



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



In the matter of:)	
)	
-----)	ISCR Case No. 09-02008
SSN: -----)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Eric Borgstrom, Esquire, Department Counsel
For Applicant: Richard L. Moorhouse, Esq.

April 19, 2010

Decision

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

Applicant signed a security clearance application on September 16, 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 his October 7, 2009, response to the SOR, Applicant admitted all allegations raised under the guidelines and requested a hearing before an administrative judge. The case was assigned to me on December 1, 2009. The parties agreed to a January 19, 2010, hearing date. A notice to that effect was issued by DOHA on December 16, 2009.

The hearing took place as scheduled. Department Counsel submitted three exhibits (Ex.) which were admitted as Exs. 1-3 without objection. In addition, he requested administrative notice of materials regarding the Republic of Lebanon. The material was accepted without objection as Ex. 4. Applicant was represented by counsel and testified. He submitted eight documents, which were accepted into the record as Exs. A-H without objection. He was given until January 29, 2010, to submit any additional documents for consideration. The transcript (Tr.) was received on January 27, 2010. On January 29, 2010, three additional documents were received from Applicant and admitted without objection as Exs. I-K. The record was closed on February 1, 2010. Based upon a review of the case file, exhibits, and testimony, security clearance is denied.

Administrative Notice

The Republic of Lebanon became independent in 1943. Since that time, its history “has been marked by periods of political turmoil interspersed with prosperity.”¹ 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.² Hizballah was designated a “Foreign Terrorist Organization” and is described as “the most technically capable terrorist group in the world.”³ The Lebanese government recognizes Hizballah as a legitimate resistance group.⁴ Hizballah has elected officials in the Lebanese National Assembly and a member of the group currently serves in the nation’s Cabinet. It is known to have been involved in numerous anti-United States and anti-Israeli terrorist attacks.⁵ The United States (U.S.) remains “extremely concerned about the role Hizballah is playing in Lebanon.”⁶ It also conducts intelligence gathering within Lebanon.⁷

¹ Ex. 4 (Administrative Notice) at 1.

² *Id.* at 4.

³ *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.

⁴ *Id.* at 14.

⁵ *Id.*

⁶ U.S. Department of State, *Recent Developments in Lebanon*, dated Mar. 24, 2009, at 2.

⁷ U.S. Department of State, *Country Reports on Human Rights Practices - 2008: Lebanon* (Country Reports), Feb. 25, 2009, at 1. The report notes, for example, that Hizballah uses surveillance cameras in Beirut’s airport.

Human rights violations exist within Lebanon. Its security forces have been known to arbitrarily arrest and detain individuals. Detainees have experienced torture and abuse.⁸ Lebanese authorities “frequently interfered with the privacy of persons regarded as enemies of the government.”⁹ American visitors to Lebanon have been the targets of terrorist attacks.¹⁰ Dual U.S.-Lebanese citizens may be subject to laws that impose special obligations on them.¹¹ The U.S. State Department warns citizens to avoid travel to Lebanon due to safety and security concerns.

Hizballah’s intelligence-gathering activities have extended beyond Lebanon’s borders into the U.S. In August 2005, an individual pled guilty to attempting to illegally export U.S. military equipment to Hizballah. In November 2007, an individual pled guilty to attempting to provide similar equipment to a person in Lebanon purchasing equipment for Hizballah. In December 2008, a man pled guilty to providing material support to Hizballah by knowingly providing satellite transmission services to its Lebanon-based television station.¹² Other cases of such intelligence-gathering exist.¹³

Findings of Fact

Applicant is a 57-year-old chief executive officer of a consulting firm seeking a security clearance. Born in a Christian enclave of northern Lebanon in 1952, Applicant attended its local schools. He completed undergraduate studies in mathematics in 1973. In February 1974, he came to the U.S. to live with a relative and pursue a graduate degree in engineering. After completing his master’s degree, he worked for a U.S. bank before accepting a position in a consulting firm. By 1979, he incorporated a limited liability company which initially offered software consulting services. Throughout the 1980s, his primary client was a large U.S. bank. Later, the firm branched out into computer generated personnel placement services. Meanwhile, Applicant became a U.S. citizen in 1986, thus making him a U.S.-Lebanese dual national. In 1992, he married a woman from Lebanon who became a U.S. citizen a few years later.

Inspired by Bill Gates and Steve Jobs, Applicant started developing a unique software system.¹⁴ He poured all of his energy and assets into the project until the

⁸ Ex. , *supra*, note 1, at 2.

⁹ Country Reports, *supra*, note 7.

¹⁰ Ex.4, *supra*, note 1, at 5.

¹¹ *Id.*

¹² *Id* at 7.

¹³ *Id.* at 6-7.

¹⁴ Tr. 31.

product was fully developed. In 2001, with the project completed, he incorporated a second and independent company to capitalize on his new product. By 2009, the new company held multiple patents and was worth about \$50 million dollars.¹⁵ Its clients exceeded 100, including his original corporation and several well known businesses. As chief executive officer and president of the new corporation, he turned over all of his stock in his first corporation to his wife, a previously minor shareholder, in 2009. Consequently, she now controls the first entity, which is presently worth about \$14-\$15 million dollars.¹⁶

At various points in developing his newer enterprise, Applicant considered outsourcing projects to foreign companies from Russia, Pakistan, and India. He was dissatisfied with his inquiries, but recognized foreign labor would be less expensive.¹⁷ An employee of Lebanese descent referred him to a company in France owned by a Lebanese resident.¹⁸ The company presented him with a “brilliant idea,” and he hired the entity to handle the project for about \$100,000 to \$120,000 a year.¹⁹

Applicant’s late father owned stores in Lebanon and his mother gave up a teaching career to raise their three children. She remains a citizen and resident of Lebanon. Applicant maintains contact with her, although the exact frequency of that contact was not specified. He and his brother supplement her income with a combined annual contribution of about \$20,000.²⁰ She last visited the U.S. in 2009. His sister is also a resident of Lebanon and a dual U.S. - Lebanese citizen, as are her husband and two children. Educated in Lebanon and in Europe, she is the chief administrator of a school affiliated with a private university. Her husband has never served in the military and works for a private bank. Applicant’s brother is a former director of a major finance firm, but has since turned to acting. He is a U.S. citizen and resides near Applicant. Their aunt is a citizen and resident of Lebanon. Applicant’s mother-in-law is a “very wealthy” widow.²¹ His sister-in-law, a recent college graduate, lives with his mother-in-law. Applicant’s wife speaks with her mother and sister about once a week and they visit on vacations. Applicant speaks to them on holidays and may see them during his wife’s vacations. None of these relations receive benefits from a foreign government. In addition, Applicant’s brother-in-law is a dual U.S.-Lebanese citizen residing in the U.S. Another sister-in-law is married and lives in Jordan, but Applicant is unsure of her

¹⁵ Tr. 77.

¹⁶ Tr. 75-76. Applicant remains a director in his original company.

¹⁷ Tr. 69.

¹⁸ Tr. 70.

¹⁹ Tr. 71.

²⁰ Tr. 99.

²¹ Tr. 82-83.

citizenship.²² Applicant's wife maintains contact with a cousin who is a high ranking federal government official in Lebanon.²³

Since emigrating from Lebanon, Applicant has possessed and renewed a Lebanese passport. He also obtained a U.S. passport in 1986. He has traveled to Lebanon on an annual basis since about 1979. On those trips, he often joins his wife and children for the end of their six-weeks long summer trips to the Lebanese coast.²⁴ Applicant used his Lebanese passport in lieu of his U.S. passport to facilitate travel. He has not had any concerns regarding his family's security on these trips, noting that, with one exception, their vacation venues have been calm since the 1990s.²⁵ His Lebanese passport expired in August 2009.²⁶ Until he learned that it could raise security concerns, he planned to renew the document. Instead, he relinquished it to the Lebanese Consulate, where it was physically stamped "cancelled" and retained by the Consulate in January 2010.²⁷ He plans to maintain his dual citizenship, however, for purposes of "convenience and heritage."²⁸

Applicant has an extensive portfolio of holdings in Lebanon. His father left his estate to his three children, although his mother retains lifetime control over all her late husband's assets.²⁹ They include the home in which Applicant's mother lives, stores, and about 10 acres of olive groves which have been in the family for years.³⁰ Applicant intends to pass on his share of the family's olive groves to his children.³¹ In addition to these shared future assets, Applicant personally invested in post-civil war Lebanon real

²² Tr. 89.

²³ Tr. 94-95.

²⁴ Tr. 55. In some years, Applicant and/or his family would visit Lebanon twice a year, either for winter skiing or Easter, depending on their children's school schedule.

²⁵ Tr. 56. Applicant noted that he had them immediately leave Lebanon and visit Jordan during one trip in 2006 due to a conflict between Hizbollah and Israel.

²⁶ The passport apparently expired during Applicant's last trip to Lebanon, but he had no problem leaving the country. The government expressed concerns that continued possession of the expired passport could allow Applicant to effectively travel on the expired document in the future. Tr. 117-121.

²⁷ Ex. I (Affidavit, dated Jan. 22, 2010).

²⁸ Tr. 100. Applicant has not voted in any Lebanese elections since becoming a U.S. citizen. Tr. 102.

²⁹ Tr. 58.

³⁰ Tr. 59.

³¹ Tr. 61. This intent may also apply to his father's other holdings, which he views as assets held in trust for future generations. "[I]t is not a tradition to sell things you inherited, if you can afford it, if you don't have to." At the same time, Applicant doubts both his children will continue to keep the properties in the family. Tr. 62.

estate during the 1990s. He invested about \$1.2 million dollars in a joint venture with his brother to purchase undeveloped land there. On his own, Applicant bought seven acres of additional land worth about \$700,000.³² The land was bought with the intent to resell them at a profit in the future.³³ In 2004, he bought the modest apartment on the beach where his wife and children “spend a few weeks in the summer,” enabling them to also visit with family.³⁴ During those trips, Applicant often joins them for part of their vacation.³⁵ Applicant made these investments with a full understanding of Lebanon, its real estate, and its problems. He prefers to invest his excess funds rather than put it in savings because “cash depreciates.”³⁶ In the U.S., Applicant and his wife own his businesses, valued at about \$65 million. Their home is in a prestigious area and is valued at about \$3.5 million dollars. He also owns a nearby apartment worth a little over \$1 million dollars.³⁷

Applicant and his wife live in a prestigious section of a cosmopolitan U.S. city with a large Lebanese population. His success and contributions to his community have been publicly lauded.³⁸ He is active in a professional association and he serves on the board of his homeowners association. Applicant and his family are active with their local church and interact with employees of the nearby Lebanese Consulate, which is a popular venue for apolitical social, cultural, and civic activities. The family frequents their clubs and often entertain.³⁹ Applicant’s children are dual U.S.–Lebanese citizens residing with their parents. They attend well regarded preparatory schools, where they participate in various organizations. The family has vibrant social lives. Their 2009 tax forms indicate that Applicant earned approximately \$460,222 a year, while his wife earned about \$478,000.⁴⁰ They also maintain checking accounts, a retirement account,

³² Tr. 60.

³³ Tr. 61-64. Applicant admitted in SOR allegation ¶ 2.d that he owned or purchased about \$2.5 million dollars in Lebanese properties. Therefore, his inherited property potentially would be worth about \$600,000.

³⁴ *Id.* Applicant also opened a nominal bank account in Lebanon to access funds while on vacation without paying transaction or ATM fees. Tr. 87. Its balances ranges from a few hundred dollars to \$2,000. Tr. 88.

³⁵ Tr. 87-88.

³⁶ Tr. 63.

³⁷ Tr. 103.

³⁸ Tr. 64-65.

³⁹ Tr. 106.

⁴⁰ Ex. E (2009 Tax forms). *See also* Tr. 73.

and trust funds for the children.⁴¹ Applicant considers his current city of residence to be his permanent home. “I can’t envision myself being anywhere other than [here].”⁴²

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 are 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. . . .”⁴³ The burden of proof is something less than a preponderance of evidence. The ultimate burden of persuasion is on the applicant.⁴⁴

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 an applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally

⁴¹ Tr. 109.

⁴² Tr. 96.

⁴³ See also ISCR Case No. 94-1075 at 3-4 (App. Bd. Aug. 10, 1995).

⁴⁴ ISCR Case No. 93-1390 at 7-8 (App. Bd. Jan. 27, 1995).

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.”⁴⁵ Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.⁴⁶ The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant.⁴⁷ 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 Influence) 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.⁴⁸ 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.⁴⁹

Applicant admitted he maintains dual citizenship with the U.S. and Lebanon. He also admitted he retained and renewed his Lebanese passport after becoming a U.S. citizen in 1986, and that he used it for travel to Lebanon on numerous occasions between 1979 and 2009. He similarly admitted that prior to the issuance of the SOR, he

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Executive Order 10865 § 7.

⁴⁸ AG ¶ 9.

⁴⁹ AG ¶ 10(a).

once noted that he intended to renew his Lebanese passport when it expired in August 2009. His admission of the SOR allegations is sufficient to raise Foreign Preference Disqualifying Condition 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. . .).⁵⁰ With a foreign preference disqualifying condition raised, the burden shifts to Applicant to mitigate security concerns.

Before becoming a naturalized U.S. citizen, Applicant was a Lebanese citizen by virtue of his parents' nationality and his birth in that country. He later immigrated to the U.S. and became a U.S. citizen in 1986. When apprised that possession and use of a foreign passport could be construed to be a demonstration of foreign preference and pose a security concern, he surrendered his expired Lebanese passport and it was cancelled by the appropriate authorities. Such facts meet the criteria set forth in both Foreign Preference Mitigating Condition AG ¶ 11(a) (dual citizenship is based solely on parents' citizenship or birth in a foreign country) and AG ¶ 11(e) (the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated).

Although the Government emphasized Applicant's real estate holdings in Lebanon, it made no distinction between those properties purchased for investment and resale and either those properties currently held in trust by his mother or intended for Applicant to symbolically hold in trust for future generations. Regardless, his holdings with current liquidating potential amount to under \$2 million dollars.⁵¹ They are relatively insignificant compared to Applicant's approximately \$65 million dollar business enterprises, \$4.5 million dollars in prime U.S. real estate, joint marital annual income of close to \$1 million dollars, their retirement and trust funds, and his family's extensive social, religious, and civic relationships in the U.S. To argue that his foreign investments indicate a preference for Lebanon over the U.S. drastically distorts the value of Applicant's mostly undeveloped Lebanese property. It also flies in the face of his highly credible insistence that he cannot envision living anywhere else but in the city in which he now dwells, or his comment that he maintains his dual citizenship only as a matter of convenience and heritage.

Consequently, the pivotal issues regarding foreign preference remain centered on Applicant's acquisition of dual citizenship and his Lebanese passport. As noted, his Lebanese citizenship is based on his parentage and place of birth. His expired Lebanese passport was surrendered to Lebanese authorities, who cancelled and retained the document. In light of all the facts, there is no significant evidence that Applicant has a preference for Lebanon superior to his preference for the U.S., or that he is prone to provide information or make decisions harmful to the U.S. Foreign preference security concerns are mitigated.

⁵⁰ See SOR allegations ¶¶ 1.a-1.d.

⁵¹ The balance of the property owned, as noted above, is constructively held in trust for future generations.

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 adjudication 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-war reconstruction between 1992 and 2005 was marked by internal upheaval, assassination plots, 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 recognizes 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.

Furthermore, significant human rights violations exist within Lebanon. Lebanese security has been known to arbitrarily arrest and detain individuals, detainees have experienced torture and abuse, and Lebanese authorities frequently interfere with the privacy of its citizens. Americans have been the targets of numerous terrorist attacks in Lebanon. U.S. citizens who also possess Lebanese nationality may be subject to laws imposing special obligations on them as Lebanese citizens. The U.S. State Department warns U.S. citizens to avoid travel to Lebanon due to safety and security concerns.

Because the country at issue is Lebanon, heightened scrutiny is warranted with regard to the admitted allegations concerning Applicant’s relatives with citizenship and/or residency in Lebanon (mother, sister, mother-in-law, and aunt),⁵² his real estate holdings in Lebanon, social events attended at the Lebanese Consulate, and his outsourcing of work to a Lebanese company.⁵³ 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

⁵² SOR allegations ¶¶ 2.a-2.c, respectively. Not noted in the SOR, but of equal significance, are Applicant’s siblings-in-law and his wife’s cousin, a Lebanese government official.

⁵³ SOR allegations ¶¶ 2.a-2.f.

or resident in a foreign country if that contact creates a heightened risk of exploitation, inducement, manipulation, pressure, or coercion), 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), and 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). With disqualifying conditions thus raised, the burden shifts to Applicant to mitigate security concerns.

Applicant has close family members who are either dual U.S.-Lebanese citizens or citizens and residents of Lebanon, including his mother, sister, and aunt. The Appeal Board has consistently imputed a similarly familial nexus to spousal relations with whom the spouse is close, thus opening this pool of relatives to include Applicant's wife's affluent mother, sisters, and cousin, a Lebanese government official. Moreover, he has developed acquaintances with unspecified individuals working at or visiting the Lebanese Consulate, and with a Lebanese national who owns a French company with which he does business.⁵⁴

Furthermore, Lebanon's political situation has been precarious and plots to assassinate government officials are not uncommon. Additionally, the 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 citizens' privacy rights. As well, despite U.S. State Department warnings to U.S. citizens to avoid travel to Lebanon due to safety and security concerns, Applicant and his family regularly visit Lebanon. They continue to do so despite their flight to Jordan in 2006 during a Hizbollah-Israeli conflict. Given all 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.

Applicant's tremendous financial, professional, and social successes cannot be denied. He has reaped exceptional wealth and vast investments through personal vision and hard work. He has over \$70 million dollars in U.S. holdings, as well as a highly lucrative income and an active social life. His loyalty to the U.S. and his satisfaction with his present situation cannot be questioned. These extraordinary ties to the U.S. overwhelm his financial investments abroad, nearly a quarter of which is valued more for its sentiment than its potential monetary worth. Moreover, his deal with

⁵⁴ The latter individual is referenced in SOR allegation ¶ 2.f.

a Lebanese owned French company is but a nominal component of his newest enterprise, representing an annual business expense of only \$100,000 to \$120,000 from a \$50 million dollar entity. Weighing his vast U.S. financial and property interests against his comparatively unsubstantial foreign assets and nominal foreign business contract, Foreign Influence Mitigating Condition AG ¶ 8(f) (the nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual) applies.⁵⁵

Applicant's relatives abroad, however, with whom he maintains understandable contact, represent a strong and potentially manipulable bond to Lebanon. This is particularly true with regard to his mother, who he helps support and with whom he visits both in Lebanon and in the U.S., as well as his mother-in-law and his wife's high profile cousin, a Lebanese federal official. Despite his clear loyalty to the U.S., deep-seated roots in the U.S., and considerable domestic wealth, his family ties in the country at issue 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) (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.

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. Lebanese forces have been linked to both these activities in recent years. Applicant is a U.S. citizen of significant wealth and professional notoriety. He is also a Lebanese citizen who visits Lebanon regularly and has loved ones, relations, and contacts residing in Lebanon, some of whom are affluent or publicly notable. Given his wealth and knowledge, he could be targeted as a malleable resource or victim of anti-American terrorists. Conversely, his relations in Lebanon, given its current climate and the presence of terrorists, could be exploited while at home or in transit between our countries. In short, his relationships can be manipulated or exploited by Lebanese authorities, Hizbollah, or foreign agents seeking to harm Americans or American interests, or gain sensitive information. Foreign Influence security concerns remain unmitigated.

⁵⁵ The security concerns represented by SOR allegations ¶ 2(d) and ¶ 2(f) are mitigated.

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 highly credible, educated, and straightforward man. His meteoric rise from immigrant student to millionaire entrepreneur presents a success story worthy of Horatio Alger. He married an accomplished woman who has shared in his success. Their children are well-rounded students. As a family, they are thoroughly "Americanized." Applicant embraces the benefits of his life in the U.S. and thrives in his professional and social milieu. He also retains and respects his Lebanese heritage and traditions, and is socially active in his city's Lebanese community. He visits Lebanon when he can. It is his understandable goal to enjoy and promote the best of both countries. Despite this dual appreciation, it is clear that his primary loyalty is to the U.S. and that his intention is to remain in this country.

The fact that Applicant 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 jeopardize his acquisition of such a clearance, he surrendered it to Lebanese officials for cancellation. That act, as well as other considerations, led to his mitigation of foreign preference security concerns.

Foreign influence security concerns, however, remain. While Applicant's financial holdings and contacts in Lebanon might be significant to most Americans, they are comparatively minor to Applicant, whose domestic wealth, possessions, and status are extensive. Security concerns remain because of his ties with relatives and associates in Lebanon. Despite State Department warnings and the 2006 incident when his family left Lebanon in favor of Jordan, Applicant regularly visits Lebanon. There, he and his family

directly and personally reenforce relationships they otherwise maintain from afar. Among those contacts are an affluent mother-in-law and a cousin by marriage who is a notable Lebanese governmental official. He also has acquaintances with consular contacts whose presence in the U.S. may be transient, and with a Lebanese businessman who owns a French company. His trips to Lebanon, his family's vacations, his contacts' visits to the U.S., and the maintenance of his foreign relationships all contribute toward a significant and overt nexus to Lebanon. Consequently, Applicant, his immediate family, or his relations may be vulnerable to adverse interests based in Lebanon. 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:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant
Paragraph 2, Guideline B:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Subparagraph 2.b:	Against Applicant
Subparagraph 2.c:	Against Applicant
Subparagraph 2.d:	For Applicant
Subparagraph 2.e:	Against Applicant
Subparagraph 2.f:	For 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