

DATE: March 31, 2004

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 02-24981

## DECISION OF ADMINISTRATIVE JUDGE

**ROGER E. WILLMETH**

**APPEARANCES**

**FOR GOVERNMENT**

Eric H. Borgstrom, Department Counsel

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Applicant's wife and son are dual citizens of the United States and Lebanon. Applicant's wife is from a prominent Maronite Christian family in Lebanon. Her father's position as an honorary consul for a small western European country demonstrates his pro-Western views, which are confirmed by a former U.S. Ambassador to Lebanon. During their visits to Lebanon, Applicant and his family are afforded the same safety that his in-laws enjoy through employees who provide protection and a home that is secure. Applicant's father-in-law sold his business and retired in 2003. Should any risk warrant it, his in-laws' dual citizenship in Canada would enable them to obtain safety there. Under these circumstances, any disqualifying condition has been mitigated. Clearance is granted.

## STATEMENT OF THE CASE

On September 11, 2003, the Defense Office of Hearings and Appeals (DOHA), pursuant to the applicable Executive Order<sup>(1)</sup> and Department of Defense Directive,<sup>(2)</sup> issued a Statement Reasons (SOR) to Applicant. The SOR details security concerns under Guideline B (Foreign Influence). The SOR states that DOHA was unable to find that it is clearly consistent with the national interest to grant him access to classified information and recommends that his case be submitted to an Administrative Judge.

On September 29, 2003, DOHA received a response to the SOR from Applicant, in which he requested a hearing. The case was assigned to me on December 1, 2003. A notice of hearing was issued on December 11, 2003, and the hearing was scheduled for January 6, 2004. The hearing was postponed and held on January 9, 2004. During the hearing, five Government exhibits, nine Applicant exhibits, and the testimony of the Applicant, were received. The transcript (Tr) was received on January 15, 2004.

## PROCEDURAL ISSUE

Department Counsel objected to Applicant's Exhibit C based on hearsay. I granted both Department Counsel and

Applicant until January 23, 2004 to further address Lebanese law on the renunciation of citizenship. Department Counsel also objected to Applicant Exhibit D because the copies of the passports were not complete. I also granted Applicant until the same date to provide complete copies of the passports. Department Counsel does not object to Applicant's supplemental submission for Exhibits C and D. Therefore, I admit the same and include it in the file as Applicant Exhibit K. [\(3\)](#)

## FINDINGS OF FACT

Having thoroughly considered the evidence in the record, including Applicant's admission to all allegations in the SOR, I make the following findings of fact:

Applicant is a 48-year-old systems engineer employed by a government contractor. He is seeking a security clearance. Applicant has previously held a security clearance both as a government employee and in industry.

Applicant, a Presidential Management Intern, was a contract specialist with the Navy from 1981-1986. He served as an audit follow-up analyst with the DOD Inspector General from 1986-1989. From 1989 until he joined industry in 1990, Applicant was a procurement analyst with the Army.

Applicant's wife and son are dual citizens of the United States and Lebanon. His wife was born in Lebanon and came to the United States in 1981 to complete her education. Applicant met his wife in the United States while attending graduate school in 1982. They were married in Lebanon in 1983. Applicant's wife became a U.S. citizen in 1997. Their son was born in 1991. Under Lebanese law, he is exempt from military service as their only son. Renunciation of Lebanese citizenship requires a decree signed by the President of the Lebanese Republic, Prime Minister, and Minister of Interior.

Applicant's wife speaks with her parents in Lebanon two or three times a week. She returns to Lebanon to visit her family twice a year. During these visits, her father provides security personnel from the airport and during any travel in country. Although he generally communicates with his wife through her cellular phone, Applicant will occasionally speak to his in-laws during her visits to Lebanon.

Applicant's in-laws are a prominent family in Lebanon who are Maronite Christian. His parent-in-laws own a gated-home in East Beirut that backs to a cliff overlooking the Mediterranean Sea. They employ drivers who reside in the basement of their home and provide security. Applicant's in-laws maintain regular contact with friends and officials at the U.S. Embassy, which is not far from their home.

Applicant's father-in-law and his brothers owned and operated a leading brewery in Lebanon. They sold it to a major international beer producer. His father-in-law retired from business in 2002.

Applicant's father-in-law is pro-Western and has served as the Honorary Consul in Lebanon for the Republic of Iceland for 31 years.

Applicant's parents-in-law are dual citizens of Lebanon and Canada. In addition to their home in Lebanon, they own a home in Canada. They reside in each country for six months a year.

One of Applicant's sisters-in-law is a dual citizen of Lebanon and the United Kingdom. Following her divorce from a British national, she returned to Lebanon to reside with her parents. Applicant's wife calls her sister on her birthday and special occasions and sees her during visits to Lebanon.

Applicant has made at least eight trips to Lebanon since 1982, including those in 1995, 1996, and 1999. During his visits, an employee of Applicant's father-in-law meets him at the airport, helps him clear through customs, and drives him to the home of his parents-in-law.

Lebanon has enjoyed relative peace since the end of the civil war in 1991. Lebanon is a parliamentary republic. Political power is concentrated in the hands of a President, Prime Minister, and Speaker of Parliament, each of whom represent one of three religious sects, Maronite Christian, and Sunni and Shi'a Muslims. Terrorist and extremist groups, such as

Hizballah, are still present in Lebanon. In recent years, however, the Lebanese Government has taken action against groups such as Asbat al-Ansar, which has been linked to al-Qaeda. Approximately 20,00 Syrian troops are stationed in Lebanon and exert political influence.

## POLICIES

The 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 to demonstrate that it is clearly consistent with the national interest to grant or continue a security clearance. Directive E3.1.15.

Eligibility for access to classified information is predicated upon an individual meeting adjudicative guidelines discussed in Enclosure 2 of the Directive. An evaluation of whether an applicant meets these guidelines includes the consideration of a number of variables known as the "whole person concept." Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a decision. This assessment should include the following factors: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the voluntariness of participation; (6) the presence or absence of rehabilitation and other pertinent 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. Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of national security. Directive E2.2.2.

Enclosure 2 provides conditions for each guideline that could raise a concern and may be disqualifying, as well as further conditions that could mitigate a concern and support granting a clearance. The following guidelines are applicable to this case.

### Guideline B: Foreign Influence

A security risk may exist when an individual's immediate family, including co-habitants, and other persons to whom he or she may be bound by affection, influence, or obligation are not citizens of the United States or may be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information. The Directive E2.A2.1.1. Conditions that could raise a security concern and may be disqualifying under Guideline B include E2.A2.1.2.1, an immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country (Disqualifying Condition 1). Such conditions also include E2.A2.1.2.3, relatives, cohabitants, or associates who are connected with any foreign government (Disqualifying Condition 3) and E2.A2.1.2.6, conduct which may make the individual vulnerable to coercion, exploitation, or pressure by a foreign government (Disqualifying Condition 6).

Conditions that could mitigate security concerns include E2.A2.1.3.1, a determination that the immediate family member(s), (spouse, father, mother, sons, daughters, brothers, sisters) co-habitant, or associate(s) in question are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person(s) involved and the United States (Mitigating Condition 1). Such conditions also include E2.A2.1.3.3, contact and correspondence with foreign citizens are casual and infrequent (Mitigating Condition 3).

## CONCLUSIONS

The fact that Applicant's wife and minor son are citizens of Lebanon as well as of the United States raises Disqualifying Condition 1. However, in addition to revealing that it is difficult to renounce Lebanese citizenship, the record establishes that his wife is not an agent of any foreign power and that their dual citizenship does not place his wife and son in a position to be exploited by a foreign power. For most of the year, they reside with Applicant in the United States. As an only son, Applicant's son is not subject to military service under Lebanese law. Although Applicant's wife returns to Lebanon with their son twice a year to visit her family, the record demonstrates that these visits do not place them in jeopardy. Although terrorist threats still exist in Lebanon, his family is not susceptible to that threat as would other Americans visiting the country. Applicant's wife and son travel to Lebanon using their Lebanese passports.

Applicant's father-in-law provides security for his family upon their arrival and during any travel in country. During their stay, his wife and son reside with her family in a gated-home in a secure area of Beirut. Applicant's father-in-law employs personnel at his home who provide further security, both at the home and during travel in country. This evidence supports the application of Mitigating Condition 1 with regard to Applicant's wife and son (SOR ¶ 1.a).

The SOR alleges that Applicant's father-in-law is the Lebanese General Counsel for Iceland. Actually, he is the Honorary Consul in Lebanon for the Republic of Iceland. Technically, this raises Disqualifying Condition 3. However, the fact that Applicant's father-in-law is the honorary representative of a small European country that is a member of the North Atlantic Treaty Organization should relieve security concerns rather than raise them. His father-in-law's voluntary services on behalf of the citizens of such a country, which is not engaged in espionage and whose interests are not inimical to those of the United States, demonstrates his pro-western sentiments. Based on having known them for 56 years, a former U.S. Ambassador to Lebanon confirms the strong Christian faith and links to the western world of his father-in-law's family.<sup>(4)</sup> Rather than establishing a disqualifying condition, the connection of Applicant's father-in-law to Iceland weighs more heavily in supporting the lack of a security concern (SOR ¶ 1.d).

The fact that Applicant's parents-in-law are dual citizens of Canada and Lebanon and reside in each for six months a year raises Disqualifying Condition 1. Although Applicant's father-in-law is a representative of the Icelandic Government in Lebanon, there is no other evidence that either he or his wife are agents of a foreign power. Although there are threats to the security of citizens in Lebanon, the record establishes that his parents-in-law are not in a position to be exploited by a foreign power. As previously addressed, Applicant's in-laws are a prominent and respected family in Lebanon. Their wealth and position enable them to live in a secure area and to employ security personnel. They have remained secure during the troubled history of Lebanon. Moreover, their acquisition of Canadian citizenship and a home in Canada, makes their position even more secure. Should the improving conditions in Lebanon suddenly revert and Applicant's in-laws suddenly be threatened, they are in a position to immediately flee to safety in Canada. These conditions support the application of Mitigating Condition 1 with respect to Applicant's parents-in-law (SOR ¶ 1.b and SOR ¶ 1.e).

The same logic applies with regard to Applicant's sister-in-law. Although her dual citizenship in the United Kingdom and Lebanon may raise Disqualifying Condition 1, she is living with her parents in Lebanon and she is the beneficiary of the same security that they enjoy. Should conditions drastically change in Lebanon, her British citizenship would enable her to return to the United Kingdom just as her parents could escape to Canada. Therefore, Mitigating Condition 1 also applies with regard to Applicant's sister-in-law (SOR ¶ 1.c). In addition, Mitigating Condition 3 has application to Applicant's sister-in-law, since his contact with her appears to have been more casual and infrequent than his parents-in-law.

Applicant's numerous trips to Lebanon suggest the applicability of Disqualifying Condition 6. However, the record establishes that his visits to Lebanon do not make him vulnerable to coercion, exploitation, or pressure by a foreign government. During his visits, Applicant is escorted and protected by his father-in-law's employees. From the time he arrives in Lebanon until he departs, Applicant is provided with the protection of an escort. During the visits, he stays at his in-laws home and is thereby afforded the same degree of security that his in-laws enjoy, as previously described. Therefore, the record fails to establish the applicability of Disqualifying Condition 6 with regard to Applicant's trips to Lebanon (SOR ¶ 1.f).

## FORMAL FINDINGS

Formal findings, as required by section E3.1.25 of Enclosure 3 of the Directive, are as follows:

Paragraph 1. Guideline B: FOR APPLICANT

Subparagraph 1.a: For Applicant

Subparagraph 1.b: For Applicant

Subparagraph 1.c: For Applicant

Subparagraph 1.d: For Applicant

Subparagraph 1.e: For Applicant

Subparagraph 1.f: For Applicant

## DECISION

In light of all the evidence in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant.

*Signed*

**Roger E. Willmeth**

**Administrative Judge**

1. Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended.
2. Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified.
3. Although not objecting, Department Counsel notes that Ap Ex C is inapplicable because it is evidence of a mitigating condition under Guideline C. However, the evidence is relevant for establishing the difficulty for Applicant's wife to renounce her Lebanese citizenship.
4. The Ambassador also served as the United States Ambassador to four other countries: Cambodia; Denmark; Thailand; and India.