



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:

Applicant for Security Clearance

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ICSR Case No. 12-11629

Appearances

For Government: David Hayes, Esq. Department Counsel  
For Applicant: Steven Cash, Esq.

05/31/2013

**Decision**

CREAN, Thomas M., Administrative Judge:

Based on a review of the pleadings, exhibits, and testimony, eligibility for access to classified information is granted. Applicant mitigated security concerns for foreign influence.

**Statement of the Case**

On September 13, 2011, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to obtain a security clearance required for his position as Chief Executive Officer (CEO) of a defense contractor. After an investigation conducted by the Office of Personnel Management (OPM), the Department of Defense (DOD) issued Applicant interrogatories to clarify information in his background. After reviewing the results of the background investigation and Applicant's responses to the interrogatories, DOD adjudicators could not make the affirmative findings required to issue a security clearance. DOD issued a Statement of Reasons (SOR), dated October 19, 2012, to Applicant detailing security concerns for foreign influence. 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 in the DOD on September 1, 2006.

Applicant answered the SOR on November 9, 2012. He admitted the ten factual allegations under Guideline B with detailed explanations. He requested a hearing before an administrative judge. Department Counsel was prepared to proceed on January 16, 2013, and the case was assigned to me on January 22, 2013. The hearing was postponed because of sequestration of budget funds. The Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing on April 2, 2013, for a hearing on April 23, 2013. On April 17, 2013, Applicant, through counsel, withdrew his request for a hearing. However, Department Counsel timely requested a hearing under ¶ E3.1.7 (Directive). I convened the hearing as scheduled on April 23, 2013. The Government offered two exhibits, which I marked and admitted into the record without objection as Government Exhibits (Gov. Ex.) 1 and 2. Applicant testified. I left the record open for Applicant to submit documents. Applicant timely submitted nine documents which I marked and admitted into the record without objection as Applicant Exhibits (App. Ex.) A through I. DOHA received the transcript (Tr.) of the hearing on April 30, 2013.

### **Procedural Issues**

Department Counsel requested that administrative notice be taken of certain facts concerning Lebanon (Hearing Exhibit II). Applicant also submitted documents pertaining to Lebanon, and also requested that I take administrative notice of the information. (Hearing Exhibit III) I have considered the requests and the documents provided by Department Counsel and Applicant. Administrative notice is taken of the fact pertaining to Lebanon as noted below in the Findings of Fact.

### **Findings of Fact**

After a thorough review of the pleadings, transcript, and exhibits, I make the following essential findings of fact.

Applicant is the 63-year-old CEO of a defense contractor. He was born in Lebanon and earned the equivalent of a college degree from a Lebanese university. At age 21 and still a student, Appellant established a business representing United States companies doing foreign military sales (FMS) in Lebanon. One of the United States companies asked him to go to Egypt and represent them in FMS cases. He established, at the request of United States companies, FMS representation offices in Egypt, Jordan, and Saudi Arabia. After the Camp David accords became effective, Egypt became the largest country receiving U.S. FMS funds. Applicant's business expanded. He lived in Lebanon, but because of political unrest in Lebanon, he moved repeatedly to Cyprus and Egypt. Applicant did not go to Lebanon from 1979 to 1980, and from 1992 until 1993. (Tr. 27-36)

He married his wife, who was born in Lebanon, in 1994. They purchased a house in the United States and have one son born in the United States. Applicant became a United States citizen in January 1995. His wife is now also a United States citizen. Applicant is a Greek Orthodox Christian and his mother is Catholic. His religious affiliation is important because it places him in opposition to the radical Muslim groups in Lebanon, especially Hizballah. (Tr. 47-49, 54-55)

Applicant's company is a government contractor for a number of federal agencies including DOD. The company provides services in security surveillance systems, tunnel detection, logistics support, training, cyber solutions, intercepts, and secure communication solutions. The company is a prime contractor with the Army and a subcontractor with the Navy on FMS contracts. The company has multiple FMS contracts in Egypt and Lebanon. The company has also submitted proposals for FMS contracts with other countries, such as Saudi Arabia, Morocco, Tunisia, Iraq, and Qatar. The company is presently executing a large contract with the U.S. Army for security surveillance systems and tunnel detection in Afghanistan that requires that Applicant be granted access to classified information. (Gov. Ex. 2, Response to Interrogatories, at 68)

In completing his security clearance application (Gov. Ex. 1, e-QIP, dated September 13, 2011), Applicant provided information on his family, property, and business associates and acquaintances in foreign countries. In response to Interrogatories, Applicant provided detailed information on each business contact or acquaintance in foreign countries. (Gov. Ex. 2, Response to Interrogatories, dated September 28, 2012, Attachments 1-4) Applicant and Department Counsel agreed that the allegations against Applicant can be divided into three categories. The first category concerns family members or others who are residents and citizens of Lebanon. (SOR 1.a – 1.e) The second category concerns financial and land assets Applicant owns in Lebanon. (SOR 1.f – 1.h) The third category concerns contacts with numerous foreign business associates and foreign business proposals requiring Applicant to meet with high level foreign government officials. (SOR 1.i – 1.j) Each category will be discussed separately and then as a whole in the whole-person concept.

Applicant admits that his mother is a resident and citizen of Lebanon. (SOR 1.a) She is 87 years old, having been born in 1927 in the Christian area of Lebanon. She spends most of her time at a house in Beirut, but she also spends time at a summer house she owns in the hills outside Beirut. Both of these places are in areas under the control of Christian groups. Applicant talks to his mother every Sunday by telephone. He visits her whenever he is in Lebanon on business. In the last year he has seen her twice but only for approximately a half hour each time. He does not travel to Lebanon for the sole purpose of seeing her. (Tr. 49-51, 56-58, 73, 120-123)

Applicant admits that his wife's brother and sister are citizens and residents of Lebanon. (SOR 1.b and SOR 1.c) He sees them only occasionally. They have never had a close relationship. His brother-in-law owns his own cosmetic company. His sister-in-law is a housewife. He has not seen them in over a year. He does not seek them out when he travels to Lebanon. (Tr. 71-72)

Applicant admits that his cousin is a citizen of Lebanon, but resides in Qatar. (SOR 1.d) Applicant's grandmother and his cousin's grandmother were sisters. He first met the cousin approximately a year ago at a business event in Beirut. They talked and discovered they were related. He considers this distant cousin to be more a business associate than a relative. The cousin owns his own company in Qatar and Saudi Arabia specializing in logistics support. He does some limited work for Applicant's company

providing foreign military sales support on a U.S. Navy contract. If Applicant's company is awarded a contract with the U.S. Army, his cousin may provide in-country local support. Since that first meeting, they have met about three or four times, and talk every three or four months by phone about business. (Tr. 51-52, 72-74)

Applicant admits that he has a friend, serving as leader of Lebanon's Civil Defense. (SOR 1.e) The individual was a colonel in the Lebanese Army stationed in Washington, D.C. as the Lebanese Defense Attaché to the United States when Applicant first met him. Applicant was selling communication equipment to the Lebanese Armed Forces under FMS at the time. The relationship continued since Applicant continued to work FMS cases with Lebanon. The individual later became a brigadier general, but not in the military, as head of Civil Defense responsible for ambulance and fire service. Applicant considers the individual an acquaintance rather than a friend. He has not seen him for approximately a year, but he does talk to him occasionally. (Tr. 38-40)

Applicant's net worth is in excess of \$50,000,000. Applicant admits he has a bank account in Lebanon with a balance of approximately \$2,300,000. (SOR 1.f) He keeps funds in this bank because of the high interest rate of 5%. This interest rate is much higher than the interest paid on bank accounts in the United States. His yearly interest income from this account is approximately \$100,000. He declares the income on this U.S. tax return and pays taxes on the income. The only reason he keeps funds in this account is the high interest rate. (Tr. 52-54, 126-127)

Applicant admits he owns two parcels of land in Lebanon. (SOR 1.g and SOR 1.h) Both are undeveloped. One property is approximately three acres, and the other is approximately one acre. The combined value of both properties is between approximately \$250,000 and \$500,000. (Tr. 54)

Applicant admits he has many business associates in foreign Governments because of his work in FMS. (SOR 1.i) He also admits his company submitted business proposals under FMS requiring him to meet with high level foreign government officials. (SOR 1.j) In response to questions in the interrogatories, Applicant provided a detailed list of his contacts with foreign business associates, foreign military members, high level foreign government officials, and foreign professional associates. The lists included over 30 military, government, business, and professional foreign associates. Applicant's detailed information included the type of association, the number and extent of the contacts and relationship, the timeframe of the relationship, and the position and status of the contact with the foreign government. (Gov. Ex. 2, Response to Interrogatories, dated September 28, 2012, at Attachments 2 and 4)

Applicant contends that his extensive contacts with senior foreign military officials are the necessary and expected products of his long participation in U.S. Government sponsored FMS programs. The contacts are integral to the success of the program, are known to U.S. Government officials, and are subject to extensive oversight and control by U.S. officials. All of his contracts are audited by the U.S. Government, and inspected by U.S. Government inspectors. Almost all of his company's contracts are under the

auspices of the U.S. Government. There are some small contracts, less than one percent of his total business, that are directly with a foreign government or entity. These contracts usually involve small orders for equipment or spare parts the foreign government needs and cannot wait until a FMS case is completed through the U.S. Government contracting process. Ninety nine percent of his company's income comes through the Defense Finance and Accounting Service (DFAS) in payment for FMS cases. (Tr. 79-83)

All of Applicant's contacts with foreign officials listed in the SOR are a result of FMS cases. Applicant stated that his visits to foreign countries and meetings with foreign officials are all in regard to FMS. He usually goes to a country for a few days, meets with officials for a few hours, meets with his own staff, and leaves the country to return home. As the leader of his company, he must explain and show to foreign officials the ability of his company to perform and deliver a product. U.S. Government officials are aware of all of his contact with foreign officials. U.S. Government officials arrange for the presentations that promote his company's capabilities. His function is no different than that of the leader of any large United States company doing business in a foreign country. Applicant listed all of his foreign contracts whether those contacts resulted in the award of a FMS contract. Applicant listed any foreign official he met so as to provide a complete list of his foreign contacts. Applicant outlined how those contacts were executed under FMS rules. (Tr. 83-115, 124-141)

Foreign military sales is the U.S. Government program for transferring defense articles, services, and training to other sovereign nations and international organizations. Under FMS, the U.S. Government procures defense articles and services on behalf of the government-sponsored assistance program. The foreign government may pay for the service using their own national funds or with funds provided through U.S. government-sponsored assistance program. FMS programs are a form of security assistance authorized by the Arms Export Control Act (AECA) and a fundamental tool of U.S. foreign policy.

The process begins when an eligible foreign country requests information on defense articles and services being considered for purchases. The U.S. Government will issue a Letter of Approval which is the official document used to sell FMS articles or products. It is an itemized list of the defense articles and services offered, and the official tender of service by the U.S. Government. The U.S. Government will then issue a request for bids and proposals through the federal procurement system using the official procurement system, FEDBIZOPS. In many instances, the successful contract winner is expected to engage directly with the foreign military customer. Direct and meaningful engagement by the U.S. provider is an essential and expected aspect of the program. While contacts may not be directed, they are expected and relied on to facilitate the contract performance. These contacts also foster the long term goals of the FMS program by developing and expanding friendly and trusting relationships between U.S. and foreign partners, ensuring U.S. business competitiveness in world-wide market places, and enhancing the vitality of the U.S. defense industrial base. The building of good government and industry relationships in Lebanon and Egypt meets the U.S. policy goals of having stabilized and friendly elements in an unstable environment. (Tr.

74-79; App. Ex. C, The FMS Advantage; App. Ex. D, Government Accountability Office Report, Security Assistance, November 2012; App. Ex. E, Presentation: Selling Government to Government, Defense Security Cooperation Agency; App. Ex. G, Affidavit, dated May 1, 2013)

Lebanon is a parliamentary republic, with political power in the President, Prime Minister, and speaker of Parliament. Each of these officials represents one of Lebanon's large religious sects, Maronite Christians, Sunni Muslim, and Shia Muslim. Lebanon became independent in 1943. Its history since then has been a period of political turmoil interspersed with periods of prosperity as a regional center for finance and trade. From 1975 until 1990, there was a civil war in the country followed by years of social and political instability. The United States seeks to maintain traditionally close ties with Lebanon and help preserve its independence, sovereignty, national unity, and territorial integrity. The United States supports the United Nations Security Council Resolutions pertaining to the disarming of militias in Lebanon and the delineation of the Lebanese-Syrian border. The United States believes that a peaceful and stable Lebanon can make an important contribution to comprehensive peace in the Middle East.

Lebanon's neighbor, Syria, influences Lebanon's foreign and internal policies. It had military forces in Lebanon from 1976 until 2005. Syria has been designated by the United States as a state sponsor of terrorism. Syria provides political and weapons support to Hizballah, a U.S. designated foreign terrorist organization. Hizballah takes its ideological inspiration from the Iranian Revolution and teachings, and is closely allied with Iran.

Since 2006, the U.S. Government has provided extensive support to Lebanon for relief, recovery, rebuilding, and security. In 1993, the U.S. resumed International Military Education and Training Programs for Lebanon to help bolster the Lebanese Armed Forces (LAF), the country's only nonsectarian national institution. It also seeks to reinforce the importance of civilian control of the military. Sales of excess defense articles resumed in 1991 and have enhanced the LAF's transportation and communications capabilities. Security assistance programs are significant for LAF. (Hearing Exhibit II)

Sectarianism is a key element of Lebanese political life. The Lebanese population is religiously diverse, reflecting the country's rich heritage, and is an enclave for various Christian, Muslim, and other religious sects. There are 17 religious sects in Lebanon, 13 of which are Christian. 59% of the population is Muslim and 39% is Christian. The rest of the population is divided between other small religious sects. The political leadership of Lebanon has attempted, with limited success, to manage sectarian differences through the power-sharing democratic system. The power-sharing system attempts to balance Christian fears of being subsumed by the regional Muslim majority against Muslim fears that the Christians would invite non-Muslim foreign intervention. Hizballah plays an active role in Lebanese politics. The United States remains concerned about the role of Hizballah in Lebanon. Lebanon's main human rights abuses include limitation on freedom of movement for refugees, poor prison and detention conditions, and torture. U.S. citizens have been the target of numerous

attacks in Lebanon (Hearing Exhibit II; App. Ex. A, Letter, dated May 1, 2013; App. Ex. B, U.S. Relations with Lebanon, dated June 29, 2012; App. Ex. B, Lebanon: Background and U.S. policy, Congressional Research Service, dated November 6, 2012)

## **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 adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which must be considered in evaluating an applicant's eligibility for access to classified information.

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

The protection of the 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.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the Applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The Applicant has the ultimate burden of persuasion to obtain a favorable security decision.

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

## Analysis

### 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 in a way that is not in the U.S. interest, 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 consideration 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 ¶ 6)

Applicant's mother and his sister-in-law and brother-in-law are citizens and residents of Lebanon. He talks to his mother by phone once a week and visits her for short visits whenever he is in Lebanon. His brother-in-law and sister-in-law are his wife's siblings. He does not communicate with them and sees them only infrequently when he visits Lebanon as part of his business activities. He has a cousin that is a citizen of Lebanon but resides in Qatar. He only met this cousin recently and has some business dealings with him. He has a friend who is a senior government official in Lebanon. He met this individual in conjunction with his business activities and has not seen him in approximately a year. Applicant has a large account in a Lebanese bank and owns two parcels of unimproved land in Lebanon. He has numerous foreign business associates and contacts in various Middle East countries.

Applicant's contacts with his family members and others in Lebanon and his contact and relationship with various foreign officials are a security concern and raise Foreign Influence Disqualifying Conditions AG ¶ 7(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); and AG ¶ 7(b) (connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information). His bank account and land holdings in Lebanon raise AG ¶ 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).

The mere existence of foreign relationships and contacts is not sufficient to raise the above disqualifying conditions. The nature of Applicant's contacts and relationships must be examined to determine whether it creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion. "Heightened" is a relative term denoting increased risk compared to some normally-existing risk that can be inherent anytime there are foreign contacts and relationships. One factor that heightens the risk in Applicant's case is the religious conflict and terrorism threats in Lebanon.



Applicant raised facts to mitigate the security concerns arising from his family members and others in Lebanon. I considered Foreign Influence Mitigating Conditions AG ¶ 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 interests of a foreign individual, group, organization, or government and the interests of the U.S.); AG ¶ 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 in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest); and AG ¶ 8(c) (contact or communication with foreign citizens is so casual or infrequent that there is little likelihood that it could create a risk of foreign influence or exploitation). Under the adjudicative guidelines, the administrative judge must apply a balancing test to assess the extent of the security risk. The potentially conflicting loyalties may be weighed to determine if an applicant can be expected to resolve any conflict in favor of the U.S. interest.

Applicant's mother, other relatives, and acquaintances in Lebanon place a heavy burden on him to mitigate the disqualifying conditions and the security concerns. His contact with his mother is not casual or infrequent. He talks to her by phone weekly and sees her for short visits when he is in Lebanon on business. He has little if any contact with his wife's siblings in Lebanon. He does not see or talk to them. He met his cousin only recently and their contacts pertain to their business arrangements. The relationship with the leader of the Lebanon civil defense is based on business and their contacts are casual and infrequent. He has not seen the person in almost a year and recently has only talked to him a few times. The overall contacts and relationship with family members and others, except for his mother, is minimal at best. He has no loyalty to them and they are mere acquaintances. His relationship with them is so casual or infrequent that there is little likelihood of creating a risk of foreign influence or exploitation. It is unlikely Applicant will be placed in a position to choose between his loyalty to them and his loyalty to the United States.

Applicant's contact and relations with his mother is close and frequent. The nature of the political and religious circumstances and the threat from terrorist organizations in Lebanon increases Applicant's heavy burden to mitigate the disqualifying conditions and the security concerns in regard to her. Applicant's mother is elderly, living in the Christian areas of Lebanon, and has no contact or relationship with the government or other organizations in Lebanon. It is unlikely that she will be in a position that Applicant would have to choose between her and his loyalty to the United States. Applicant's immediate family, his wife and son, are United States citizens residing in the United States. Applicant has a strong sense of loyalty to the United States because of them and his strong and vast business activities and interests in the U.S. His sense of loyalty is clearly with the U.S. He can be expected to resolve any conflict in favor of the interests of the United States. The mitigating conditions at AG ¶¶ 8(a), 8(b), and 8(c) applies to SOR 1.b to SOR 1.e. AG ¶ 8(a) and 8(b) applies to SOR 1.a.

In regard to his bank account and property, I considered AG ¶ 8(f) (the value or routine nature of the foreign business, financial, or property interest is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual). The value of the account in Lebanon is significant but it is only a small percentage of his net value. He has an account in Lebanon only because of the interest rate he draws on the account. He does not keep the account to support any government entity or organization in Lebanon. In addition, the value of the properties is minor in comparison to his total net worth. His ownership of the bank account and property is not likely to result in a conflict of interest and cannot be used to influence, manipulate or pressure Applicant. AG ¶ 8(f) applies to SOR 1.f and SOR 1.g.

In regard to Applicant's foreign contacts and business associates, I considered AG ¶ 8(d) (the foreign contacts and activities are on U.S. Government business or are approved by the cognizant security authority). Applicant's contacts with foreign business associates or contacts are based solely on his FMS business. All of Applicant's FMS business is done under the auspices of the U.S. Government. He receives his FMS business through the Government contracting process. His business is audited and monitored by U.S. Government inspectors. All of the payments to his business are received from the U.S. Government finance and accounting service. His contacts and meeting with foreign officials are at the request or direction of U.S. Government officials. His participation in FMS implements U.S. Government foreign policy. It is clear that his contacts with foreign officials was based on FMS cases and thus was U.S. Government business. AG ¶ 8(d) applies to SOR 1.h and SOR 1.j.

Applicant left Lebanon to manage his business and have a better life. He returns to Lebanon for limited periods to conduct his FMS business and not because of any feeling of obligation to any country, individual, or local governments. He established his deep sense of loyalty and admiration for the United States and its way of life. The United States has offered him freedom, justice, tolerance, and an opportunity to establish and manage a very lucrative business. He has no allegiance or sense of loyalty to Lebanon or any other governments. He has a profound sense of belonging and obligation to the United States. He has lived in the United States for over half of his life, became a United States citizen, married another person from Lebanon who is now a U.S. citizen, and has a son born in the United States. His significant property, business, and financial interests are in the United States and not Lebanon. His loyalties and obligations are to the United States and not to Lebanon.

Applicant has met his heavy burden to show that his mother, relatives, contacts, and property interests in Lebanon and other countries do not cause a security concern. I conclude Applicant has mitigated security concerns for foreign influence arising from his relatives and contacts in Lebanon. He has no divided loyalties. I am satisfied Applicant's loyalty to the United States is sufficient to offset his contacts in Lebanon and other countries so that he can be expected to resolve any conflict of interest in favor of the United States. His foreign bank and property interests as well as contacts with foreign individuals are such that they could not be used to induce, pressure, or coerce him to take action against U.S. interests. I resolve the Guideline B security issues for Applicant.

## Whole-Person Concept

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

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

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for access to sensitive information 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. I carefully considered all of the circumstances discussed above in regard to disqualifying and mitigating conditions as well as the following factors in light of the whole-person concept. The "whole-person concept" requires consideration of all available information about Applicant, not a single item in isolation, to reach a commonsense determination concerning Applicant's security worthiness. I have considered all of the factors singularly and cumulatively.

Applicant has family members, particularly his mother, other acquaintances, as well as property and a sizable bank account in Lebanon. While conducting FMS business on behalf of the U.S. Government, he developed many foreign business acquaintances and associates. These simple facts alone might be sufficient to establish security concerns over Applicant's vulnerability to coercion, exploitation, or pressure. However, mere family ties, property, acquaintances, and business relationships with people in foreign countries are not, as a matter of law, disqualifying under Guideline B. Whether an applicant's contacts and relationships with people in a foreign country pose a security risk depends on a commonsense evaluation of the overall factors and circumstances of the contacts and relationships.

I considered that Applicant left Lebanon to enhance his business and have a better life. He became a United States citizen, has a family in the United States, became a productive member of our society, and established an excellent business working for the United States Government. He has strong loyalties to the United States and a lack of loyalty to any other country, particularly Lebanon. It is clear that Applicant can be expected to resolve any conflict of interest in favor of the United States. His strong loyalty and allegiance to the United States and his lack of allegiance to either any other country particularly Lebanon offset any risks inherent with his family members,

acquaintances, and property in Lebanon and other countries. Overall, the record evidence leaves me without questions and doubts about Applicant's eligibility and suitability for access to classified information. For all these reasons, I conclude Applicant has met the heavy burden to mitigate the potential security concerns for foreign influence as alleged in the SOR. Applicant is granted access to classified information.

### **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.j: For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is granted.

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THOMAS M. CREAN  
Administrative Judge