

KEYWORD: Foreign Influence

DIGEST: Applicant has mitigated security concerns regarding foreign influence arising out of his marriage in 2003 to a citizen of Lebanon who has relatives living there by holding a security clearance for 27 years without adverse information and showing clear knowledge of security requirements. Applicant has had relatives of his own in Lebanon since he first held a security clearance without any adverse consequences. Clearance is granted.

CASENO: 04-03284.h1

DATE: 11/29/2005

DATE: November 29, 2005

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 04-03284

**DECISION OF ADMINISTRATIVE JUDGE**

**CHARLES D. ABLARD**

**APPEARANCES**

**FOR GOVERNMENT**

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Applicant has mitigated security concerns regarding foreign influence arising out of his marriage in 2003 to a citizen of Lebanon who has relatives living there by holding a security clearance for 27 years without adverse information and showing clear knowledge of security requirements. Applicant has had relatives of his own in Lebanon since he first held a security clearance without any adverse consequences. Clearance is granted.

**STATEMENT OF THE CASE**

On March 24, 2005, the Office of Hearings and Appeals (DOHA) pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry* as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified, issued a Statement of Reasons (SOR) to Applicant which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. DOHA recommended the case be referred to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

In a sworn written statement, dated May 13, 2005, Applicant responded to the allegations set forth in the SOR, and requested a hearing. The case was assigned to me on June 27, 2005, and a Notice of Hearing was issued August 10, 2005 for a hearing held on September 1, 2005. At the hearing, the Government introduced three exhibits and Applicant introduced eleven exhibits. All were accepted into evidence. The Government offered six official documents for administrative notice to be taken. The Applicant, his wife, and four other witnesses testified. The transcript was received on September 16, 2005.

## **FINDINGS OF FACT**

Applicant admitted all of the specific security concerns under Foreign Influence Guideline B with explanatory information provided for all. The admissions are incorporated herein as findings of fact. After a complete review of the evidence in the record and upon due consideration of the record the following additional findings of fact are made:

Applicant is a 51-year-old employee of a defense contractor working as an information systems security specialist. He has held a security clearance for 27 years. He also held an SCI clearance for two years. He has never had a security violation or been criticized for any security lapse.

Applicant's parents were Lebanese and emigrated to the U.S. before Applicant was born. He was divorced in 2001, and was re-married in 2003 to a citizen of Lebanon whom he met through a friend of his family. Both his family and hers are Greek Orthodox, a strong factor in their attraction to each other. After their introduction, they corresponded for six months through the internet, and then he made two trips to Lebanon, in 2002 and 2003, to meet her and her family. He advised his employer of each trip. His wife has traveled to Lebanon twice since their marriage. She was an accountant in Beirut when they met and had no connection with the military, the government, or political movements in Lebanon. Since coming to the U.S. she enrolled in school to become a teacher's assistant and is now employed as such in the public schools. She is looking forward to a career in that field. She is now eligible after three years in the U.S. to apply for permanent residency and intends to do so.

Applicant has a maternal aunt and an uncle living in Lebanon. Both are elderly and live in a rural part of the country. Neither is now employed. He only met them once while visiting his fiancé in 2002.

Applicant's wife's family run a small grocery and live above the store in a small hill town (Exh. K). She has two brothers and one sister living in Lebanon. Her older brother runs the store; the younger brother is in college; and the sister is housewife. None have government connections.

Applicant is highly regarded for his skills, dedication to his work, and good character (Exhibits B-H). He travels

extensively to military sites to perform work for his employer. His supervisors and colleagues are very complimentary of his abilities and work ethic. His security officer testified concerning his exemplary security record at his company (TR. 38-40). He loves his work, and takes great pride in his career contributions to the defense community.

The Government has established by official documents of which I have taken official notice that Lebanon has experienced political turbulence, internal dissent, and foreign occupation (Exh. III - VI). These are matters of serious concern regarding national security and they have been considered in the context of this case. However, changes in Lebanon are occurring almost daily and improvements have been recently noted in U.S. Government policy statements (Exh. H).

### POLICIES

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has "the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position that will give that person access to such information." *Id.* at 527.

An evaluation of whether the applicant meets the security guidelines includes consideration of the following factors: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct; (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 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. Directive, ¶ E2.2.1. Security clearances are granted only when "it is clearly consistent with the national interest to do so." Executive Order No. 10865 § 2. *See* Executive Order No. 12968 § 3.1(b).

Initially, the Government must establish, by something less than a preponderance of the evidence, that conditions exist in the personal or professional history of the applicant which disqualify, or may disqualify, the applicant from being eligible for access to classified information. *See Egan*, 484 U.S. at 531. The applicant then bears the burden of demonstrating that it is clearly consistent with the national interest to grant or continue the applicant's clearance. "Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security." Directive, ¶ E2.2.2. "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531.

"A security risk may exist when an individual's immediate family 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." Directive, ¶ E2.A2.1.1. Having immediate family members who are citizens of, and residing in a foreign country, may raise a disqualifying security concern. Directive, ¶ E2.A2.1.2.1.

## CONCLUSION

Upon consideration of all the facts in evidence, and after application of all appropriate legal precepts, factors and conditions above, I conclude the following with respect to all allegations set forth in the SOR:

Conditions under Guideline B that could raise a security concern and may be disqualifying include an immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident in a foreign country. (E2.A2.1.2.1.) Based on the evidence of record, including Applicant's admissions, the Government established reasons to deny him a security clearance because of foreign influence. Having established such reasons, the Applicant had the burden to establish security suitability through evidence which refutes, mitigates, or extenuates the disqualification and demonstrates that it is clearly consistent with the national interest to grant a security clearance. ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001).

Mitigating conditions (MC) that might be applicable are a determination that the individuals 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 persons involved and the U.S.(E2.A2.1.3.1.), and contacts and correspondence with foreign citizens are casual and infrequent. (E2.A2.1.3.3.) Since Applicant's parents-in-law are citizens of Lebanon and his wife's contacts are not casual by definition those factors are not applicable here.

None of his relatives pose a potential security threat or are in a position likely to be influenced by the Lebanese government. None work for that government or are involved in work that might create security issues for the U.S.(Exh. J). Any potential security concerns relating to future trips to Lebanon are minimal considering the professional manner with which he has handled his past travels. Applicant can be expected to take whatever steps are necessary to minimize risk.

In all adjudications the protection of our national security is of paramount concern. Persons who have access to classified information have an overriding responsibility for the security of the nation. The objective of the security clearance process is the fair-minded, commonsense assessment of a person's trustworthiness and fitness for access to

classified information. The "whole person" concept recognizes that we should view a person by the totality of their acts and omissions. Each case must be judged on its own merits taking into consideration all relevant circumstances, and applying sound judgment, mature thinking, and careful analysis. Applicant is a native-born U.S. citizen and

has strong and deep ties to the U.S. over many years of service and work as a defense contractor. Applicant is an impressive person of skills and dedication to his work who has dealt effectively with security issues for almost a quarter of a century. There is no evidence to cause one to think his conduct would change now.

Applicant presents a highly credible case that he would not be influenced by anything anyone might seek him to do any acts contrary to the best interests of the U.S. His record of employment, his career as a trusted employee of a defense contractor for over a quarter century, and his record while holding a security clearance effectively refutes any likelihood that he would now take any action that would jeopardize national security. He has had relatives in Lebanon since he was born and since he first obtained a security clearance. The only changed circumstance is that he is now married to someone from Lebanon who has not yet become a U.S. citizen, but intends to do so, and she has relatives living there. But that fact does not, in light of the available information, totally change his eligibility to continue to hold a clearance.

After considering all the evidence in its totality and as an integrated whole to focus on the whole person of Applicant, I conclude that it is clearly consistent with the national interest to grant clearance to Applicant.

### **FORMAL FINDINGS**

Formal Findings as required by Section E3.1.25 of Enclosure 3 of the Directive are hereby rendered 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

**DECISION**

After full consideration of all the facts and documents presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is granted.

Charles D. Ablard

Administrative Judge