



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



In the matter of:	)	
	)	
XXX, Xxxxx Xxx	)	ISCR Case No. 07-16064
SSN: XXX-XX-XXXX	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Julie R. Edmunds, Esquire, Department Counsel  
For Applicant: *Pro se*

September 23, 2008

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**Decision**

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METZ, John Grattan, Jr., Administrative Judge:

On 14 February 2008, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline B.<sup>1</sup> Applicant answered the SOR 25 March 2008, and requested a decision without hearing. DOHA assigned the case to me 7 July 2008. The record in this case closed 31 May 2008, the day Applicant's response to the government's File of Relevant Material (FORM) was due. Applicant did not respond to the FORM.

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<sup>1</sup>DOHA acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1990), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the revised adjudicative guidelines (RAG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

## Findings of Fact

Applicant admitted the SOR allegations. He is a 41-year-old electrician employed by a defense contractor since February 2002. He has not previously held a clearance.

Applicant was born in Lebanon in February 1967. However, because he was born to Palestinian refugees living in Lebanon, he did not acquire Lebanese citizenship. Lebanon does not permit Palestinian refugees to assimilate into Lebanese society; the U.S. Government recognizes such refugees as “stateless persons” [Official Notice Document (O.N.) XIV]. In August 1996, Applicant obtained a travel document (not passport) issued by the Lebanese Government to Palestinian refugees (G.E. 5). Between 1996 and 1999, he used this travel document to travel to the U.S. Embassy in Syria, where he obtained visas to travel to the U.S. Consequently, his first two children were born in the U.S. in 1996 and 1998. In 1999, he immigrated to the U.S. as a legal permanent resident (LPR), and was naturalized as a U.S. citizen in August 2005. His wife, also a Palestinian, became a naturalized U.S. citizen in September 2000. Applicant’s sister became a naturalized U.S. citizen in March 2004. Using his Lebanese travel document, Applicant returned to Lebanon in June 2003 and August 2004, to visit his sick father. He has not returned to Lebanon since, despite the fact that his father died in March 2008. His expired Lebanese travel document was shredded by his facility security officer (FSO).

Applicant’s mother, brother, and father-in-law are Palestinian refugees residing in Lebanon, although his father-in-law is a legal permanent resident of the U.S. and resides some of the year in the U.S. Both Applicant’s mother and brother have pending visa applications to immigrate to the U.S. Neither has any direct connection to the Lebanese government, which would nevertheless be impossible as stateless persons. Applicant has a savings account in Lebanon worth about \$25,000.<sup>2</sup> As Lebanese law currently stands, he cannot get the money without traveling to Lebanon. Applicant estimates his net worth in the U.S. at \$200,000.

Lebanon is a nominal democracy with a less-than-perfect human rights record. It has both a long history of civil war and of foreign influence by Syria. Lebanon is not a state sponsor of terrorism, but is a permissive environment for groups recognized by the U.S. as terrorist organizations, considered by Lebanon as “freedom fighters” against Israel. The U.S. State Department continues to maintain a travel warning for U.S. citizens contemplating travel to Lebanon. As a result of the recent fighting between Israel and Lebanon, Applicant states that his family in Lebanon has basically lost every thing. He and his family lost homes; his brother lost his business.

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<sup>2</sup>The SOR alleges, and Applicant admits, that the account is worth \$100,000. However, the government’s evidence contains contradictory information about the account. I find most persuasive evidence to be Applicant’s calculation of the account balance in Lebanese currency exchanged into U.S. dollars.

## Policies

The Revised Adjudicative Guidelines (RAG) list factors to be considered in evaluating an Applicant's suitability for access to classified information. Administrative Judges must assess both disqualifying and mitigating conditions under each issue fairly raised by the facts and circumstances presented. Each decision must also reflect a fair and impartial common sense consideration of the factors listed in RAG ¶ 2(a). The presence or absence of a disqualifying or mitigating condition is not determinative for or against Applicant. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing the grant or denial of access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant, applicable, adjudicative guideline is Guideline B.

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an Applicant's security clearance. The government must prove, by something less than a preponderance of the evidence, controverted facts alleged in the SOR. If it does so, it establishes a *prima facie* case against access to classified information. Applicant must then refute, extenuate, or mitigate the government's case. Because no one has a right to a security clearance, the Applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the government based on trust and confidence. Therefore, the government has a compelling interest in ensuring each Applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an Applicant's suitability for access in favor of the government.<sup>3</sup>

## Analysis

Under Guideline B (Foreign Influence), an applicant's foreign contacts and interests may raise security concerns if the individual 1) has divided loyalties or foreign financial interests, 2) may be manipulated or induced to help a foreign person, group, organization, or government in a way contrary to U.S. interests, or 3) is vulnerable to pressure or coercion by any foreign interest. Foreign influence adjudications 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, whether the country is known to target U.S. citizens to obtain protected information and/or is associated with a risk of terrorism.<sup>4</sup> Evaluation of an individual's qualifications for access to protected information requires careful assessment of both the foreign entity's willingness and ability to target protected information, and to target ex-patriots who are U.S. citizens to obtain that information, and the individual's susceptibility to influence, whether negative or positive.

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<sup>3</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>4</sup>Revised Adjudicative Guidelines, ¶ 6.

More specifically, an individual's contacts with foreign family members (or other foreign entities or persons) raise security concerns only if those contacts create a heightened risk or foreign exploitation, inducement, manipulation, pressure, or coercion.<sup>5</sup>

In this case, the government's evidence for disqualification under Guideline B is mixed. Considering first the country involved, Lebanon and the U.S. enjoy good foreign relations. It has not been demonstrated that the Lebanese government is actively engaged in the collection of U.S. intelligence such that would make Applicant or his family likely targets for coercion, duress, or influence. The government's evidence explains the links to terrorism that are on-going in Lebanon and the way that those terrorist organizations operate, the increase in terrorism, and the increase in membership in terrorist groups. Several of the groups that are frequently in the news, for example Hizballah and Hamas, operate in Lebanon and practice terrorist acts against Israelis and against U.S. citizens as well as indiscriminate violence in order to draw attention to themselves and increase their membership and their power. There is no indication they use terrorism to gain access to U.S. information.

Considering Applicant's circumstances, the government produced insufficient evidence that there was a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion because of Applicant's limited family contacts in Lebanon. None of Applicant's family members have any direct connection to the Lebanese government. All are pending visas to come to the U.S. While his Lebanese savings account cannot be considered insubstantial, it is a fairly insignificant portion of Applicant's net worth, the overwhelming majority of which is in the U.S. Both he and his wife are U.S. citizens, and his children are all native-born U.S. citizens. Applicant's emotional ties are overwhelmingly in the U.S. Further, except for his mother and brother, any property in Lebanon that might hold any emotional sway over him has been destroyed. Under these circumstances, I conclude that it is unlikely Applicant can be pressured based on his family members in Lebanon or his small financial interest there. Accordingly, I resolve Guideline B for Applicant.

### **Formal Findings**

#### **Paragraph 1. Guideline B: FOR APPLICANT**

Subparagraph a:	For Applicant
Subparagraph b:	For Applicant
Subparagraph c:	For Applicant
Subparagraph d:	For Applicant
Subparagraph e:	For Applicant

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<sup>5</sup>Revised Adjudicative Guidelines, ¶ 7.(a).

## **Conclusion**

In light of all the circumstances 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 granted.

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JOHN GRATTAN METZ, JR  
Administrative Judge