



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



In the matter of:	)	
	)	
-----	)	ISCR Case No. 09-01685
SSN: -----	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Eric Borgstrom, Esquire, Department Counsel

For Applicant: Richard L. Moorhouse, Esq.

April 19, 2010

**Decision**

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MARSHALL, Jr., Arthur E., Administrative Judge:

Applicant signed a security clearance application on October 20, 2008. On August 21, 2009, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing security concerns under Guideline B (Foreign Influence) and Guideline C (Foreign Preference). The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended, and 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 for SORs issued after September 1, 2006.

In her October 7, 2009, response to the SOR, Applicant admitted all allegations raised under both guidelines and requested a hearing before an administrative judge. The case was assigned to me on December 1, 2009. Department Counsel and Applicant agreed to a January 19, 2010, hearing date. A Notice of Hearing was issued by DOHA on December 16, 2009, setting the hearing for that date.

The hearing took place as scheduled. Department Counsel submitted four exhibits (Ex.) which were accepted into the record as Exs. 1-4 without objection. A set of documents accompanied the government's request for administrative notice regarding the Republic of Lebanon. They were accepted without objection as Ex. 5. Applicant was represented by counsel and gave testimony. She submitted four documents, which were accepted into the record as Exs. A-D without objection. Applicant was given until February 4, 2010, to submit any additional documents. The transcript (Tr.) was received on January 27, 2010. On January 29, 2010, three additional documents were received from Applicant and accepted into the record as Exs. E-G without objection. The record was closed on February 5, 2010. Based upon a review of the case file, exhibits, and testimony, security clearance is denied.

### **Administrative Notice**

The Government requested administrative notice of certain facts and materials regarding the Republic of Lebanon. Lebanon became independent in 1943. Since that time, its history "has been marked by periods of political turmoil interspersed with prosperity."<sup>1</sup> Although it is a parliamentary democracy, the effective exercise of political rights was precluded during a civil war that raged from 1975 until 1991. Post-war reconstruction has been marked by political instability, economic uncertainty, assassination plots involving Lebanese officials, and clashes between Israeli military forces and Hizballah, a Shia Islamist political organization, which takes its ideological inspiration from the Iranian Revolution.<sup>2</sup> Hizballah was designated a "Foreign Terrorist Organization," and is described as "the most technically capable terrorist group in the world."<sup>3</sup> The Lebanese government recognizes Hizballah as a legitimate resistance group.<sup>4</sup> Hizballah has elected representatives in both the Lebanese national assembly and cabinet. It has been involved in numerous anti-United States and anti-Israeli terrorist attacks.<sup>5</sup> The United States (U.S.) remains "extremely concerned about the role Hizballah is playing in Lebanon."<sup>6</sup> It conducts its own intelligence gathering within Lebanon, including surveillance cameras monitoring the Beirut airport.<sup>7</sup>

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<sup>1</sup> Ex. 5, Administrative Notice, at 1.

<sup>2</sup> *Id.* at 4.

<sup>3</sup> *Id.*, citing to U.S. Department of State, *Country Reports on Terrorism, Chapter 6 - Terrorist Organizations*, dated Apr. 30, 2009, at 1-2 and 13-14. In addition, several other similarly designated terrorist groups operate in Lebanon, such as Al-Aqsa Martyr's Brigade, Asbat Al-Ansar, Hamas, Popular Front for the Liberation of Palestine, and the Revolutionary People's Liberation Party. See *Id.* at 6.

<sup>4</sup> *Id.* at 14.

<sup>5</sup> *Id.*

<sup>6</sup> Ex. 5, attachment, U.S. Department of State, *Recent Developments in Lebanon*, dated Mar. 24, 2009, at 2.

<sup>7</sup> Ex. 5, attachment, U.S. Department of State, *Country Reports on Human Rights Practices - 2008: Lebanon (Country Reports)*, Feb. 25, 2009, at 1.

Significant human rights violations exist within Lebanon. Lebanese security forces have arbitrarily arrested and detained individuals, and detainees have experienced torture and abuse.<sup>8</sup> Lebanese authorities “frequently interfered with the privacy of persons regarded as enemies of the government.”<sup>9</sup> Not only Lebanese citizens are at risk. Americans have been the targets of terrorist attacks in Lebanon.<sup>10</sup> U.S. citizens who also possess Lebanese nationality may be subject to laws that impose special obligations on them.<sup>11</sup> The U.S. State Department warns U.S. citizens to avoid travel to Lebanon due to safety and security concerns.

Hizballah’s intelligence-gathering activities extend beyond Lebanon’s borders and into the U.S. In August 2005 and November 2007, individuals pled guilty to attempting to illegally export military equipment to Hizballah or agents in Lebanon purchasing equipment for Hizballah. In December 2008, a man pled guilty to illegally providing material support to Hizballah by providing satellite transmission services to Al Manar, Hizballah’s Lebanon-based television station.<sup>12</sup> Other recent cases of intelligence-gathering exist.<sup>13</sup>

### **Findings of Fact**

Applicant is a 44-year-old chief executive officer of a consulting company. She accepted this position in October 2008 after a break from employment from October 1991 until 2008. She is married and raising two teenage children.

Born in Lebanon in 1965 as a member of the Greek Orthodox church, Applicant was educated in Catholic schools. She eventually received a master’s degree in finance in 1988 and became an administrator for a Lebanese export business. In the summer of 1991, she met her present husband. Her husband was also born in Lebanon, but had immigrated to the U.S. in 1986 and was now a dual U.S.-Lebanese citizen. By the end of 1992, Applicant had moved to the U.S. and the couple married. She became a naturalized U.S. citizen in June 1996 and obtained a U.S. passport in May 2006.

Throughout her life, Applicant possessed and maintained a Lebanese passport. It was most recently renewed in August 2008 and was set to expire in 2013. To simplify her transit, she used her Lebanese passport during annual visits to Lebanon between

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<sup>8</sup> Ex. 5, Administrative Notice, *supra*, note 1, at 2.

<sup>9</sup> Ex. 5, attachment, *Country Reports*, *supra*, note 7.

<sup>10</sup> Ex. 5, Administrative Notice, *supra*, note 1, at 5.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 7.

<sup>13</sup> *Id.* at 6-7.

1992 and 2009.<sup>14</sup> In August 2009, the SOR was issued, indicating the passport was an issue. In November 2009, she inquired how she could relinquish it to Lebanese officials. She was told that the Lebanese Consulate could cancel it within 24 hours.<sup>15</sup> After the winter holidays, Applicant personally surrendered her Lebanese passport to Lebanese authorities, who cancelled it on January 22, 2010, without prejudice.<sup>16</sup>

Over the past decade, Applicant has attended one or more social functions each year at a nearby Lebanese Consulate. She also took her children to the Consulate for play dates with a former consular employee's children.<sup>17</sup> Despite these interactions, she has no interest in politics, never voted in a foreign election, and does not discuss politics.<sup>18</sup>

Applicant usually travels to Lebanon once or twice a year to visit her mother, family, and friends.<sup>19</sup> She often spends her summer trips to Lebanon at a modest beach residence acquired by her husband in lieu of a vacation retreat within the U.S. or elsewhere.<sup>20</sup> There, she and her children can enjoy summer by the sea and also visit with her mother and sisters.<sup>21</sup> Annual maintenance fees paid for the beach residence cover any taxes owed on the property.<sup>22</sup> She and her husband maintain a nominal bank account in Lebanon, which currently has a balance of "maybe \$3,000 dollars."<sup>23</sup> The account was recently established so the couple could access pocket money during their visits without paying fees.<sup>24</sup>

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<sup>14</sup> In an interrogatory issued to Applicant by DOHA, she stated that she intended to renew her Lebanese passport once it expires in 2012. See SOR, dated Aug. 21, 2009. In her October 2009 Response to the SOR, however, Applicant admitted this statement, but noted, "since this might be an issue for my clearance, I will no longer be renewing my Lebanese passport." See also Ex. 3 (Interrogatory, dated Apr. 16, 2009, Testimonies, dated Dec. 12 - Dec. 24, 2008, at 5), "[Applicant] would be willing to relinquish her Lebanese passport if necessary."). She only used her Lebanese passport for trips to Lebanon. Tr. 32. Her extensive travel elsewhere has been on her U.S. passport. Tr. 35-37.

<sup>15</sup> Tr. 46-47.

<sup>16</sup> Ex. E (Consular Affidavit and photograph of cancelled passport).

<sup>17</sup> Tr. 47.

<sup>18</sup> Tr. 33-34, 44.

<sup>19</sup> Tr. 30, 44. Only Applicant's cousin has ties with the government of Lebanon.

<sup>20</sup> The value of the property was not established, but it was generally depicted as modest.

<sup>21</sup> Tr. 30-31. "We don't have a summer home here, so I go spend it on the Mediterranean." See also Tr. 41.

<sup>22</sup> Tr. 51.

<sup>23</sup> Tr. 55.

<sup>24</sup> Tr. 50.

Applicant's mother and a younger sister are citizens and residents of Lebanon. Her mother, a housewife, is a widow. She is financially affluent, having inherited money and real estate investments from her late husband, a successful businessman and diplomat who passed away several years ago.<sup>25</sup> Applicant speaks with her mother on the telephone about every two to four weeks.<sup>26</sup> Her sister is young, single, and lives with their mother. Applicant speaks with her sister if she is home when Applicant calls her mother. Applicant's elder sister is a Lebanese citizen residing in Jordan, where she teaches in a French school. Her husband, a citizen of Jordan, also teaches in a private school. Applicant speaks with her elder sister by telephone about every three months.<sup>27</sup> Applicant's brother is a naturalized U.S. citizen. He has been in the U.S. for about 12 years and works in the finance sector. He is married and is expecting his first child.

Applicant has a cousin who is an official serving the Lebanese government.<sup>28</sup> He is pro-American and working for positive changes within Lebanon.<sup>29</sup> Because of his busy schedule, he and Applicant "speak like cousins . . . like calling and maybe saying Merry Christmas, like when I call my mother. . . but I didn't see him last summer. . . ."<sup>30</sup> Applicant's mother-in-law and sister-in-law are both U.S.-Lebanese citizens and residents of Lebanon. Applicant's husband sometimes sends money to his mother.<sup>31</sup> Because Lebanon does not offer state pensions, none of these relatives receive government subsidies.<sup>32</sup>

Most of Applicant's time is spent at work, where she earns about \$480,000 a year; her husband earns approximately \$460,000 per year.<sup>33</sup> Their home is located in a fashionable and exclusive section of a cosmopolitan U.S. city. Applicant's two children

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<sup>25</sup> Although Applicant's father was a Lebanese citizen and entrepreneur, his diplomatic role was on behalf of a small nation. It had no apparent ties to the Lebanese government or a Lebanese political body. His diplomatic position helped hone Applicant's disinterest in politics.

<sup>26</sup> Tr. 49.

<sup>27</sup> *Id.*

<sup>28</sup> Applicant was unsure whether her cousin was elected or appointed to his position. Tr. 29.

<sup>29</sup> Ex. C (News article I) and Ex. D (News article II). See also Tr. 27-28; Ex. F (Wikipedia article). For privacy concerns, these recent articles from notable news services are not identified, but are contained in the official case file.

<sup>30</sup> Tr. 28. Applicant generally sees her relatives during her summer trips to Lebanon.

<sup>31</sup> Tr. 48.

<sup>32</sup> *Id.*

<sup>33</sup> Ex. A (2009 Tax Forms). Applicant's husband's salary reflects deferred compensation.

were born in the U.S. and attend prestigious preparatory schools near their home.<sup>34</sup> In their free time, the family enjoys sports, time at their club, and entertaining. Applicant frequents school association meetings and attends a local church. She is content with her life as a U.S. citizen. Her financial and real estate connections to Lebanon are through her husband.

## Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required 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 over-arching adjudicative goal is a fair, impartial and commonsense decision. Under AG ¶ 2(c), this process is a conscientious scrutiny of a number of variables known as the "whole-person concept." All available, reliable information about the person, past and present, favorable and unfavorable, must be and were considered 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 my decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence submitted. I have avoided drawing inferences grounded on speculation or conjecture.

The Government must present evidence to establish controverted facts alleged in the SOR. An applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." <sup>35</sup> The burden of proof is something less than a preponderance of evidence. The ultimate burden of persuasion is on the applicant.<sup>36</sup>

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

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<sup>34</sup> Tr. 45.

<sup>35</sup> See also ISCR Case No. 94-1075 at 3-4 (App. Bd. Aug. 10, 1995).

<sup>36</sup> ISCR Case No. 93-1390 at 7-8 (App. Bd. Jan. 27, 1995).

of the possible risk an 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). “The clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials.”<sup>37</sup> Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.<sup>38</sup> The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant.<sup>39</sup> It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Based upon consideration of the evidence, I find Guideline C (Foreign Preference) and Guideline B (Foreign Contacts) to be the most pertinent to the case. Conditions pertaining to these adjudicative guidelines that could raise a security concern and may be disqualifying, as well as those which would mitigate such concerns, are discussed below.

## **Analysis**

### **Guideline C – Foreign Preference.**

The concern regarding foreign preference is that when an individual acts in such a way as to indicate a preference for a foreign country over the U.S., then he or she may be prone to provide information or make decisions that are harmful to the interests of the U.S.<sup>40</sup> Conditions that could raise a security concern and may be disqualifying include 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.<sup>41</sup>

The SOR contains five allegations under this guideline. The first allegation concerns Applicant’s exercise of dual citizenship with Lebanon and the U.S. The

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<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> Executive Order 10865 § 7.

<sup>40</sup> AG ¶ 9.

<sup>41</sup> AG ¶ 10(a).

remaining allegations concern her maintenance of a Lebanese passport. She admitted all allegations, sufficiently raising Foreign Preference Disqualifying Conditions AG ¶ 10(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. . . ). With a foreign preference disqualifying condition raised, the burden shifts to Applicant to mitigate security concerns.

Before becoming a naturalized U.S. citizen in 1996, Applicant emigrated from Lebanon, the country of her birth. She maintained, but did not actively pursue or reaffirm, her Lebanese citizenship. It is solely and immutably based on both her birth in that country and her parentage. Consequently, Foreign Preference Mitigating Condition AG ¶ 11(a) (dual citizenship is based solely on parents' citizenship or birth in a foreign country) applies.

When Applicant received the SOR sometime between late August 2009 and early October 2009, she learned that her Lebanese passport could pose security concerns. After consultation with the Lebanese Consulate in November 2009, she submitted her Lebanese passport to the Consulate for cancellation. It was cancelled in January 2010. Therefore, AG ¶ 11(e) (the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated) also applies.

Not mentioned in the SOR are Applicant's access to a beach house in Lebanon, purchased by her husband, and a joint account in Lebanon which currently has a balance of about \$3,000. While these facts merit due consideration, they represent nominal interests in comparison to her highly lucrative employment, home, and cosmopolitan lifestyle in the U.S. Consequently, the allegations raised in the SOR remain as the primary concerns in this case. The basis for Applicant's dual citizenship was credibly explained and her Lebanese passport was properly relinquished and cancelled.<sup>42</sup> She is fully "Americanized," enjoys a highly desirable lifestyle here in the U.S., and evidences every intention of remaining a U.S. citizen. In weighing all these factors, I find that there is no evidence that Applicant has a preference for Lebanon superior to her preference for her citizenship and life in the U.S. Foreign Preference security concerns are mitigated.

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<sup>42</sup> The Government argued that the relinquishment and cancellation of Applicant's passport mitigated the possession of Applicant's passport, "but not the past use and renewals." Under the AG, possession of a current foreign passport is a condition that "could raise a security concern and may be disqualifying," to the extent that it is an "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." AG ¶¶9-¶10. Here, Applicant retained her Lebanese passport after becoming a U.S. citizen and renewed it in 2008. When discovering it could pose a security concern between late August and early October 2009, she consulted the Lebanese Consulate in November 2009, and had it cancelled in January 2010. AG ¶11(e) a showing that the passport "has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated" can mitigate security concerns. I find that Applicant's actions meet this condition and adequately mitigate security concerns.



## **Guideline B – Foreign Influence**

The concern under Guideline B is that 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 U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. The adjudicator 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 U.S. citizens to obtain protected information or is associated with a risk of terrorism. Conditions pertaining to this adjudicative guideline that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, are discussed in the conclusions below.

The country at issue is Lebanon. Post-civil war reconstruction has been marked by internal upheaval and the growing influence of Hizballah, an entity described by the U.S. State Department as a “Foreign Terrorist Organization” and described as “the most technically capable terrorist group in the world.” The Lebanese government recognized Hizballah as a legitimate resistance group. Hizballah is represented within the country’s government. It is known to have been involved in anti-U.S. terrorist attacks. The U.S. remains “extremely concerned about the role of Hizballah is playing in Lebanon.” Moreover, Hizballah conducts its own intelligence gathering within Lebanon and has been tied to intelligence-gathering efforts within the U.S.

Significant human rights violations exist within Lebanon. Lebanese security forces arbitrarily arrest and detain individuals, detainees have experienced torture and abuse; Lebanese authorities frequently interfere with the privacy of its citizens. Americans have been the targets of numerous terrorist attacks in Lebanon. Dual U.S.-Lebanese citizens may be subject to laws that impose special obligations on them as Lebanese citizens. The U.S. State Department warns U.S. citizens to avoid all travel to Lebanon due to safety and security concerns. Because the country at issue is Lebanon, the facts and allegations in this case demand heightened scrutiny. At issue are six admitted allegations related to Lebanese relatives, most of whom reside in Lebanon, and activities Applicant and her children attended at a Lebanese Consulate.

Applicant’s mother and younger sister are citizens and residents of Lebanon. They maintain regular telephonic contact and Applicant visits them once or twice a year. Applicant’s eldest sister is a citizen of Lebanon who resides in Jordan. They maintain less frequent telephonic contact, but can visit when Applicant is on vacation in Lebanon. Applicant maintains contact with a cousin, who is a noted Lebanese official. Little evidence was presented with regard to her in-laws, but it may be assumed her husband maintains some familial ties with his sister and mother, both of whom are dual U.S.-Lebanese citizens residing in Lebanon. Applicant also has social contact with employees of a Lebanese Consulate in the U.S. and their children. Such facts are sufficient to give rise to 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 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).<sup>43</sup> With disqualifying conditions thus raised, the burden shifts to Applicant to mitigate security concerns.

Applicant has close family members who are citizens and residents of Lebanon, including an apparently affluent mother and a government official who is known to be pro-American. She maintains contact and visits them when she can during her vacations there. Other relatives maintain Lebanese citizenship and either live in or visit Lebanon. She developed social friendships with Lebanese Consulate officials, and their children shared play dates. Such facts must be considered in context. Lebanon has had a rocky history for over 60 years. Plots to assassinate government officials are not uncommon. Furthermore, the current and growing influence of Hizbollah, a recognized terrorist organization with technical expertise and a record of gathering U.S. intelligence, is of tremendous concern to the U.S. Hizbollah has been known to target U.S. citizens and interests. Similarly, concerns exist regarding Lebanese officials' human rights record and violations of privacy rights regarding its own citizens. Further, Applicant and her family regularly vacation in Lebanon despite U.S. State Department warnings against the travel of U.S. citizens to that country. Given these facts, Foreign Influence Mitigating Condition 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.) does not apply.

Based on Applicant's regular telephonic contact with and visits to Lebanon to see her mother and sisters, the women share an understandably familial bond. She shares a similar bond with her cousin, a Lebanese official. She also befriended consular officials and their children. Despite her clear loyalty to the U.S. and her substantial roots in the U.S., her familial bonds and her acquaintances with consular employees and their children are sufficiently significant to obviate application of AG ¶ 8(b) (there is no conflict of interest, either because the individual's sense of loyalty to 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 AG ¶ 8(c)

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<sup>43</sup> Although not raised in the SOR, Applicant's Lebanese beach residence and bank account could give rise to 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). Given the comparative worth of those assets as compared to Applicant's U.S.-related income and holdings, however, they do not appear to be sufficiently "substantial" to raise this disqualifying condition.

(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). No other mitigating conditions apply.<sup>44</sup>

Foreign influence security concerns arise when foreign contacts may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests. Scrutiny of such potential is heightened when the country is known to target U.S. citizens to obtain protected information or is associated with a risk of terrorism. Lebanon raises such concerns. Here, Applicant has understandable bonds with family members living in Lebanon, including an affluent mother, a younger sister, and a cousin with a significant government position. She also socializes with consular employees and their children. Such relationships can be manipulated by Lebanese authorities or Hizbollah agents seeking either to harm Americans or American interests, or gain sensitive information. Consequently, Foreign Influence security concerns remain unmitigated.

### **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.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case, as well as the "whole-person" factors. Applicant is a credible, affable, and mature individual who is also a highly successful businesswoman. Since immigrating to the U.S. in 1992, she has achieved considerable professional, social, and financial success. At the same time, she has successfully managed her parental and domestic duties. Her family spends summers

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<sup>44</sup> As noted, Applicant, herself, has no substantial or significant financial or property interests in Lebanon that cannot be resolved in favor of the U.S., especially in light of her U.S.-based holdings.

together abroad and share sports interests. There is no reason to doubt her loyalty to the U.S., nor is there any doubt that she is deeply and happily entrenched in the life she has built in the U.S.

The fact that she was born in Lebanon to Lebanese parents is immutable, and dual citizenship alone is not a bar to a security clearance. When advised that maintenance of a Lebanese passport could prove to be an obstacle in acquiring such a clearance, she returned it to the Lebanese Consulate for cancellation. That act, as well as other considerations, led to her mitigation of foreign preference security concerns.

Security concerns remain, however, with regard to foreign influence issues. Despite State Department warnings to the contrary, Applicant regularly vacations in Lebanon. There, she maintains contact with her mother, sisters, and a cousin who is a notable Lebanese governmental official. When in the U.S., she maintains varying degrees of telephonic contact with these individuals. She also has cultivated friendships with consular employees and their children. While such contact is understandable given her physical proximity to a local consulate and a shared heritage, these contacts only deepen her ties with individuals having a significant nexus to Lebanon and, consequently, may be vulnerable to anti-American interests based in that country. Such ties sustain foreign influence security concerns. Clearance denied.

### **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 2, Guideline C:	FOR APPLICANT
Subparagraph 1.a-1.e	For Applicant
Paragraph 2, Guideline B:	AGAINST APPLICANT
Subparagraph 2.a-2.f	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 eligibility for a security clearance. Clearance denied.

ARTHUR E. MARSHALL, JR.  
Administrative Judge