism sectors. The United States and Lebanon have signed a Trade and Investment Framework agreement to help promote an attractive investment climate, expand trade relations, and removed obstacles to trade and investment between the two countries. Lebanon and the United States belong to some of the same international organizations, including the United Nations, International Monetary Fund, and World Bank.

Lebanon hosts the highest per capita number of refugees in the world, including over one million from Syria, which further strained Lebanon's already weak infrastructure and ability to deliver social services in 2018. U.S. humanitarian assistance in Lebanon supports the needs of Syrian refugees and host communities, including food, shelter, medical care, clean water and sanitation, and psychosocial support. Over the past decade, the United States has invested over \$170 million in basic education programs and over \$160 million in higher education programs in Lebanon for students from disadvantaged backgrounds to attend top-ranking universities in Lebanon.

In 2017, Lebanon's most significant human rights issues included arbitrary or unlawful killings, including by government forces and non-state actors. There were no reports of government forces committing arbitrary or unlawful killings in 2018, however. Allegations of torture by security forces; undue and increasing restrictions on freedom of speech and the press, including laws criminalizing libel and forms of political expression; and official corruption were issues in 2017 and 2018. Although the legal structure provides for prosecution and punishment of officials for human rights abuses, enforcement remained a problem in 2017 and 2018, and government officials enjoyed a measure of impunity for human rights abuses.

In September 2018, the U.S. State Department issued a Level 3 travel advisory for Lebanon, urging U.S. citizens to reconsider or avoid travel to certain areas of Lebanon because of threats of terrorism, armed clashes, kidnapping, and outbreaks of violence, particularly near Lebanon's borders with Syria and Israel. U.S. citizens living and working in Lebanon are advised that they accept the risk of remaining in the country. Although Lebanon was a committed ally in the fight to defeat ISIS in 2017 and its ground forces were one of the most effective counterterrorism partners in the region, U.S. citizens have been targeted by terrorist attacks in Lebanon in the past. The threat of anti-Western terrorist activity persists, as does the risk of death or injury as a bystander. Violent extremist groups operate in Lebanon, including the U.S. government-designated terrorist organizations of Hizballah, ISIS, Al-Nusrah Front, Hamas, and the Abdullah Azzam Brigades. Even though the Lebanese government reaffirmed its official policy of disassociation in 2017, Hizballah continued its military role in Syria in support of the Syrian regime. Lebanon's 12 Palestinian refugee camps, including the largest Ain el-Helweh, are outside the jurisdiction of local security forces and pose a security threat due to potential militant recruitment and terrorist infiltration. U.S. citizens are advised to avoid travel to refugee settlements.

Kidnapping, whether for ransom, political motives, or family disputes, is a problem in Lebanon. The U.S. government's ability to help U.S. citizens kidnapped or taken hostage is limited. U.S. citizens who choose to travel to Lebanon in spite of the travel advisory are advised that consular officers from the U.S. Embassy are not always able to travel to assist them. U.S. citizens who also hold Lebanese citizenship are subject to the requirements and responsibilities of Lebanese citizenship under Lebanese law.

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 are required to 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 overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), 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 national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the 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 that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Section 7 of 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 B: Foreign Influence

The security concern relating to the guideline for foreign influence is articulated in AG ¶ 6:

Foreign contacts and interests, including but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way that is inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

Applicant’s mother and his sister #1 are currently resident citizens of Lebanon. Applicant’s sister #2 is a dual citizen of the United States and Lebanon living in Lebanon. Through December 2016, Applicant maintained friendships and contact with two resident citizens of Lebanon, one of whom holds dual citizenship with Mexico. A person is not automatically disqualified from holding a security clearance because he has relatives or friends living in a foreign country. Contacts and connections to foreign citizens are potentially disqualifying if they present a heightened risk under AG ¶ 7(a) or create a potential conflict of interest under AG ¶ 7(b). Those disqualifying conditions provide:

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

The “heightened risk” denotes a risk greater than the normal risk inherent in having a family member living under a foreign government. The nature and strength of the family ties or other foreign interests and the country involved (*i.e.*, the nature of its government, its relationship with the United States, and its human rights record) are relevant in

assessing whether there is a likelihood of vulnerability 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 on, the foreign government; or the country is known to conduct intelligence operations against the United States. Moreover, in considering the nature of the foreign government, the administrative judge must take into account any terrorist activity in the country at issue. See *generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006). A heightened level of scrutiny is warranted when an applicant has a close relationship with relatives who reside in a country where elements hostile to the United States and its interests operate somewhat freely. See *generally* ISCR Case No. 12-05092 at 5 (App. Bd. Mar. 22, 2017.)

Applicant admits that he has a close relationship with his mother, who has been residing in Lebanon for the past two years while his sisters are posted there by their respective employers. He and his mother speak regularly by telephone. Applicant talked to his mother the morning of his security clearance hearing, and Applicant stayed with her in Lebanon as recently as August 2018. Applicant has ongoing contact with his sisters only once every month or every two months, but Applicant has not persuaded me that his relationships with his siblings are so casual that there is little likelihood that his sibling ties could create a risk for foreign influence or exploitation. Applicant resided with his mother and siblings before they returned to Lebanon in 2017. Furthermore, I have to consider the risk of undue foreign influence through his mother, who has such close bonds with her daughters that she is unwilling to leave them alone in Lebanon, despite that the elder of her daughters (sister #1) is married. Lebanon is a country in which terrorism and human rights abuses are significant. It is not a mere hypothetical concern that hostile elements in Lebanon could attempt to leverage Applicant's close familial ties for their own advantage and purposes. AGs ¶¶ 7(a) and 7(b) apply.

Regarding Applicant's friendships with the two Lebanese citizens in SOR ¶¶ 1.d and 1.e, Applicant listed them on his SF 86 as foreign persons with whom he "had close and/or continuing contact" within the last seven years. However, there is little information about them in the evidentiary record, including about the duration and context of the relationships and contacts. Applicant denies that he has any regular or ongoing contact with them and any contact whatsoever since December 2016. He denies any intention of maintaining these relationships because of the possible security concerns. Any concerns under AG ¶ 7(a) or AG ¶ 7(b) are minimal and mitigated by AG ¶ 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."

On the death of his father in September 2012, Applicant inherited alone or with his mother and sisters three properties and an office in Lebanon valued at \$242,000 and two bank accounts with deposits totaling \$148,000. Before the SOR was issued, Applicant irrevocably waived his right to his inheritance and gave his mother a power of attorney to dispose of his ownership interest in those foreign assets. Those foreign assets are significant in terms of value and because they appear to be the assets that support his mother. AG ¶ 7(f) provides:

(f) substantial business, financial, or property interests in a foreign country, or in any foreign owned or foreign-operated business that could subject the individual to a heightened risk of foreign influence or exploitation or personal conflict of interest.

Whether or not Applicant's mother has acted on the power of attorney, Applicant has irrevocably waived his rights to the foreign assets. These assets no longer present a risk for foreign influence or exploitation for Applicant. AG ¶ 8(f) applies. It provides:

(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.

Applicant has the burden of mitigating the risk of undue foreign influence that exists because of his immediate family's residency in and citizenship with Lebanon. AG ¶ 8(a) provides for mitigation as follows:

(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.

Applicant understandably has close ties with his mother and sisters. While his mother intends to return to the United States at some future date, she plans to remain in Lebanon for as long as one or both of her daughters are there. It is particularly likely that she will remain in Lebanon until Applicant's unmarried sister #2 returns to the United States. There is nothing about sister #2's employment as a civil engineer with a U.S. company in Lebanon or about sister #1's work with an international humanitarian organization that is likely to pose a conflict with Applicant's duties. The United States is committed to Lebanon's security, and has provided substantial financial assistance to Lebanon since 2006 to bolster the stability of its government. Lebanon has shown itself to be a reliable partner in countering terrorism in the region. Yet anti-Western elements have continue to operate in Lebanon, and the United States advises U.S. citizens to reconsider traveling to Lebanon because of crime, terrorism, kidnappings, and armed clashes. Applicant testified that his sister #1 is accompanied by security personnel to and from her workplace, which indicates that her employer has concerns for her safety. AG ¶ 8(a) does not apply.

Applicant was born in the United States but raised in Lebanon. Even so, there is no evidence that Applicant has any loyalty or affiliation to Lebanon or its institutions. Yet it is difficult to conclude that the bonds of affection and obligation to his mother and sisters are so minimal to satisfy the first part of AG ¶ 8(b), which provides:

(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 U.S. interest.

Regarding whether Applicant has such deep and longstanding relationships and loyalties in the United States that he can be counted on to resolve any conflict in favor of the U.S. interest, he has one longstanding tie, that of United States citizenship, that is significant in assessing his vulnerability to undue foreign influence. He was raised in Lebanon, although as a minor, he would have had little choice in that regard. He testified that he planned to attend college in the United States. He chose to stay in Lebanon because of his father's terminal condition, and applied for college in Lebanon. He may have registered for classes in 2012 in Lebanon, but there is no evidence that he started college in Lebanon before January 2013, which was several months after his father died. Applicant returned to the United States in January 2016, when he came for his graduate studies. He held a Lebanese passport valid from October 2013 to October 2018, primarily to travel from Lebanon to Turkey. He used his Lebanese passport on a trip to Lebanon over the summer of 2016 because he felt it was safer than traveling on his U.S. passport. He denies he holds dual citizenship with Lebanon. Even though he has had his Lebanese passport destroyed, and he expressed an intention to renounce his Lebanese citizenship if required, he presented no documentation showing any action on his part to formally renounce his Lebanese citizenship or to inform Lebanon that he has destroyed his Lebanese passport with no intention to renew it.

Whereas Applicant is now only 24 years old, he has not had enough time for him to establish "longstanding relationships" as an adult in the United States. Even so, he has credibly professed allegiance to the United States and to his intention to reside permanently in the United States. As objective evidence of his commitment in that regard, he irrevocably waived his inheritance from his father's estate, which included sole ownership of an apartment and office valued at \$97,000 in Lebanon and a share of an additional \$293,000 in assets. Co-workers and a cousin of Applicant's deceased father, who have had the opportunity to interact with Applicant on a regular basis, express no concerns about Applicant's loyalty to the United States. A former classmate, who works for the same defense contractor, has observed Applicant to pay his respects to fallen U.S. troops on Memorial Day and to celebrate U.S. Independence Day. Applicant has been nothing but dedicated to his work with a defense contractor. His memberships in two professional organizations, his regular attendance at church services and financial support of his parish, and his activities with a sports club are relatively recent, but they show he is invested in his life in the United States. AG ¶ 8(b) has some applicability, although he would have had a stronger case in mitigation had he more time to demonstrate his commitment to the United States and its interests.

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 his conduct and all relevant circumstances in light of the nine adjudicative process factors listed at AG ¶

2(d).² Furthermore, in weighing these whole-person factors in a foreign influence case, the Appeal Board has held that:

Evidence of good character and personal integrity is relevant and material under the whole person concept. However, a finding that an applicant possesses good character and integrity does not preclude the government from considering whether the applicant's facts and circumstances still pose a security risk. Stated otherwise, the government need not prove that an applicant is a bad person before it can deny or revoke access to classified information. Even good people can pose a security risk because of facts and circumstances not under their control. See ISCR Case No. 01-26893 (App. Bd. Oct. 16, 2002).

Applicant has no control over his mother's decision to stay in Lebanon with his sisters or over the employment decisions that have led to his sisters being assigned to duties in Lebanon. Under his present circumstances, Applicant could be placed in an untenable situation of having to choose between the interests of his family members and those of the United States.

People may act in unpredictable ways when faced with choices that could be important to a family member.³ In the event of any attempt at undue influence, Applicant testified that he would first notify his security officials at work and request guidance. He has exhibited the security consciousness required of persons with security clearance eligibility by reporting his foreign contacts on his SF 86, by submitting his Lebanese passport for destruction, and by relinquishing his inheritance rights in Lebanon. Applicant's work colleagues and managers uniformly attest that he is careful in protecting his employer's proprietary information and ensuring compliance with ITAR. He has demonstrated responsibility and trustworthiness in carrying out his duties to the benefit of the U.S. interests, and in his handling of his personal affairs, including his personal finances. After considering all the facts and circumstances, I am persuaded that Applicant can be trusted to report any attempts to influence him through his mother or sisters.

² The factors under AG ¶ 2(a) are as follows:

(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.

³ As stated by the DOHA Appeal Board in ISCR Case No. 08-10025 (App. Bd. Nov. 3, 2009), "Application of the guidelines is not a comment on an applicant's patriotism but merely an acknowledgment that people may act in unpredictable ways when faced with choices that could be important to a loved-one, such as a family member."

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline B: FOR APPLICANT

Subparagraphs 1.a-1.k: For Applicant

Conclusion

In light of all of the circumstances, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Elizabeth M. Matchinski
Administrative Judge