



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



In the matter of:	)	
	)	
-----	)	ISCR Case No. 09-07266
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Pamela C. Benson, Esquire, Department Counsel  
For Applicant: Simon Johnson, Esquire

January 13, 2011

**Decision**

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HOWE, Philip S., Administrative Judge:

On February 3, 2009, Applicant submitted his Security Clearance Application (SF 86). On April 21, 2010, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline 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 adjudicative guidelines (AG) effective within the Department of Defense on September 1, 2006.

Applicant acknowledged receipt of the SOR on May 24, 2010. He answered the SOR in writing on May 25, 2010, and requested a hearing before an administrative judge. Department Counsel was prepared to proceed on July 29, 2010, and I received the case assignment on August 10, 2010. DOHA issued a Notice of Hearing on August 16, 2010, and I convened the hearing as scheduled on August 24, 2010. The Government offered Exhibits 1 through 3, which were received into evidence without objection. Applicant testified. He had no exhibits. DOHA received the transcript of the

hearing (Tr.) on September 3, 2010. Based upon a review of the case file, pleadings, exhibits, and testimony, eligibility for access to classified information is granted.

## **Procedural and Evidentiary Rulings**

### **Notice**

At the hearing, Applicant indicated that he received the hearing notice on August 23, 2010. (Tr. 9) I advised Applicant of his right under ¶ E3.1.8 of the Directive to 15 days notice before the hearing. Applicant received telephonic notification on August 10, 2010, of an impending hearing date. He requested the hearing be expedited and would waive the 15-day notice requirement to accomplish that goal. After consulting with counsel, Applicant affirmatively waived his right to 15 days notice. (Tr. 9)

### **Request for Administrative Notice**

Department Counsel submitted a formal request that I take administrative notice of certain facts relating to Lebanon. (Tr. 14) The request and the attached documents were admitted into evidence as Exhibit 3 with 18 subsets. The facts administratively noticed are set out in the Findings of Fact, below.

## **Findings of Fact**

In his Answer to the SOR, Applicant admitted the factual allegations in ¶¶ 1.a, 1.b, 1.c and 1.f to 1.k of the SOR, with explanations. He denied the factual allegations in ¶¶ 1.d and 1.e of the SOR. He also provided additional information to support his request for eligibility for a security clearance. His admissions were accepted as factual findings.

Applicant is 56 years old, married, and has two adult children. He immigrated to the United States in 1986 from Lebanon with his family and younger brother. He and his wife became U.S. citizens in 2001. His wife and children have dual citizenship with the United States and Lebanon. Applicant has a valid U.S. passport. On October 17, 2008, Applicant surrendered his expired Lebanese passport and renounced his Lebanese citizenship in a letter to the Lebanese Consulate General in the United States. The passport had expired in 2000. (Tr. 19, 23, 28-34, 39; Exhibit 1)

Applicant is employed by a government contractor to provide translation services to the U.S. military services in Iraq. He translated for the U.S. military in 2009 for one year. Applicant was in a dangerous environment during that time. He does not discuss his job with any member of his family or his wife's family. (Tr. 22-25, 47)

Applicant traveled to Lebanon in 1995 with his family to visit his parents. In 2007 he traveled alone to Lebanon to visit his parents. He used his expired Lebanese passport in 2007 to enter the airport in Lebanon during a local political dispute in which several factions had armed members controlling part of the airport terminal. He

previously used that passport in 1995 to enter Lebanon with his family before he became a U.S. citizen and obtained a U.S. passport. These were the only two times Applicant used that passport. When he departed Lebanon in 2007, he used his U.S. passport. He has no plans for trips to Lebanon in the near future. (Tr. 19-21, 35-37, 43, 53)

Applicant does not own any real estate in Lebanon. He does not have any bank accounts in Lebanon. He has never voted in Lebanese elections after moving to the United States in 1986. He never served in the Lebanese Army. Applicant professed his loyalty to the United States. (Tr. 19, 28, 56)

Applicant's father and mother are citizens and residents of Lebanon. They live in a Christian area north of Beirut. They are both 75 years old. He is a retired farmer. Applicant's sister is in her late 40's and a housewife. She is divorced and has one child. Applicant's wife speaks with his father, mother, and sister about once a week. Applicant sends his mother \$250 monthly to help support his parents. They have no work connection to the Lebanese Government. (Tr. 39-44)

Applicant's wife has an uncle who is a retired brigadier general in the Lebanese army. Her cousin is a lieutenant in the same army. They are both citizens and residents of Lebanon. His wife talks to her family members about once a week. Applicant does not talk to the members of her family. He speaks with the members of his family about once a year. (Tr. 21, 44, 45)

Applicant has a widowed aunt in Lebanon. She is a resident and citizen of Lebanon. He sends her \$150 monthly to help support her. He has sent that money for the past 14 years. He speaks with her annually. She has no work connection to the Lebanese Government. (Tr. 46)

Applicant's parents-in-law are citizens and residents of Lebanon. His mother-in-law is 65 years old. His father-in-law is also 65. The father-in-law is a butcher. They have no work connection to the Lebanese Government. (Tr. 48, 49)

Applicant's brother-in-law is a citizen and resident of Lebanon. His is 35 years old. He is a physician. He does not work for the Lebanese government. His wife's two sisters are 42 and 33 years old, respectively. They are citizens and residents of Lebanon. The older sister works in a casino and the younger sister is a secretary. They have no work connection to the Lebanese Government. (Tr. 49-52)

I take administrative notice of the following facts pertaining to Lebanon:

Lebanon is a parliamentary democracy in which people have the constitutional right to change their government. It has a unicameral legislature, and a president elected by the legislature. Its major elected officials have been allocated among the various religious and ethnic groups for many years, according to the Constitution and a long-ago negotiated agreement among all the parties.

Lebanon is located at the eastern end of the Mediterranean Sea in the Middle East area. It operated under a French mandate between World War I and II. Lebanon became independent in November 1943. Its history since independence “has been marked by periods of political turmoil interspersed with prosperity.”<sup>1</sup> Since independence in 1943, Lebanon’s “national policy has been determined largely by a relatively restricted group of traditional regional and sectarian leaders,”<sup>2</sup> 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.”<sup>3</sup>

It was a peaceful country until a civil war erupted in 1975 between various religious factions. Due to this civil war the full exercise of political rights were precluded from 1978 until 1992. Lebanon has a free-market economy and a strong laissez-faire commercial tradition. Historically, the Lebanese have been traders throughout the Mediterranean. The economy is service-oriented. The U.S. enjoys a strong export position with Lebanon and is its fifth largest source of imported goods. More than 160 offices representing U.S. businesses operate in Lebanon. Since the lifting of passport restrictions in 1997, a number of large U.S. companies have opened branch or regional offices in Lebanon. During the period 1992 to 2005, post-war reconstruction in Lebanon has included social and political instability, economic uncertainty, problems with basic infrastructure, violent clashes between Israeli military forces and Hezbollah, and political assassinations.<sup>4</sup> Political assassinations also occurred in 2006, 2007, and 2008.<sup>5</sup>

“Lebanon’s foreign policy has been heavily influenced by neighboring Syria, which has also long influenced Lebanon’s internal politics as well.”<sup>6</sup> 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.”<sup>7</sup> 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.”<sup>8</sup> 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.<sup>9</sup> On August 13, 2008, the State Department issued a condemnation of a terror attack in

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<sup>1</sup> U.S. Department of State, *Background Note: Lebanon*, dated January 2010, at 3.

<sup>2</sup> U.S. Department of State, *Background Note: Lebanon*, dated January 2010, at 8.

<sup>3</sup> U.S. Department of State, *Background Note: Lebanon*, dated January 2010, at 9.

<sup>4</sup> U.S. Department of State, *Background Note: Lebanon*, dated January 2010, at 5-6.

<sup>5</sup> U.S. Department of State, *Country Reports on Terrorism, Chapter 2 – Country Reports: Middle East and North Africa Overview*, dated April 30, 2009, at 13; U.S. Department of State, *Country Reports on Human Rights Practices – 2009: Lebanon*, dated March 11, 2010; U.S. Department of State, *Background Note: Lebanon*, March 2010 at 8; U.S. Department of State, *United States Condemns Car Bomb Attack in Lebanon*, dated September 10, 2008.

<sup>6</sup> U.S. Department of State, *Background Note: Lebanon*, dated March 2010, at 10.

<sup>7</sup> U.S. Department of State, *Background Note: Lebanon*, dated March 2010, at 11.

<sup>8</sup> U.S. Department of State, *Country Reports on Terrorism, Chapter 3 – Country Reports: Middle East and North Africa Overview*, dated April 30, 2009, at 3-4

<sup>9</sup> U.S. Department of State, *United States Condemns Violence in Lebanon*, dated May 9, 2008.

Lebanon,<sup>10</sup> and on September 10, 2008, it issued a condemnation of a car bomb attack that killed a ranking official of a Lebanese political party.<sup>11</sup> The State Department condemned another terrorist attack in Lebanon on September 29, 2008.<sup>12</sup>

The foreign policy of Lebanon reflects its geographic location, the composition of its population and its reliance on commerce and trade. Its foreign policy is heavily influenced by neighboring Syria, which has also long influenced Lebanon's internal policies as well. For over 10 years, Syrian troops occupied part of Lebanon, and controlled its internal politics and policies. About three years ago, Syria was forced to withdraw its troops because of Lebanese opposition expressed in a popular uprising against the Syrian presence. Syria maintains some influence in Lebanon. The U.S. State Department has declared Syria to be a supporter of terrorism. Lebanon, like most Arab states, does not recognize Israel, with which it has been technically at war since Israel's establishment.

The terrorist group Hezbollah is a Lebanese-based radical Shi'a group and is designated by the U.S. as a "Foreign Terrorist Organization." It is allied to and supported by the Iranian Government. The Lebanese government recognizes Hezbollah as a "legitimate resistance group and political party" and was represented by elected officials in the Lebanese parliament. Hezbollah also provides support to several Palestinian terrorist organizations and is known to be involved in numerous anti-U.S. and anti-Israeli terrorist attacks. Americans have been the targets of numerous terrorist attacks in Lebanon. 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."<sup>13</sup> 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.<sup>14</sup> "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."<sup>15</sup> The participation of Hezbollah in the Lebanese government has not changed the position of the U.S. government that it is a terrorist organization.<sup>16</sup>

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<sup>10</sup> U.S. Department of State, *Terror Attack in Lebanon*, dated August 13, 2008.

<sup>11</sup> U.S. Department of State, *United States Condemns Car Bomb Attack in Lebanon*, dated September 10, 2008.

<sup>12</sup> U.S. Department of State, *Bus Bombing in Tripoli*, dated September 29, 2008.

<sup>13</sup> U.S. Department of State, *Country Reports on Terrorism, Chapter 6 –Terrorist Organizations*, dated April 30, 2009, at 1 and 11.

<sup>14</sup> U.S. Department of State, *Country Reports on Terrorism, Chapter 2 – Country Reports: Middle East and North Africa Overview*, dated April 30, 2009, at 13-14; U.S. Department of State, *Country Reports on Terrorism, Chapter 6 –Terrorist Organizations*, dated April 30, 2009, at 11.

<sup>15</sup> U.S. Department of State, *Country Reports on Terrorism, Chapter 6 –Terrorist Organizations*, dated April 30, 2009, at 12.

<sup>16</sup> U.S. Department of State, *Remarks after Meeting with Lebanese Parliamentary Speaker Nabih Berri*, dated June 16, 2008.

The United States seeks to maintain its traditionally close ties with Lebanon and to help preserve its independence, sovereignty, national unity and territorial integrity. The U.S. provides more than \$400 million in aid to Lebanon and pledged \$1 billion in additional aid. The aid reflects the importance the U.S. attaches to Lebanon's development as a unified, independent and sovereign country.

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."<sup>17</sup> Lebanese law does not specifically prohibit torture, and security forces have abused detainees and used torture in some instances.<sup>18</sup> Although Lebanese law requires judicial warrants before arrests, except in situations involving immediate pursuit, the government had arbitrarily arrested and detained persons.<sup>19</sup> 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.<sup>20</sup> Although the law prohibits it, Lebanese authorities "frequently interfered with the privacy of persons regarded as enemies of the government."<sup>21</sup> 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."<sup>22</sup>

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.<sup>23</sup> "In addition to being subject to general Lebanese laws, U.S. citizens who also possess Lebanese nationality may be subject to other laws that impose special obligations on them as Lebanese citizens."<sup>24</sup>

A Travel Warning issued by the U.S. Department of State in September 2008 alerts American citizens to "security threats and ongoing political violence in Lebanon."<sup>25</sup> The U.S. Department of State "continues to urge that Americans avoid all

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<sup>17</sup> U.S. Department of State, *Country Reports on Human Rights Practices – 2009: Lebanon*, dated March 11, 2010, at 1, 2.

<sup>18</sup> U.S. Department of State, *Country Reports on Human Rights Practices – 2009: Lebanon*, dated March 11, 2010, at 3.

<sup>19</sup> U.S. Department of State, *Country Reports on Human Rights Practices – 2009: Lebanon*, dated March 11, 2010, at 4.

<sup>20</sup> U.S. Department of State, *Country Reports on Human Rights Practices – 2009: Lebanon*, dated March 11, 2010, at 5.

<sup>21</sup> U.S. Department of State, *Country Reports on Human Rights Practices – 2009: Lebanon*, dated March 11, 2010, at 7.

<sup>22</sup> U.S. Department of State, *Country Reports on Human Rights Practices – 2009: Lebanon*, dated March 11, 2010, at 7.

<sup>23</sup> U.S. Department of State, *Country Specific Information: Lebanon*, dated June 10, 2010, at 2.

<sup>24</sup> U.S. Department of State, *Country Specific Information: Lebanon*, dated June 10, 2010, at 3.

<sup>25</sup> U.S. Department of State, *Travel Warning: Lebanon*, dated March 29, 2010, at 1.

travel to Lebanon. Americans who live and work in Lebanon presently should understand that they are accepting risks in remaining and should carefully consider those risks, especially those in Tripoli.” The Travel Warning also states that “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.”<sup>26</sup>

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.<sup>27</sup> 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.<sup>28</sup>

The source documents for the above facts are attached as Exhibit 3 and the 18 subsets. They are as follows:

I. U.S. Department of State, *Background Note: Lebanon*, dated March 2010 (13 pages);

II. U.S. Department of State, *Country Specific Information: Lebanon*, dated June 10, 2010 (7 pages);

III. U.S. Department of State, *Travel Warning: Lebanon*, dated March 29, 2010 (3 pages);

IV. U.S. Department of State, *Country Reports on Human Rights Practices - 2009: Lebanon*, dated March 11, 2010 (18 pages);

V. U.S. Department of State, *Country Reports on Terrorism, Chapter 2 - Country Reports: Middle East and North Africa Overview*, dated April 30, 2009, excerpts consisting of pages 1-2, 6-8 and 10-12, which relate to Lebanon and Hezbollah (8 pages);

VI. U.S. Department of State, *Country Reports on Terrorism, Chapter 3 - State Sponsors of Terrorism Overview*, dated April 30, 2009 (4 pages);

VII. U.S. Department of State, *Country Reports on Terrorism, Chapter 6 - Terrorist Organizations*, dated April 30, 2009, excerpts consisting of pages 1, 2 and 11-12, which relate to Hezbollah (4 pages);

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<sup>26</sup> U.S. Department of State, *Travel Warning: Lebanon*, dated March 29, 2010, at 1.

<sup>27</sup> U.S. Department of Commerce, Bureau of Industry and Security, *Naji Antoine Abi Khalil Sentenced to 60 Months' Imprisonment for Attempting to Export Military Night-Vision Equipment to Hizballah (sic)*, dated February 13, 2006.

<sup>28</sup> U.S. Department of Justice, *Michigan Man Pleads Guilty to Supporting Hizballah (sic)*, November 29, 2007.

VIII. U.S. Department of State, *United States Condemns Violence in Lebanon*, dated May 9, 2008 (1 page);

IX. U.S. Department of State, *Remarks After Meeting With Lebanese Parliamentary Speaker Nabih Berri*, dated June 16, 2008 (1 page);

X. U.S. Department of State, *Recent Developments in Lebanon*, dated March 24, 2009 (2 pages);

XI. U.S. Department of State, *Remarks on Lebanon and Resolution 1559*, May 7, 2009 (2 pages)

XII. U.S. Department of State, *Terror Attack in Lebanon*, dated August 13, 2008 (1 page);

XIII. U.S. Department of State, *United States Condemns Car Bomb Attack in Lebanon*, dated September 10, 2008 (1 page);

XIV. U.S. Department of State, *Bus Bombing in Tripoli*, dated September 29, 2008 (1 page);

XV. U.S. Department of Commerce, Bureau of Industry and Security, *Naji Antoine Abi Khalil Sentenced to 60 Months' Imprisonment for Attempting to Export Military Night-Vision Equipment to Hizballah (sic)*, dated February 13, 2006 (2 pages);

XVI. U.S. Department of Justice, *Michigan Man Pleads Guilty to Supporting Hizballah (sic)*, November 29, 2007 (1 page).

XVII. U.S. Department of Justice, *Man Pleads Guilty to Providing Material Support to Hizballah (sic) TV Station*, December 30, 2008 (1 page); and

XVIII. U.S. Department of Justice, *Former Employee of CIA and FBI Pleads Guilty to Conspiracy, Unauthorized Computer Access and Naturalization Fraud*, November 13, 2007 (3 pages).

## **Policies**

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). “As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant Applicant’s eligibility for access to classified information “only upon a finding that it is

clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

Eligibility for a security clearance is predicated upon the Applicant meeting the criteria contained in the revised adjudicative guidelines (AG). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge’s over-arching adjudicative goal is a fair, impartial and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. 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. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the [A]pplicant concerned.” See Exec. Or. 10865 § 7. See also Exec. Or. 12968 (Aug. 2, 1995), Section 3. Thus, nothing in this Decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant’s allegiance, loyalty, or patriotism.

Initially, the government must establish, by substantial evidence, conditions in the personal or professional history of the Applicant that may disqualify the Applicant from being eligible for access to classified information. The government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4<sup>th</sup> Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an Applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the government establishes a disqualifying condition by substantial evidence, the burden shifts to the Applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An Applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## Analysis

### Guideline B: Foreign Influence

AG ¶ 6 explains the security concern about “foreign contacts and interests” stating:

[I]f 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 indicates three conditions that could raise a security concern and may be disqualifying in this case:

(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;

(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

(d) sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion.

Applicant’s parents and one sister are citizens and residents of Lebanon. Applicant visited his family in Lebanon in 1995 and 2007. There is no evidence that his immediate relatives have connections to the Lebanese government or military. There is a rebuttable presumption that a person has ties of affection for, or obligation to, the immediate family members. See ISCR Case No. 01-03120 (App. Bd. Feb. 20, 2002).

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

The nature of a nation's government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an 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, the country is known to conduct intelligence operations against the United States, or there is a serious problem in the country with crime or terrorism. Lebanon's cordial relationship to the United States and the absence of any record that Lebanon uses espionage to target the United States, place a relatively low burden of persuasion on Applicant to demonstrate that his relationships with family members living in Lebanon do not pose a security risk and he is not in a position to be forced to choose between loyalty to the United States and his family living in Lebanon. However, that situation is counter-balanced by the Syrian political and military presence, along with the power and influence of the terrorist organization Hezbollah.

On the other hand, human rights organizations have criticized the Lebanese government's failure to adhere to human rights standards, and it is conceivable that Lebanese officials theoretically might target any Lebanese citizen or former Lebanese citizen living in Lebanon or the United States in an attempt to gather valuable information from the United States. The attempts by certain individuals to export U.S. technology to Hezbollah are also of concern.

Applicant's connections to his parents, aunt, and sister living in Lebanon create a potential conflict of interest because his relationship with them are sufficiently close to raise a possible security concern about his desire to help his parents and aunt by providing classified, sensitive or protected information. Applicant's concern for his parents and aunt are shown by his monthly payments to them of \$250 and \$150 monthly for a number of years.

While Applicant does not have a close relationship with his wife's relatives, including her uncle who is a retired general in the Lebanese Army and her cousin who is a lieutenant in that army, there is a potential conflict of interest there also. Applicant's affection for his wife is a natural one. Her frequent contact with those relatives by telephone creates the potential conflict of interest should a dangerous situation involving them arise in Lebanon.

The government produced substantial evidence of Applicant's relationships and contacts with his parents, aunt, and sister living in Lebanon to raise the issue of potential foreign pressure or attempted exploitation. There is substantial evidence that the Lebanese government might commit human rights violations, and Applicant's relatives living in Lebanon are available should Lebanese officials or Hezbollah extremists seek to exploit them to obtain classified, sensitive or protected information. Furthermore, Applicant lives with his wife who has substantial contact with her relatives

in Lebanon. That familial relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion upon Applicant and his family. AG ¶¶ 7(a), 7(b) and 7(d) apply, requiring further review and analysis

AG ¶ 8 lists six conditions that could mitigate foreign influence security concerns including:

(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;

(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;

(d) the foreign contacts and activities are on U.S. Government business or are approved by the cognizant security authority;

(e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country; and

(f) the value or routine 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.

AG ¶¶ 8(a) and 8(c) can be applied with respect to Applicant's relatives living in Lebanon, including his wife's parents. Applicant has an emotional bond with his parents, aunt, and sister living in Lebanon arising from the familial relationship. His parents are elderly and retired, as is his aunt. Neither they nor his sister are in a position that makes it likely Applicant could be forced to choose between them and the interests of the United States. He only speaks with his parents annually, particularly after he obtained his current position with his employer. He is mature and aware of his responsibilities in his current employment that to date he has not allowed any family relationship to raise security concerns of foreign influence.

There is no evidence that his immediate family members living in Lebanon have been political activists or that they have high profile jobs with the Lebanese government, the military or any news media. Only his wife's uncle and cousin have government positions, the uncle being a retired army general and the cousin a serving army lieutenant. There is no evidence that Hezbollah terrorists, criminals or the Lebanese Government have approached or threatened Applicant's family members living in Lebanon for any reason. There is no evidence that these family members living in Lebanon currently engage in activities which would bring attention to them or that terrorists or other anti-U.S. elements are even aware of Applicant's relationship with those family members. As such, there is a reduced possibility that these relatives would be targets for coercion or exploitation.

Applicant's minimal and distant relationships with his relatives in Lebanon mitigate security concerns. Applicant's familial contacts are less than that set forth in the following cases: See ADP Case No. 05-17812 at 2, 3 n.2 (App. Bd. Jun. 11, 2007) (finding contacts with siblings in PRC "once every two or three months" not to be casual and infrequent); ISCR Case No. 04-12500 at 2, 4 (App. Bd. Oct. 26, 2006) (finding contacts with applicant's parents and sisters a total of about 20 times per year not casual and infrequent); ISCR Case No. 04-09541 at 2-3 (App. Bd. Sep. 26, 2006) (finding contacts with applicant's siblings once every four or five months not casual and infrequent).

Applicant's life in the United States and his connections to the United States developed over the last 24 years mitigate the foreign interest security concerns. Moreover, Applicant is 56 years old. He has all his assets in the United States. His family is located in the United States. They became U.S. citizens voluntarily. He is a loyal, dedicated U.S. citizen as he credibly testified. All these circumstances demonstrate that Applicant will recognize, resist, and report any attempts by a foreign power, terrorist group, or insurgent group at coercion or exploitation. I conclude AG ¶ 8(b) is established and tends to mitigate foreign influence security concerns.

### **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 an 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.

AG ¶ 2(c) requires each case must be judged on its own merits. 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. Applicant has greater connections to the United States than to Lebanon. In 24 years he only returned to Lebanon for family visits twice. His dedication to his work and to the United States is a very positive indication of his good character and trustworthiness. He is loyal to the United States. Applicant's record of good employment and law-abiding character weighs in his favor. There is no evidence of any security violation, or criminal activity. His wife and children live in the United States. He has all his financial assets in the United States. He has no assets in any foreign country.

Applicant voluntarily surrendered his expired Lebanese passport and renounced any vestiges of dual citizenship with Lebanon more than two years ago. He has not obtained another Lebanese passport and has no present plans to visit Lebanon again, particularly while working for his current employer. Applicant voluntarily and pro-actively limited his familial contacts to annual telephone calls when he took his present position. His actions substantially diminished any security concern arising from his Lebanese family members. His contact with his wife's family members is even less than with his own family.

After weighing the disqualifying and mitigating conditions, and all the facts and circumstances, in the context of the whole-person, I conclude he mitigated the foreign influence security concern. I take this position based on the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), my careful consideration of the whole-person factors and supporting evidence, my application of the pertinent factors under the Adjudicative Process, and my responsibilities under the Guidelines. Applicant mitigated or overcome the government's case. For the reasons stated, I conclude he is eligible for access to classified information.

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising from his foreign influence.

### **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 B:	FOR APPLICANT
Subparagraph 1.a to 1.k:	For Applicant

## **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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PHILIP S. HOWE  
Administrative Judge