



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



In the matter of:)	
)	
XXXXXXXXXX, XXXXX)	ISCR Case No. 08-01204
SSN: XXX-XX-XXXX)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Emilio Jaksetic, Esq., Department Counsel
For Applicant: *Pro se*

September 16, 2008

Decision

TUIDER, Robert J., Administrative Judge:

Applicant failed to mitigate security concerns pertaining to Foreign Preference and Foreign Influence. Clearance is denied.

Statement of the Case

Applicant submitted his Electronic Questionnaire for Investigations Processing (e-QIP) on August 14, 2006. On April 7, 2008, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the Government's security concerns under Guidelines C (Foreign Preference) and B (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 revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant answered the SOR on April 24, 2008, and requested a hearing before an Administrative Judge. DOHA received Applicant's answer to the SOR on April 25, 2008. Department Counsel was prepared to proceed on May 30, 2008, and I received the case assignment on June 2, 2008. DOHA issued a notice of hearing on June 4, 2008, scheduling the case for July 2, 2008. The hearing was held as scheduled.

The Government offered Government Exhibits (GE) 1 and 2, which were received without objection. Applicant did not offer any exhibits, and testified on his own behalf. DOHA received the hearing transcript (Tr.) on July 14, 2008.

Procedural Rulings

Administrative Notice

Department Counsel submitted a Request for Administrative Notice (Exhibit (Ex.) I(A)), requesting that I take administrative notice of the summary of facts contained in Ex. I(A) as well as those facts in Exs. I through X. Without objection from Applicant, I took administrative notice of the documents offered by Department Counsel, which pertain to Lebanon. (Tr. 18-20).

Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 05-11292 at 4 n.1 (App. Bd. Apr. 12, 2007); ISCR Case No. 02-24875 at 2 (App. Bd. Oct. 12, 2006) (citing ISCR Case No. 02-18668 at 3 (App. Bd. Feb. 10, 2004)); *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n.4 (3d Cir. 1986)). The most common basis for administrative notice at ISCR proceedings is to notice facts that are either well known or from government reports. See Stein, *ADMINISTRATIVE LAW*, Section 25.01 (Bender & Co. 2006) (listing fifteen types of facts for administrative notice). Various facts pertaining to Lebanon were derived from Exs. I(A), and I through X, are contained *infra* under the subheading "Lebanon" of this decision.

Findings of Fact

In his Answers to the SOR, Applicant admitted the SOR allegations with explanations. His admissions are incorporated herein as findings of fact. After a thorough review of all evidence of record, I make the following additional findings of fact.

Applicant is a 41-year-old junior accountant/analyst, who has been employed by a defense contractor since June 2004. Tr. 26-27. He is a first time applicant for a security clearance and is applying for a clearance as an employment requirement. Tr. 86-88.

Applicant was born in February 1967 in Sierra Leone to Lebanese parents. As such, he derived his Lebanese citizenship from his parents. GE 1. (SOR ¶ 1.a.) Until Applicant immigrated to the U.S. in 1986, he lived in Sierra Leone and Lebanon. In August 1986 at age 19, he immigrated to the U.S. to attend school and has continuously

lived in the U.S. since then. Tr. 29-36. From November 1987 to October 1991, Applicant was married to his first wife, a U.S. citizen by birth. That marriage ended by divorce. In January 1992, he married his second and current wife, also a U.S. citizen by birth. Applicant and his wife have three sons, ages ten, eight, and seven. GE 1. His wife is employed as a pharmacist technician. Tr. 78-79. Applicant became a naturalized U.S. citizen in March 1997, and was issued his U.S. passport in May 1998. GE 1, Tr. 36-38. He was awarded a bachelor of science in business administration with an emphasis in accounting in December 2001. GE 1, Tr. 25-26.

In addition to his wife and three sons, Applicant has three family members living in the U.S., his mother, two sisters, and a half brother. His mother was born in Lebanon in June 1948 and is 60 years old. His first sister was born in Sierra Leone in June 1968 and is 40 years old. She is a citizen of Lebanon. His second sister was born in Sierra Leone in October 1972 and is 35 years old. She is a citizen of Lebanon. His half brother was born in Sierra Leone in January 1957 and is 51 years old. He is a citizen of Lebanon. Applicant's mother, two sisters, and half brother are U.S. resident aliens (green card holders). (SOR ¶ 2.a., 2.b.) GE 1, GE 2. Applicant's father was born in Lebanon in January 1924 and was the proprietor of his privately owned textile store. His father spent most of his working life in Sierra Leone, and was assisted by his wife (Applicant's mother) in the family business. In 1994, his father returned to Lebanon. During a visit to the U.S. in 2001, Applicant's father passed. To honor his father's wishes, Applicant's family interned his remains in Lebanon. Tr. 38-40, 44-45, 72-73.

Before Applicant became a U.S. citizen, he held a Lebanese passport, which he continues to maintain. He renewed his Lebanese passport, most recently in July 2004. It does not expire until July 2009. The renewal of his Lebanese passport occurred after he became a U.S. citizen and was issued a U.S. passport. GE 2, Tr. 41-42. He intends to maintain his Lebanese passport "to continue to visit my father's burial site and pass that tradition to my children." GE 2. (SOR ¶¶ 1.b., 1.c.) Applicant does not believe he could renounce his Lebanese citizenship nor is he willing to give up his Lebanese passport. His purpose in keeping his Lebanese passport is ease of travel to visit his father's gravesite in Lebanon. Tr. 88-91.

Applicant has three family members living in Lebanon, two half sisters and one half brother. His first half sister was born in February 1954 in Sierra Leone and is 54 years old. His second half sister was born in April 1955 in Sierra Leone and is 53 years old. His half brother was born in Sierra Leone in January 1958 and is 50 years old. His two half sisters and half brother are resident citizens of Lebanon. (SOR ¶ 2.c.) Two of his other half sisters who lived in Lebanon are deceased. None of his siblings are employed by or associated with the Lebanese government. Applicant described them as apolitical and more focused on day to day survival. Tr. 68-70.

Applicant "maintain[s] phone contacts mainly with [his] half-sisters once every four to six weeks." He is not "on best terms" with his half brother. He keeps in touch with his half brother vicariously through his half sisters. GE 2, Tr. 50-51, 62-63. Applicant

does not have property or financial assets in Lebanon nor does he stand to inherit any property in Lebanon. Tr. 57, 79-80.

Applicant has traveled to Lebanon at least three times since 1999. The first visit was in November/December 1999 and was prompted after his father broke his hip. He was accompanied by his wife and first born son who was one year old at the time. The second visit occurred in June 2001/July 2001, for the specific purpose of returning his father's remains to Lebanon and ensuring that he was buried according to his wishes. Tr. 43-44. The third visit was in April 2003/May 2003 for a family visit. (SOR ¶ 2.d.) He has no current plans to visit Lebanon. GE 1, GE 2, Tr. 43-46. Applicant has various other relatives living in Lebanon who he visited or saw during his visits to Lebanon, especially during his 2003 visit. Tr. 48-49. Applicant used his Lebanese passport during all three of his visits. Tr. 58-59.

Applicant and his wife own a condominium in a state where they used to live. Applicant and his family currently live in a rental apartment. He has an 401k through his employer, a term life insurance policy, and estimates he has "about \$300" in his bank accounts. Applicant stated he earns an annual salary of \$39,000 per year and his wife earns the same for a total joint income of \$78,000. He is registered to vote in the U.S. and exercises all rights of U.S. citizenship. Tr. 80-85.

Lebanon¹

I take administrative notice of the following facts. Lebanon became independent in November 1943. Its history since independence "has been marked by periods of political turmoil interspersed with 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 confessionalized personality-based politics."

In April 1975, full-scale civil war broke out in Lebanon, and it did not end until 1991. Although Lebanon is a parliamentary democracy, civil war precluded the effective exercise of political rights from the mid-1970s until 1992. During the period 1992 to 2005, post-war reconstruction in Lebanon has included social and political instability, economic uncertainty, and problems with basic infrastructure, violent clashes between Israeli military forces and Hezbollah, and political assassinations. Political assassinations also occurred in 2006 and 2007.

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

¹ The contents of the Lebanon section are taken in whole or in part from Exs. I(A), I through X.

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 polices 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.

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.”

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 law, 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 May 2008 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,” and that “Americans who live and work in Lebanon presently should

understand that they are accepting risks in remaining and carefully consider those risks.”

On May 7, 2008, Hezbollah militants blocked the road to Rafiq Hariri International Airport. The action rendered the airport inaccessible and travelers were unable to enter or leave the country via commercial air carriers. Armed Hezbollah and other opposition members proceeded to enter areas of Lebanon not traditionally under their control resulting in heavy fighting and a number of casualties. While there is now full access to the airport and widespread hostilities have subsided, the United States is concerned about Hezbollah’s willingness to use violence to achieve political ends with little or no warning.

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.

Policies

The purpose of a security clearance decision is to resolve whether it is clearly consistent with the national interest to grant or continue an applicant’s eligibility for access to classified information.²

When evaluating an Applicant’s suitability for a security clearance, the administrative judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines 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. The administrative judge’s controlling adjudicative goal is a fair, impartial and common sense 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.

² See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

The protection of 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.”³ 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, 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 as to obtaining 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 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 Influence

Under Adjudicative Guideline ¶ 9, the Government’s concern is:

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 sets out one condition that could raise a security concern and may be disqualifying in this case:

³ *Egan, supra*, at 528, 531.

(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.

Applicant applied for a Lebanese passport after becoming a U.S. citizen. He maintains his Lebanese passport primarily for ease of travel to visit his father's gravesite in Lebanon. He renewed his Lebanese passport in 2004 and it will not expire until 2009. He used his Lebanese passport in lieu of his U.S. passport during visits to Lebanon in 1999, 2001, and 2003. He understands maintaining his Lebanese citizenship and Lebanese passport is at odds with DoD security policy.

Three Foreign Preference Mitigating Conditions under AG ¶ 11 are potentially mitigating to this disqualifying condition:

(a) dual citizenship is based solely on parent's citizenship or birth in a foreign country;

(b) the individual has expressed a willingness to renounce dual citizenship; and

(e) the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated.

Had Applicant complied with the mitigating conditions *supra*, especially AG ¶¶ 11(b) and 11(e), he could well have mitigated this concern. Having chosen to maintain his Lebanese citizenship and his Lebanese passport for future travel to Lebanon precludes application of these mitigating conditions.

Guideline B, Foreign Influence

Under Adjudicative Guideline ¶ 6, the Government's concern is:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, he or she 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 sets out two conditions that could raise a security concern and may be disqualifying in this case, including:

(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

(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.

The mere possession of close family ties with a person in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if only one relative lives in a foreign country and an applicant has contacts with that relative, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information.⁴ Applicant has frequent contacts and a close relationship of affection and/or obligation with his two half sisters and to a lesser extent his half brother living in Lebanon. Applicant feels it is important to maintain these contacts. He also maintains his Lebanese citizenship and passport for ease of travel to Lebanon especially for purposes of future visits to his father's gravesite. Applicant visited Lebanon in 1999, 2001, and 2003. These contacts create a risk of foreign pressure or attempted exploitation because there is always the possibility that individuals adverse to the U.S. may exploit the opportunity to obtain information about the United States. His connection to his family members also creates a potential conflict of interest because his relationships are sufficiently close to raise a security concern about his desire to help them by providing sensitive or classified information.

These close family connections create a heightened risk of foreign pressure or attempted exploitation because of the existence of terrorists or terrorism within Lebanon. These terrorist activities are at odds with the U.S. and U.S. interests. His connections to his Lebanese family also create a potential conflict of interest because his relationships are sufficiently close to raise a security concern about his possible desire to help his family by providing sensitive information. In short, his connections with his family members in Lebanon create a "heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion."

The Government produced substantial evidence raising these two potentially disqualifying conditions, and the burden shifted to Applicant to produce evidence and prove a mitigating condition. The burden of disproving a mitigating condition never shifts to the government.

⁴ See ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001).

Three Foreign Influence Mitigating Conditions under AG ¶ 8 are potentially applicable to these disqualifying conditions:

(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; and

(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.

After considering the totality of the facts and circumstances in Applicant's case, I conclude that only mitigating condition AG ¶ 8(b) partially applies.

AG ¶ 8(b) partially applies because Applicant has developed a sufficient relationship and loyalty to the United States, that he can be expected to resolve any conflict of interest in favor of the United States' interests. He has lived in the United States for approximately 22 years. He is a naturalized U.S. citizen and all of his financial and business interests are in the United States. Applicant has established himself as an American citizen and embarked on a successful career. He has a track record of diligent labor as an employee of his company. Although this mitigating condition is partially applicable, it is insufficient to overcome the foreign influence security concerns.

He has contacts and close relationships with his two half sisters in Lebanon and to a lesser extent with his half brother. He remains in frequent contact with his family members in Lebanon. Applicant also has a strong bond with his late father as demonstrated by his desire to maintain his Lebanese citizenship and passport for ease of travel to visit his gravesite.

Guidelines ¶¶ 8(a) and 8(c) do not apply. Applicant did not establish "it is unlikely [he] will be placed in a position of having to choose between the interests of [his Lebanese family] and the interests of the U.S." His frequent contacts and close relationships with his Lebanese relatives could potentially force him to choose between the United States and Lebanon. He did not meet his burden of showing there is "little likelihood that [his relationships with his Lebanese family members] could create a risk for foreign influence or exploitation."

The nature of Lebanon's government, its relationship with the United States, activities within its border, and its human rights record are relevant in assessing the likelihood that Applicant's family members are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, or the country and/or factions within the country is known to conduct intelligence operations against the United States. The hostility of certain factions within Lebanon to the United States places a "very heavy burden of persuasion" on Applicant to demonstrate that his immediate family members in Lebanon do not pose a security risk and he will not be placed into a position to be forced to choose between loyalty to the United States and his Lebanese family members. With its adversarial stance and its negative human rights record, it is likely that Lebanon and/or factions within Lebanon would target any citizen in an attempt to gather classified or sensitive information from the United States.

There is no evidence that the Lebanese government or any faction within Lebanon has approached any of his Lebanese family for any reason, and in particular, has not approached them recently about Applicant. There is no evidence that his family living in Lebanon currently engages in activities which would bring attention to themselves or that they are even aware of her work.

Notwithstanding, Foreign Influence mitigating conditions cannot be applied in this case, and the security concerns cannot be fully mitigated because there is no reason for Lebanon to contact his relatives about Applicant until he receives access to classified information. Even taking for granted that his Lebanese family members currently have low-key non-controversial lifestyles, and that the Lebanese government and/or factions within Lebanon have not contacted them about Applicant in the past, such factors are insufficient to mitigate the security concerns because of the nature of such entities and its relationship to the United States.

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 a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept.

Applicant averred his loyalty to the United States, that he considers himself to be an American, and his desire to continue his present work. Applicant has lived in the U.S. for 22 years and has been a naturalized citizen for 11 years. When he became a U.S. citizen, he swore allegiance to the United States. His mother, two sisters and one half brother are U.S. permanent residents.

Applicant's statement about his loyalty to the United States is credible, and there is no reason to believe that he would take any action which could cause potential harm to his U.S. family or to this country. He has the respect and trust of his employer. There is no evidence that he has revealed to his family in Lebanon the nature of his work or about applying for a security clearance.

Notwithstanding, Applicant traveled to Lebanon on three separate occasions in 1999, 2001, and 2003. He has family members, two half sisters and one half brother, who are resident citizens of Lebanon. Applicant and his family enjoy a close relationship. Applicant has strong ties of affection and/or obligation to his Lebanese family members. Because his family members live in Lebanon, they are vulnerable to coercion or exploitation by Lebanon and/or factions within Lebanon.

Numerous circumstances weigh against Applicant in the whole person analysis. For example, the threat of anti-Western terrorist activity exists in Lebanon with groups such as Al-Qaeda and Jund al-Sham present in the country and have issued statements calling for attacks against Western interests. There have been cases involving the attempted illegal export of U.S. restricted, dual use technology to Hezbollah. Lebanon and/or factions within Lebanon are currently in an adversarial position with respect to the United States. Applicant spent the first 19 years of his life in Lebanon and Sierra Leone, which can arguably be referred to as his formative years. He has family members who are Lebanese citizens living in Lebanon, and he remains in touch with those relatives through frequent and non-casual direct and vicarious contact. These contacts create a risk of foreign pressure or attempted exploitation because there is always the possibility that Lebanese agents and/or terrorists may attempt to use Applicant's family members living in Lebanon to obtain information about the United States.

"Because of the extreme sensitivity of security matters, there is a strong presumption against granting a security clearance. Whenever any doubt is raised . . . it is deemed best to err on the side of the government's compelling interest in security by denying or revoking [a] clearance." *Dorfmont v. Brown*, 913 F.2d 1399, 1401 (9th Cir. 1990). After weighing the disqualifying and mitigating conditions, all the facts and circumstances, in the context of the whole person, I conclude he has not mitigated the security concerns pertaining to foreign preference and foreign influence. The evidence leaves me with doubts as to Applicant's security eligibility and suitability.

For reasons discussed *supra*, I conclude Applicant has failed to mitigate the concerns arising from his foreign preference and foreign influence security concerns.

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 C:	AGAINST APPLICANT
Subparagraph 1.a. – 1.c.:	Against Applicant
Paragraph 2, Guideline B:	AGAINST APPLICANT
Subparagraph 2.a. – 2.d.:	Against 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's security clearance. Eligibility for access to classified information is denied.

ROBERT J. TUIDER
Administrative Judge