



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



In the matter of: )  
 )  
----- ) ISCR Case No. 12-06885  
 )  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Pamela C. Benson, Esquire, Department Counsel  
For Applicant: Fadi G. Boumitri, Esquire

05/30/2013

**Decision**

HOWE, Philip S., Administrative Judge:

On January 17, 2012, Applicant submitted his Security Clearance Application (SF 86). On September 11, 2012, the Department of Defense (DoD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guidelines C (Foreign Influence), B (Foreign Preference), and F (Financial Considerations). The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the Department of Defense on September 1, 2006.

Applicant acknowledged receipt of the SOR on September 19, 2012. He answered the SOR in writing through counsel on October 5, 2012, and requested a hearing before an administrative judge. Defense Office of Hearings and Appeals (DOHA) received the request on October 10, 2012. Department Counsel was prepared

to proceed on December 31, 2012, and I received the case assignment on January 7, 2013.

DOHA issued a Notice of Hearing on February 13, 2013, and I convened the hearing as scheduled on March 7, 2013. The Government offered Exhibits 1 through 7, which were received without objection. Applicant testified and submitted Exhibits A through M, without objection. DOHA received the transcript of the hearing (Tr.) on March 22, 2013. I granted Applicant's request to keep the record open until March 21, 2013, to submit additional matters. On March 21, 2013, he submitted Exhibits N to AA, without objection. The record closed on March 21, 2013. Based upon a review of the pleadings, exhibits, and testimony, eligibility for access to classified information is denied.

## **Procedural and Evidentiary Rulings**

### **Request for Administrative Notice**

Department Counsel submitted a formal request that I take administrative notice of certain facts relating to Lebanon. (Tr. at 10-12.) The request and the attached documents were admitted into evidence and were included in the record as Exhibit 7. The facts administratively noticed are set out in the Findings of Fact, below.

### **Findings of Fact**

In his Answer to the SOR, Applicant admitted all the allegations in the SOR. He also provided additional information to support his request for eligibility for a security clearance.

Applicant is 39 years old. He is married and has three children, two of whom are adults. All of them were born in the United States. His wife was born in the United States and is a U.S. citizen. He is not employed now. He has been a mechanic in previous positions, including his first overseas job in 2010. Applicant has been unemployed since 2010 after returning from his foreign employment for a defense contractor. He has lived in the United States since 1986 when he came to this country at the age of 12. He was born in Beirut, Lebanon. Applicant fled the civil war then raging in Lebanon. Applicant has two brothers and one sister. His sister was born in the United States. His two brothers came with him from Lebanon but have never returned there. They are U.S. citizens and employed in the U.S. Applicant attended high school here. He does not have a college degree but did complete two semesters of study at a vocational school after high school. Applicant became a naturalized U.S. citizen in March 1986, as he claimed at the hearing and in his SF-86. (Tr. 20, 21, 29, 50, 55-57, 101, 105, 106; Exhibit 1)

Applicant operated a motorcycle shop as a business from 2001 to 2010. He has a rental home that was his former residence. (Tr. 40, 108)

Applicant's father lives in the United States and is a dual U.S. and Lebanese citizen. His mother died in 1985. Applicant stated he knew little about her death because the family does not discuss it. The story he heard was that she fell off a building. Applicant did not testify where the building was located. His father is 63 years old and came to the United States in 1984, before Applicant traveled here. Applicant's grandmother and aunt live in Lebanon. He talks to them monthly by telephone. Applicant visited them during his 2009 and 2010 trips to Lebanon. His grandmother has a "green card" from the United States. Applicant has distant cousins in Lebanon with whom he does not associate. (Tr. 30-34, 55-59; Exhibit 1)

Applicant obtained a Lebanese passport in May 2009. He obtained a free airline ticket from a Lebanese political party. To use his U.S. passport would have required Applicant to purchase a visa for \$150. Applicant and his father went to Lebanon and visited relatives there. On the same trip he voted in the Lebanese general election in return for his airline ticket. He described the political party as "March 14" but did not know its platform or policies before voting. The Lebanese passport was valid for one year. Applicant surrendered it to his company's security office recently. (Tr. 23-28, 33, 61, 103; Exhibits 4, 5)

Applicant went to Lebanon in 2010 on vacation from his job in Afghanistan. He worked there as a mechanic for a defense contractor. In Lebanon Applicant met his wife for a vacation. They have been married 23 years and this was her first trip to Lebanon. Applicant went to Lebanon in 2010 instead of coming home from his foreign work site because the trip was shorter than returning to the United States and he wanted to see more sites in Lebanon than he was able to visit in 2009 on his last trip there. (Tr. 28, 64)

Applicant testified he would travel to Lebanon again to vacation there. He also stated he would vote in future Lebanese elections. Applicant considers himself a dual citizen of the United States and Lebanon because of his birth in Lebanon. If he could legally renounce his Lebanese citizenship he would do so. (Tr. 67-69, 106)

The SOR alleges eight delinquent debts. They total \$12,348. They include credit card debts, unpaid utility bills, and state tax debts. The earliest debts date to 2002. (Tr. 35-49; Exhibits 2, 3, 6, O)

Applicant owes his home state delinquent business taxes from 2002 to 2007 (Subparagraphs 3.a, 3.e, 3.f, and 3.g). Applicant claims his former accountant failed to file the proper documents or did not properly perform her duties. He gathered the proper information and submitted it to the state tax authorities to demonstrate he did file and pay the proper tax amounts. The amounts alleged in the later three subparagraphs are \$769, \$753, and \$750. He submitted satisfactions of state tax liens showing the liens are released and he does not owe any money. He filed these satisfaction documents with the appropriate county officials on March 18, 2013. He delayed doing the filing because of the \$55 filing fee required for each satisfaction. These debts are resolved. (Tr. 35-39, 46; Exhibits 2, 3, 6, A, E, O, P)

Applicant owes \$4,768 to a credit card company on a 2008 judgment (Subparagraph 3.b). He recently concluded an agreement with the creditor to pay \$50 monthly on the debt. (Tr. 40, 41, 48; Exhibits 2, 3, 6, B, C, O)

Applicant's former utility company claims he owes it \$1,178 for electricity provided (Subparagraph 3.c). Applicant made several attempts to arrange installment payment with this company, but they insist on payment in full on a debt. Applicant paid this debt but owes the utility company another amount. He is trying to make arrangements to pay the second debt. The SOR debt is resolved. (Tr. 41-43; Exhibits 2, 3, 6, C, D, O, Q)

The telephone company that provided cellular service to Applicant claims he owes them \$3,611 (Subparagraph 3.d). Applicant testified he had four phones for his family. When his wife was dissatisfied with the service after they received a bill for \$900 for one month of texting while Applicant was working in a foreign country, he terminated the contracts early and went to another provider. Terminating the contracts before the contractual date caused fees to be assessed against Applicant. He objects to the original bill and the early termination fees as excessive. He asserts his family was really on one plan not four plans. He has not resolved this debt. (Tr. 44-46; Exhibits 2, 3, 6, O)

Applicant owes a medical debt of \$519 (Subparagraph 3.h) according to the SOR. He does not remember how this debt occurred. The debt appears on Applicant's March 2013 credit report, which he submitted. It is shown as owed to a gas company. Applicant's attorney submitted an affidavit after the hearing recording his efforts to determine the origin of this debt. He contacted the credit reporting agency showing this account. His investigation showed it is not a medical debt but rather a debt owed to a gas company, as it is shown on the credit report. Applicant's notes record that the creditor was supposed to remove the debt from Applicant's credit record as of February 4, 2013. His attorney's affidavit also states the debt is to be removed from Applicant's credit record as of February 2013 by the collector. This debt is resolved. (Tr. 46, 47; Exhibits 2, 3, 6, O, Q)

Applicant admits he still owes about \$10,000 on the credit record, but only \$7,000 is valid debt after subtracting the cell telephone debt. (Tr. 48, 49; Exhibits 2, 3, 6)

Applicant submitted six character statements from family members and his friends. Applicant's son and brother, his sister, two policemen who are Applicant's friends, and his wife's brother all submitted favorable statements. The writers of these letters state Applicant is a hardworking, honest, trustworthy, and loyal individual. One letter from a policeman states Applicant told him he would like to vacation in Lebanon but would not live there. Applicant's sister states in her letter that Applicant has no interest in going to Lebanon. His brother-in-law states Applicant is dedicated to his family in the United States and would never leave his family. (Exhibits H to M)

I take administrative notice of the following facts regarding Lebanon:

## **Lebanon**

Lebanon is a parliamentary democracy in which people have the constitutional right to change their government. It has a unicameral legislature, and a president elected by the legislature. Its major elected officials have been allocated among the various religious and ethnic groups for many years, according to the Constitution and a long-ago negotiated agreement among all the parties.

Lebanon is located at the eastern end of the Mediterranean Sea in the Middle East area. It operated under a French mandate from the League of Nations between World War I and II. It became independent in 1943. It was peaceful until a civil war erupted in 1975 between various religious factions. Due to this civil war the full exercise of political rights were precluded from 1975 until 1994.

Lebanon has a free-market economy and a strong laissez-faire commercial tradition. Historically, the Lebanese have been traders throughout the Mediterranean. The economy is service-oriented. The U.S. enjoys a strong exporter position with Lebanon and is its fifth largest source of imported goods. More than 160 offices representing U.S. businesses operate in Lebanon. Since the lifting of passport restrictions in 1997, a number of large U.S. companies have opened branch or regional offices in Lebanon.

The foreign policy of Lebanon reflects its geographic location, the composition of its population and its reliance on commerce and trade. Its foreign policy is heavily influenced by neighboring Syria, which has also long influenced Lebanon's internal policies as well. For over 10 years, Syrian troops occupied part of Lebanon, and controlled its internal politics and policies. About three years ago, Syria was forced to withdraw its troops because of Lebanese opposition expressed in a popular uprising against the Syrian presence. Syria maintains some influence in Lebanon. The U.S. State Department has declared Syria to be a supporter of terrorism. Lebanon, like most Arab states, does not recognize Israel, with which it has been technically at war since Israel's establishment.

The United States seeks to maintain its traditionally close ties with Lebanon and to help preserve its independence, sovereignty, national unity and territorial integrity. The U.S. provides more than \$400 million in aid to Lebanon and pledged \$1 billion in additional aid. The aid reflects the importance the U.S. attaches to Lebanon's development as a unified, independent and sovereign country.

Lebanon's history since independence has fluctuated between periods of political turmoil and prosperity. Since independence in 1943, Lebanon's "national policy has been determined largely by a relatively restricted group of traditional regional and sectarian leaders," and sectarianism is "a key element of Lebanese political life."

Furthermore, “Lebanese political institutions often play a secondary role to highly religious and personality-based politics.”

During the period 1994 to 2005, post-war reconstruction in Lebanon has included social and political instability, economic uncertainty, problems with basic infrastructure, violent clashes between Israeli military forces and Hezbollah, and political assassinations. Political assassinations also occurred in 2006, 2007, and 2008.

Although Lebanon is a parliamentary republic, it has some human rights problems, including: Lebanese security forces “arbitrarily arrested and detained individuals” and “instances of arbitrary or unlawful deprivation of life, torture, and other abuse.” Lebanese law does not specifically prohibit torture, and security forces have abused detainees and used torture in some instances. Although Lebanese law requires judicial warrants before arrests, except in situations involving immediate pursuit, the government had arbitrarily arrested and detained persons. Many provisions of the law concerning the rights of persons arrested and detained are not observed in practice, and security forces continue the practice of arbitrary arrest and detention. Although the law prohibits it, Lebanese authorities “frequently interfered with the privacy of persons regarded as enemies of the government.” Furthermore, “[m]ilitias and non-Lebanese forces operating outside the area of [Lebanon’s] central government authority frequently violated citizens’ privacy rights” and “[v]arious factions used informer networks and monitoring of telephones to obtain information regarding their perceived adversaries.”

“Lebanon’s foreign policy has been heavily influenced by neighboring Syria, which has also long influenced Lebanon’s internal politics as well.” Syria maintained troops in Lebanon from 1976 to 2005. Even after the last Syrian troops were withdrawn from Lebanon, Syria maintained intelligence assets in Lebanon, and “Syrian influence in Lebanese politics remains strong.” Syria has been designated by the United States as a “state sponsor of terrorism,” and has “continued to undermine Lebanon’s sovereignty and security through its proxies.” On May 9, 2008, the Secretary of State condemned the use of violence by illegitimate armed groups in Lebanon, and stated that the legitimate authority of the Lebanese government and the institutions of the Lebanese state were being undermined by Hezbollah and its allies, backed by Syria and Iran. On August 13, 2008, the State Department issued a condemnation of a terror attack in Lebanon, and on September 10, 2008, it issued a condemnation of a car bomb attack that killed a ranking official of a Lebanese political party. The State Department condemned another terrorist attack in Lebanon on September 29, 2008.

Hezbollah, a “Lebanese-based radical Shia group [which] takes its ideological inspiration from the Iranian revolution and the teachings of the late Ayatollah Khomeini,” is a U.S.-designated “Foreign Terrorist Organization,” and is described by the U.S. Department of State as “the most technically capable terrorist group in the world.” The Lebanese government recognizes Hezbollah as a “legitimate ‘resistance group’ and political party,” and until recently, Hezbollah was represented by elected members of the Lebanese Parliament and on Lebanon’s cabinet. “Hezbollah is closely allied with

Iran and often acts at its behest,” and “has helped Syria advance its political objectives in the region.” Hezbollah also “provides support to several Palestinian terrorist organizations” and “is known to have been involved in numerous anti-U.S. and anti-Israeli terrorist attacks.” The participation of Hezbollah in the Lebanese government has not changed the position of the U.S. government that it is a terrorist organization.

Americans have been the targets of numerous terrorist attacks in Lebanon, and the perpetrators of many of those attacks are still present in Lebanon and retain the ability to act. Furthermore, Palestinian groups hostile to the Lebanese government and the United States operate largely autonomously inside refugee camps in different areas of Lebanon. “In addition to being subject to general Lebanese laws, U.S. citizens who also possess Lebanese nationality may be subject to other laws that impose special obligations on them as Lebanese citizens.”

A Travel Warning issued by the U.S. Department of State in September 2008 and renewed thereafter alerts American citizens to “security threats and ongoing political violence in Lebanon.” The U.S. Department of State “continues to urge that Americans avoid all travel to Lebanon. Americans who live and work in Lebanon presently should understand that they are accepting risks in remaining and should carefully consider those risks, especially those in Tripoli.” The Travel Warning also states that “The threat of anti-Western terrorist activity exists in Lebanon; groups such as Al-Qaeda and Jund al-Sham are present in the country and have issued statements calling for attacks against Western interests in the past.”

There have been cases involving the attempted illegal export of U.S. restricted, dual use technology to Hezbollah. In August 2005, an individual pleaded guilty to attempting to illegally export military night-vision equipment and infrared aiming devices to Hezbollah. In November 2007, an individual pleaded guilty to attempting to provide night-vision goggles, a thermal imaging device, and two global positioning modules to a person in Lebanon who was purchasing equipment for Hezbollah.

The source documents for the above facts and quotations are as follows:

1. U.S. Department of State, *Fact Sheet: U.S. Relations with Lebanon*, dated June 29, 2012 (3 pages);
2. U.S. Department of State, *Country Reports on Human Rights Practices for 2011: Lebanon*, printed on October 15, 2012 (32 pages);
3. U.S. Department of State, *Country Reports on Terrorism 2011, Chapter 3 - State Sponsors of Terrorism*, dated July 31, 2012 (5 pages);
4. U.S. Department of State, *Country Reports on Terrorism 2011, Chapter 6 - Foreign Terrorist Organizations*, dated July 31, 2012 (45 pages);

5. U.S. Department of State, *Country Reports on Terrorism 2011, Chapter 2 - Country Reports: Middle East and North Africa*, dated July 31, 2012 (3 pages);
6. U.S. Department of State, *Travel Warning: Lebanon*, dated September 17, 2012 (4 pages);
7. U.S. Department of State, *Remarks After Meeting With Lebanese Parliamentary Speaker Nabih Berri*, dated June 16, 2008 (2 pages);
8. U.S. Department of State, *Recent Developments in Lebanon*, dated March 24, 2009 (3 pages);
9. U.S. Department of State, *Remarks on Lebanon and Resolution 1559*, May 7, 2009 (2 pages);
10. U.S. Department of State, *United States Condemns Violence in Lebanon*, dated May 9, 2008 (1 page);
11. U.S. Department of State, *U.S. Statement on Terror Attack in Tripoli, Lebanon*, dated August 13, 2008 (1 page);
12. U.S. Department of State, *U.S. Condemns Car Bomb Attack in Lebanon*, dated September 11, 2008 (1 page);
13. U.S. Department of State, *Statement on Bus Bombing in Tripoli, Lebanon*, dated September 29, 2008 (1 page);
14. Congressional Research Service, *Hamas: Background and Issues for Congress*, dated December 2, 2010 (67 pages);
15. U.S. Department of State, *Country Specific Information: Lebanon*, dated October 11, 2012 (7 pages);
16. U.S. Department of Justice, *Former Employee of CIA and FBI Pleads Guilty to Conspiracy, Unauthorized Computer Access and Naturalization Fraud*, dated November 13, 2007 (2 pages);
17. U.S. Department of Justice, *Man Pleads Guilty to Providing Material Support to Hezbollah TV Station*, dated December 30, 2008 (1 page); and
18. U.S. Department of Justice, *Naji Antoine Abi Khalil Sentenced to 60 Months' Imprisonment for Attempting to Export Military Night-Vision Equipment to Hezbollah*, dated February 2, 2006 (3 pages).



## Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process (AG ¶ 2(a)). The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." 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, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision."

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

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

## Analysis

### Guideline C, Foreign Preference

AG ¶ 9 expresses the security concern involving 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 ¶ 10 describes conditions that could raise a security concern and may be disqualifying. Three disqualifying conditions apply:

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

- (1) possession of a current foreign passport;
- (2) military service or a willingness to bear arms for a foreign country;
- (3) accepting educational, medical, retirement, social welfare, or other such benefits from a foreign country;
- (4) residence in a foreign country to meet citizenship requirements;
- (5) using foreign citizenship to protect financial or business interests in another country;
- (6) seeking or holding political office in a foreign country; and
- (7) voting in a foreign election;

(b) action to acquire or obtain recognition of a foreign citizenship by an American citizen;

(c) performing or attempting to perform duties, or otherwise acting, so as to serve the interests of a foreign person, group, organization, or government in conflict with the national security interest; and

(d) any statement or action that shows allegiance to a country other than the United States: for example, declaration of intent to renounce United States citizenship; renunciation of United States citizenship.

Applicant accepted a plane ticket from a Lebanese political party whose policies he did not know before voting for them in the 2009 Lebanese general election. Applicant stated at the hearing he would vote again in a Lebanese election. Applicant obtained a Lebanese passport, for which he applied in 2009, to enter Lebanon because it was cheaper than paying for a visa to use with his U.S. passport. The visa fee was \$150. He performed these actions after obtaining U.S. citizenship in 1986. AG ¶¶ 10(a)1 and (a)7 apply to these actions.

Applicant's actions to obtain a Lebanese passport in 2009 were done as part of his effort to obtain recognition of his Lebanese citizenship by the Lebanese government which would issue such a passport only to persons who were citizens of Lebanon. AG ¶¶ 10(b) applies.

Applicant voted in the 2009 Lebanese general election in furtherance of a Lebanese political party's agenda. He did not know of its policies and whether they were inimical to the interests of the United States. He merely voted in return for his airline ticket. Therefore, his vote was purchased for the price of that ticket. Applicant had not lived in Lebanon since 1986. AG ¶¶ 10(c) applies.

AG ¶¶ 11 provides conditions that could mitigate security concerns. Three conditions may apply:

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

Applicant was born in Lebanon and brought to the United States in 1986 by his father. He has lived in the U.S. since then. His Lebanese citizenship derives from his birth in Lebanon and his parent's citizenship. AG ¶¶ 11(a) does not apply because subsequent to obtaining his U.S. citizenship Applicant voted in a Lebanese election in

return for a plane ticket. He knew nothing about the political situation in Lebanon but merely voted for the political party that purchased his vote with a plane ticket.

Applicant testified he would renounce his Lebanese citizenship if he thought he could do so under Lebanese law. As he understands it, he cannot legally renounce his Lebanese citizenship under Lebanese law. AG ¶ 11(b) does not apply because he has not taken any steps to attempt, as a minimum, to renounce his Lebanese citizenship. Instead, Applicant obtained a Lebanese passport to avoid paying \$150 in visa fees, then goes to Lebanon and votes in a national election there for the party that purchased his vote with a plane ticket. All these actions were subsequent to Applicant obtaining his U.S. citizenship.

Applicant's Lebanese passport is in the possession of his employer's security office. AG ¶ 11(e) might have applied. However, the security concern about Applicant voting in 2009 and his statement he would go to Lebanon and vote again does not mitigate the Foreign Preference security concern.

### **Guideline B, Foreign Influence**

AG ¶ 6 expresses the security concern regarding foreign influence:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.

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

(a) contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion;

(b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information;

(c) counterintelligence information, that may be classified, indicates that the individual's access to protected information may involve unacceptable risk to national security;

(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;

(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;

(f) failure to report, when required, association with a foreign national;

(g) unauthorized association with a suspected or known agent, associate, or employee of a foreign intelligence service;

(h) indications that representatives or nationals from a foreign country are acting to increase the vulnerability of the individual to possible future exploitation, inducement, manipulation, pressure, or coercion; and,

(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.

Applicant has a grandmother and aunt living in Lebanon. He also has a father who lives in the U.S. but has dual U.S. and Lebanese citizenship. Applicant admitted he has cousins in Lebanon with whom he claims he does not have contact. All of these relatives are citizens of Lebanon. His grandmother has a "green" card. His aunt does not have that card. Applicant contacts them monthly by telephone. That contact and his association with them during his 2009 and 2010 visits, plus his vote in 2009 in the Lebanese election for a political party, about which he knew nothing, create a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion. Lebanon is a country in which the terrorist organization Hezbollah has a governmental position. The country has also been involved in a lengthy civil war that only ended in 1994. All of these elements make AG ¶ 7(a) applicable.

Applicant's vote in 2009 in Lebanon, and his stated desire to return to Lebanon to vote and vacation in the future, make him vulnerable to exploitation, pressure, or coercion by a foreign person, group, government, or country. Hezbollah is of special concern in Lebanon because of its terrorist operations and connections to Syria and Iran, who are state sponsors of terrorism. Applicant's connections through his family and his own interest in returning to Lebanon increase his vulnerability. AG ¶ 7(i) applies.

AG ¶ 8 provides six conditions that could mitigate security concerns. Two conditions may apply:

(a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S.;

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest;

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

(d) the foreign contacts and activities are on U.S. Government business or are approved by the cognizant security authority;

(e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country; and,

(f) the value or routine nature of the foreign business, financial, or property interests are such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual.

Applicant's grandmother and aunt are over 60 years old and they are not in any governmental position in Lebanon. It is very unlikely that Applicant, who is currently unemployed and a mechanic in previous positions, will be placed in a position to choose between the interests of Hezbollah or its allies, or the Lebanese government, and the interests of the U.S. government. His training and employments are not of a computer, intelligence, or management nature, making him an unlikely target for any terrorist group to try to exploit. AG ¶ 8(a) applies.

Applicant testified at the hearing of his loyalty to the United States. His wife is a native-born U.S. citizen, his three sons were born in the United States, and Applicant was brought to the United States by his parents when he was only 12 years old. His connections here are stronger than any shown to Lebanon. However, Applicant demonstrated an obligation to a foreign group or government when he accepted the plane ticket in 2009 and voted in the Lebanese general election for a political party about which he knew nothing. His expressed intention to vote again in a Lebanese

election is of particular security concern. Applicant may not resolve any such conflicts in favor of the United States. AG ¶ 8 (b) does not apply.

## **Guideline F, Financial Considerations**

The security concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

The guideline at AG ¶ 19 contains nine disqualifying conditions that could raise security concerns. Two conditions are applicable to the facts found in this case:

- (a) inability or unwillingness to satisfy debts;
- (c) a history of not meeting financial obligations, and
- (g) failure to file annual Federal, state, or local income tax returns as required or the fraudulent filing of the same.

Applicant accumulated \$12,348 in eight delinquent debts from 2002 to the present time that remain unpaid. Some of the debts resulted from unpaid state business tax obligations. Utility and credit card bills constitute other financial obligations Applicant is required to pay. Disqualifying conditions in AG ¶ 19 (a), (c), and (g) apply.

The guideline in AG ¶ 20 contains six conditions that could mitigate security concerns arising from financial difficulties. Three conditions may be applicable:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances;

(c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts;

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue; and

(f) the affluence resulted from a legal source of income.

Applicant is currently unemployed. Prior to now he had a motorcycle business the accountant for which did not perform properly her duties. Her errors resulted in the state tax authority levying the tax assessments. Applicant gathered the necessary information to demonstrate he did pay his taxes and the tax levies were satisfied. Those debts are now cleared from Applicant's record.

Applicant recently reached an agreement to pay the \$4,768 debt owed to a credit card company. He paid his utility bill and is working on the second utility bill. It is likely he will resolve that obligation based on his recent work on the other debts. He does not owe the \$519 medical bill, it being actually the second debt owed to a utility company. The debt is to be removed from Applicant's credit report shortly.

The only unpaid debt is for the four cellular telephones. That \$3,611 debt resulted from the premature cancellation of Applicant's contracts with his service provider. Applicant is seeking a compromise of that debt. He is disputing it. The likelihood of success is unclear, but Applicant persists in his efforts to resolve this debt for a more reasonable amount.

Applicant admits he owes \$7,000 to \$10,000 dollars on all these debts. He has acted responsibly in resolving these debts regardless of his employment status. He has resolved, or is in the process of doing so, all but one debt. Therefore, there are clear indications from the evidence he presented that the financial problems are under control and being resolved. AG ¶ 20(b) applies.

Applicant has made progress in repaying his delinquent debts. He has one on an installment payment plan. He has one debt he disputes. The others are resolved. AG ¶ 20(d) applies because of Applicant's good-faith efforts to repay his delinquent debts.

The cellular telephone bill is being disputed as Applicant attempts to negotiate a settlement. He has a reasonable basis to contest the size of the debt incurred for cancelling his cellular service. All of Applicant's contacts with the telephone company were by voice, so he has nothing in writing. AG ¶ 20(e) applies.



## Whole-Person Concept

Under the “whole-person concept,” the administrative judge must evaluate an applicant’s eligibility for a security clearance by considering the totality of an applicant’s conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual’s age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

AG ¶ 2(c) requires each case must be judged on its own merits. Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Applicant was credible in his testimony about his domestic situation. He is a person devoted to his wife and children. He has worked diligently to resolve his debts.

However, Applicant’s disclosures of his Lebanese visits and voting in 2009 are of great concern. He has a high school education and is unsophisticated when the subject is foreign elections and political matters, which makes him vulnerable should he succumb again to a plane ticket offer to Lebanon. His character witnesses gave conflicting statements about Applicant’s future intentions to visit Lebanon. Applicant testified he would travel there and vote for a Lebanese political party again. He considers himself a dual citizen of the U.S. and Lebanon. These actions and intentions cause a security concern.

Overall, the record evidence leaves me with questions and doubts as to Applicant’s eligibility and suitability for a security clearance. Applicant did not mitigate his Foreign Influence or Foreign Preference security concerns. Instead, he clearly demonstrated the influence Lebanon and his father have on him and the preference by obtaining a Lebanese passport and voting for a foreign political party in a country where there is a significant terrorist threat. I resolve the whole person concept against Applicant. I conclude Applicant mitigated the security concerns arising from his Financial Considerations.

Any doubt concerning any applicant considered for access to classified information will be resolved in favor of the national security. There is significant doubt about Applicant based on his past actions. (AG ¶ 2(b))

### **Formal Findings**

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

Paragraph 1, Guideline C:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Paragraph 2, Guideline B:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Subparagraph 2.b:	Against Applicant
Paragraph 3, Guideline C:	FOR APPLICANT
Subparagraph 3.a to 3.h:	For Applicant

### **Conclusion**

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

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PHILIP S. HOWE  
Administrative Judge