



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



In the matter of: )  
)  
) ISCR Case No. 11-03360  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Julie R. Mendez, Esq., Department Counsel  
For Applicant: Christopher Graham, Esq.

03/19/2012

**Decision**

RIVERA, Juan J., Administrative Judge:

Applicant failed to mitigate the foreign influence concerns raised by his wife, children, and his wife’s immediate family members residing in Egypt, and his parents residing in Lebanon (albeit for part of the year). Moreover, he falsified his security clearance application (SCA) and provided false statements to government investigators about his Lebanese passport. Clearance is denied.

**Statement of the Case**

Applicant submitted his most recent SCA on March 4, 2010. After reviewing the results of the ensuing investigation, adjudicators for the Defense Office of Hearings and Appeals (DOHA) were unable to make a preliminary affirmative finding<sup>1</sup> that it is clearly consistent with the national interest to grant Applicant’s request for a security clearance.

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<sup>1</sup> Required by Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended; and Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as revised.

On July 14, 2011, DOHA issued Applicant a Statement of Reasons (SOR) alleging security concerns under Guideline E (Personal Conduct) and Guideline B (Foreign Influence) of the adjudicative guidelines (AG).<sup>2</sup> Applicant answered the SOR on September 28, 2011, and requested a hearing before an administrative judge. The case was assigned to me on November 18, 2011. DOHA issued a notice of hearing on November 29, 2011, convening a hearing on December 15, 2011. At the hearing, the Government offered exhibits (GE) 1 through 5. GE 5 was not admitted, but was considered for purposes of taking administrative notice. All exhibits were made part of the record without objection. Applicant testified, and he submitted no documentary evidence. DOHA received the hearing transcript (Tr.) on December 21, 2011.

### **Procedural Issue**

At hearing, the Government moved to amend SOR ¶¶ 1.a, 1.b, and 1.g to conform the allegations to the evidence. SOR ¶ 1.a was amended to read: "Your father-in-law is a citizen of Egypt residing in Kuwait." SOR ¶ 1.b was amended to read: "Your mother-in-law is a citizen of Egypt residing in Egypt and Kuwait." SOR ¶ 1.g was amended to read: "Your parents are U.S. citizens that reside in Lebanon for approximately six months of the year." Applicant did not object and I granted the amendments as requested. (Tr. 85-86)

### **Findings of Fact**

Applicant denied SOR ¶¶ 1.a, 1.b, 2.a, 2.b, and 2.c. He admitted SOR ¶¶ 1.c through 1.g, with explanations. His admissions are incorporated herein as findings of fact. After a thorough review of the evidence of record, and having observed Applicant's demeanor and considered his testimony, I make the following additional findings of fact.

Applicant is a 49-year-old employee of a defense contractor. Applicant, his parents, siblings, and extended family members were born and raised in Lebanon. Applicant's older sister married a U.S.-Lebanese citizen and they moved to the United States in the early 1980s. She became a naturalized U.S. citizen in October 1985.

Applicant's sister sponsored her parents into the United States and they have been living in the United States since 1986-1988. They became naturalized U.S. citizens in about 2004. Applicant's parents reside in the United States most of the year. However, they own a home in Lebanon and reside in Lebanon from May until November every year. Applicant and his two sisters support their parents who are retired and unemployed. Applicant has contact with his father on a weekly basis when they are in Lebanon and every day when they are in the United States. Applicant has a younger sister that became a U.S. naturalized citizen in 1998. Both of Applicant's sisters are U.S. residents. Applicant also has two aunts that are citizens and residents of Lebanon. He has contact with his aunts approximately twice a month.

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<sup>2</sup> Adjudication of this case is controlled by the AGs, implemented by the DOD on September 1, 2006.

In 1983, Applicant travelled to the United States to visit his older sister. In 1984-1985, he returned to the United States to study and remained in the United States. He immigrated into the United States using a Lebanese passport. Apparently, it was last renewed in 1998, and expired in 2003. He claimed he never renewed his Lebanese passport after it expired in 2003. He became a naturalized U.S. citizen in January 2001, and received his U.S. passport in June 2004.

Applicant's wife was born in Egypt. He met his wife in 1997, in the United States through the internet. She was studying in the United States for her master's degree. They were married in October 1998. She became a naturalized U.S. citizen around 2003-2004. They have two children, ages 12 and five, that were born in the United States.

Applicant's parents-in-law are Egyptian citizens. His father-in-law is 78 years old, holds a PH.D. in education, and works for the Government of Kuwait. He has been residing in Kuwait since 1960. His mother-in-law is an Egyptian citizen. She resides in both Egypt and Kuwait part of the year. Applicant's sister-in-law is a citizen and resident of Egypt. She works as a media freelancer. Applicant's brother-in-law is a naturalized U.S. citizen. He is currently employed by a U.S. contractor providing support to U.S. troops in Iraq. Applicant has frequent contact with his in-laws and visits them at least five or six times a year.

Applicant also has friends with whom he has frequent contact who are citizens and residents of Egypt. He has personal contact with his friends every time he travels into Egypt. He also maintains regular telephonic and email contact with his Egyptian friends.

Applicant worked as a computer desktop specialist from 2000 to 2008 in the United States. In November 2005, he applied for a linguist position with a government contractor, and submitted his first SCA. During his November 2005 interview with a government investigator, Applicant provided copies of both his U.S. passport and his Lebanese passport. Applicant's Lebanese passport indicated that Applicant used his Lebanese passport to travel to Canada in 2001. He used his expired Lebanese passport to travel to Lebanon in August 2004. He used his U.S. passport to exit Lebanon in 2004.

In March 2009, Applicant travelled to another Middle-East country (overseas) to interview for his current job position. He started working for his employer, a federal contractor, in June 2009, and submitted the pending SCA in March 2010. He works overseas as a systems administrator providing services to a U.S. government contractor supporting deployed U.S. troops. Applicant brought his wife and two children to live with him overseas from June 2009 until June 2010. However, she and the children could not cope with the different culture and language and they moved into Egypt to live with his mother-in-law. Applicant's wife and children living in Egypt makes it easier for him to visit his family on a regular basis. They have been living in Egypt since June 2010. After starting his job overseas, Applicant established a bank account overseas with

approximately \$1,000. The Middle-East country also granted Applicant a work visa, an identification card, and a driver's license.

In his March 2010 SCA, Applicant stated that he was issued a Lebanese passport in July 1998 that expired in July 2003. He claimed that he destroyed the passport when he became a naturalized U.S. citizen in 2001. (SCA Section 20B) During his October 2010 interview with a government investigator (GE 4), Applicant stated that he did not destroy the Lebanese passport in 2001, but that he destroyed the passport when it expired in 2003. In his May 26, 2011, response to DOHA Foreign Preference interrogatories (GE 2), Applicant stated that he destroyed his Lebanese passport in June 2004, when he received his U.S. passport. He did not disclose his 2001 travel to Canada and his 2004 travel to Lebanon (with his expired Lebanese passport) in his 2010 SCA.

At his hearing, Applicant claimed that he destroyed his Lebanese passport sometime after November 2005. He testified that when he submitted his 2005 SCA, he was informed that he could not hold dual citizenship or a foreign passport to receive access to classified information. Applicant further claimed that he signed a document renouncing his Lebanese citizenship and that he destroyed his Lebanese passport sometime after his November 2005 interview. He presented no documentary evidence in support of his assertions.

I take administrative notice of the following facts concerning the Arab Republic of Egypt (Egypt). The U.S.-Egyptian relationship has long helped guarantee regional peace in the Middle East, but has now entered a period of profound uncertainty. On February 11, 2011, Egyptian President Hosni Mubarak resigned from the presidency after 29 years in power. How Egypt transitions in the months ahead will have major implications for U.S. foreign policy in the Middle East. U.S. policy makers are now grappling with complex questions about the future of U.S.-Egypt relations. In the wake of Mubarak's resignation, a Supreme Council of the Armed Forces (SCAF) - consisting of military officers in leading positions under Mubarak - has exercised executive authority. Two forces have become the main political players in Egypt - the SCAF and the Muslim Brotherhood.

In the past, the United States and Egypt have enjoyed a strong and friendly relationship based on shared mutual interest in Middle East peace and stability, revitalizing the Egyptian economy and strengthening trade relations, and promoting regional security. The United States and Egypt participated in combined military exercises, including deployments of U.S. troops to Egypt. Yet, even taking into account their mutual interests and military cooperation, U.S.-Egyptian relations are rife with tension owing to the democracy issue and Egyptian disappointment with a perceived lack of U.S. pressure on Israel to compromise with Palestinians.

Egypt's revolution and rampant anti-American and anti-Israel sentiments among the newly enfranchised public may have made the U.S. more dependent on the Egyptian military leadership. The overwhelmingly hostile Egyptian public opinion toward

Israel and actions by various militant groups to destabilize the Sinai Peninsula create concerns over maintaining regional peace without firm commitment from the Egyptian military. Concerns exist that possible diplomatic relations with Islamist or leftist groups that might be elected into power may not be as strong and friendly as under the Mubarak regime.

There have been instances of instability and public disorder in areas of Egypt, including the Nile Valley. Extremist activity has previously occurred in these areas. Recently, on October 9, 2011, demonstrations in downtown Cairo, near Tahrir Square, turned violent and resulted in numerous deaths and injuries. In the last year, demonstrations have degenerated on several occasions into violent clashes between police and protesters, in some instances resulting in deaths and injuries. Similarly, ongoing sectarian violence against religious minorities have increased and resulted in deaths and instability.

Egypt has suffered from numerous terrorist attacks over the years. Major terrorist attacks, where foreigners have either been killed, injured or kidnapped, have occurred most recently in July 2005, April 2006, September 2008, February 2009, and January 2011. Americans have been the victims of some of these terrorist attacks within Egypt. In April 2009, the Egyptian government uncovered a 49-person Hezbollah cell clandestinely operating in Egypt. Hezbollah is a designated foreign terrorist organization. Hezbollah's terrorist attacks have included the suicide truck bombing of the U.S. Embassy and U.S. Marine barracks in Beirut, Lebanon, in 1983; the suicide car bombing of the U.S. Embassy annex in Beirut in 1984; and the 1985 hijacking of TWA Flight 847, during which a U.S. Navy diver was murdered. Elements of the group were responsible for the kidnapping, detention, and murder of Americans and other Westerners in Lebanon in the 1980s.

Since 2004, Hezbollah has provided training to select Iraqi Shia militants attacking U.S. and coalition forces. The group's willingness to engage in violence and its increasing stockpile of weapons continues to threaten stability in the region.

Egypt's Northern Sinai region remains a base for the smuggling of arms and explosives into Gaza, and a transit point for Hamas officials and operatives. Hamas has been designated as a Foreign Terrorist Organization since 1997, and has conducted numerous anti-Israeli attacks. The smuggling of humans, weapons, cash, and other contraband through the Sinai into Israel and the Gaza Strip has created criminal networks that may be associated with terrorist groups in the region.

Under the prior Egyptian government, abuses of power and human rights abuses were a serious problem. It is too early to determine whether the new government will discontinue this behavior; however, violent clashes with police at demonstrations are a reason for continued concerns.

Egypt considers all children born to Egyptian fathers to be Egyptian citizens – even if the child is not issued an Egyptian birth certificate or passport. Dual nationals

residing in Egypt for more than six months require proof of Egyptian citizenship, such as a family I.D. card. Further, male dual nationals staying in Egypt for more than six months from the date of arrival and who have not completed military service must obtain an exemption certificate through the Ministry of Defense before they can leave Egypt. Individuals who travel to Egypt on their Egyptian passports are normally treated as Egyptian citizens by the local government. The ability to provide U.S. consular assistance to those traveling on Egyptian passports is extremely limited.

I also take administrative notice of the following facts concerning the Republic of Lebanon (Lebanon). Lebanon became independent in November 1943. Since then, its history has been marked by periods of political turmoil interspersed with prosperity. In April 1975, full-scale civil war broke out in Lebanon, and it did not end until 1991. Although Lebanon is a parliamentary democracy, civil war precluded the effective exercise of political rights from the mid-1970s until 1992. During the period 1992 to 2005, post-war reconstruction in Lebanon has included social and political instability, economic uncertainty, problems with basic infrastructure, and clashes between Israeli military forces and Hizballah. Since 2004, there have been numerous assassinations and assassination attempts of prominent Lebanese figures, including the assassination of former Prime Minister Rafiq Hariri in 2005.

Lebanon has some human rights problems, including: Lebanese security forces arbitrarily arrested and torture detained individuals. Lebanese law does not specifically prohibit torture, and security forces have abused detainees and used torture in some instances. Although Lebanese law requires judicial warrants before arrests, except in situations involving immediate pursuit, the government has arbitrarily arrested and detained persons. Many provisions of the law concerning the rights of persons arrested and detained are not observed in practice, and security forces continue the practice of arbitrary arrest and detention. Although the law prohibits it, Lebanese authorities frequently interfered with the privacy of persons regarded as enemies of the government. Militias and non-Lebanese forces operating outside the area of Lebanon's central government authority frequently violated citizens' privacy rights and various factions used informer networks and monitoring of telephones to obtain information regarding their perceived adversaries.

Syria maintained troops in Lebanon from 1976 until 2005; however, even after the withdrawal of Syria's military troops from Lebanon, it is believed to have maintained intelligence assets in Lebanon, and Syria continues to have a strong influence in Lebanese politics. Syria, designated by the United States as a state sponsor of terrorism, provided political and weapons support to Hizballah, a U.S.-designated Foreign Terrorist Organization. The Lebanese government recognizes Hizballah as a legitimate "resistance group" and political party.

Hizballah is a Lebanese-based radical Shia group that takes its ideological inspiration from the Iranian revolution and the teachings of the late Ayatollah Khomeini. Hizballah is closely allied with Iran and often acts at its behest, and has helped Syria advance its political objectives in the region. Hizballah also provides support to several

Palestinian terrorist organizations and has been involved in numerous anti-U.S. and anti-Israeli terrorist attacks. U.S. citizens have been the target of numerous terrorist attacks in Lebanon in the past, and the threat of anti-Western terrorist activity continues to exist in Lebanon. Hizballah and other para-military groups have at times detained U.S. citizens or other foreigners for interrogation.

The United States remains extremely concerned about the role Hizballah is playing in Lebanon. In the view of the U.S. Department of State: Hizballah clearly remains a danger to Lebanon and the region. 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 Hizballah and its allies, backed by Syria and Iran.

In addition to Hizballah, several other terrorist organizations remain active in Lebanon, including Hamas, the Popular Front for the Liberation of Palestine, the Popular Front for the Liberation of Palestine General Command, Asbat-al-Ansar, Fatah al-Islam, Jund al-Sharm, and the Ziyad al-Jarrah. A Travel Warning issued by the U.S. Department of State in October 2011, alerts American citizens to the potential for a spontaneous upsurge in violence and the presence of extremist groups operating in Lebanon. Palestinian groups hostile to both the Lebanese government and the United States operate to a large extent, autonomously inside refugee and military camps in different areas of Lebanon. The U.S. Department of State continues to urge U.S. citizens to avoid all travel to Lebanon due to current safety and security concerns.

U.S. citizens who also possess Lebanese nationality are subject to general Lebanese laws and may be subject to other laws that impose special obligations on them as Lebanese citizens. Lebanese Government authorities are not able to guarantee protection for citizens or visitors to the country should violence erupt suddenly.

## **Policies**

The Secretary of Defense may grant 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. The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These AGs 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 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 to reach his decision.

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 that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of 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 applicant concerned.” See Exec. Or. 10865 § 7. See *also* Executive Order 12968 (Aug. 2, 1995), Section 3. Thus, a clearance decision is merely an indication that the Applicant has or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

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 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 or her] 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**

The government’s concern under AG ¶ 6 is that:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, he or she may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this



Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.

AG ¶ 7 sets out conditions that could raise a security concern and may be disqualifying in this case, including:

(a) contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion; and

(b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information.

The mere possession of close family ties with a person in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if only one relative lives in a foreign country and an applicant has contacts with that relative, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information.<sup>3</sup> Applicant, by himself or through his wife, had frequent contacts and a close relationship of affection and/or obligation with his family and in-laws who are residents and citizens of Egypt and Lebanon.

These contacts create a risk of foreign pressure or attempted exploitation because there is always the possibility that government agents, criminals, or terrorists operating in Egypt and Lebanon may exploit the opportunity to obtain information about the United States. With Egypt's and Lebanon's governments' instability and anti-American sentiments, their negative human rights record, the large criminal element and terrorist organizations operating within the countries, it is conceivable that Applicant, his family and in-laws could be vulnerable to coercion.

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

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

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<sup>3</sup> See ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001).

(a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S.;

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest; and

(c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.

After considering the totality of the facts and circumstances in Applicant's case, I conclude that the above mitigating conditions do not apply. Applicant's contacts in Egypt and Lebanon were not casual or infrequent. His wife and children live in Egypt, his parents live in Lebanon half of the year, and he continues to visit Egypt and Lebanon on a frequent basis.

In deciding whether Applicant's family members are in a position to be exploited, I considered Egypt's and Lebanon's forms of government.<sup>4</sup> 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 or inducement. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government or the country is known to conduct intelligence collection operations against the United States. The relationship of Egypt and Lebanon with the United States places a significant burden of persuasion on Applicant to demonstrate that his relationships with his relatives and extended family members living in Egypt and Lebanon do not pose a security risk. Applicant should not be placed in a position where he might be forced to choose between loyalty to the United States and a desire to assist his relatives living in a foreign country who might be coerced by terrorists, criminals, or governmental entities in that country.

There is no evidence that intelligence operatives, terrorists, or criminals from Egypt or Lebanon seek or have sought classified or economic information from or

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<sup>4</sup> The focus is not the country or its people, but its rulers and the nature of the government they impose. This approach recognizes that it makes sense to treat each country in accordance with the level of security concern or threat it presents to the United States.

through Applicant, his immediate family members, or his in-laws. However, considering Lebanon's and Egypt's current situation and their government actions, we cannot rule out such a possibility in the future. There is evidence that terrorist organizations operate within Egypt and Lebanon, and they have relations with other nations sponsoring terrorism or with interests inimical to the United States. This places the burden of persuasion on Applicant to demonstrate that his contacts in Egypt and 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 connections to family members.

Applicant's relationship with the United States must be weighed against the potential conflict of interest created by his relationship with his family members living in Egypt. Applicant's wife left Egypt in 1996. She married Applicant in 1998, and she became a naturalized U.S. citizen in 2003-2004. They have two children, ages 12 and five, both of whom were born in the United States. Applicant's wife and both children are residents of Egypt. Apparently, Applicant and his wife have no financial or property interests in Egypt. However, they do not own any real estate property in the United States either. Applicant and his wife are loyal and proud Americans. Additionally, Applicant has long-time friends who are citizens and residents of Egypt with whom he has maintained close frequent contact over the years.

The evidence as a whole does not support a determination that Applicant's ties and sense of obligation to the United State are sufficiently strong that he could be expected to resolve any conflict of interest in favor of the United States, even under circumstances detrimental to his relatives in Egypt and Lebanon. On balance, and considering the evidence as a whole, Applicant failed to mitigate the Guideline B security concerns.

### **Guideline E, Personal Conduct**

AG ¶ 15 explains why personal conduct is a security concern stating:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

In his March 2010 SCA, Applicant stated that he was issued a Lebanese passport in July 1998 that expired in July 2003. In this SCA, he claimed that he destroyed the passport when he became a naturalized U.S. citizen in 2001. During his October 2010 interview with a government investigator, Applicant told the investigator that he destroyed the passport when it expired in 2003. On his May 26, 2011 response to DOHA Foreign Preference Interrogatories, Applicant stated that he destroyed his Lebanese passport in June 2004, when he received his U.S. passport. At his hearing, Applicant testified that he destroyed the Lebanese passport sometime after November

2005, when he applied for a translator job and was told he could not hold a foreign passport to hold a security clearance.

Applicant used his Lebanese passport to travel to Canada in 2001, and to travel to Lebanon in 2004. He failed to disclose both visits to foreign countries in his 2010 security clearance application.

Considering the evidence as a whole, I find Applicant deliberately falsified his March 2010 SCA. Additionally, he made a false statement to a government investigator in October 2010, and he made false statements in May 2011 in his response to DOHA interrogatories. His falsification and false statements trigger the applicability of the following disqualifying conditions under AG ¶ 16:

- (a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities; and
- (b) deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative.

AG ¶ 17 lists seven conditions that could potentially mitigate the personal conduct security concerns:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by improper or inadequate advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security clearance process. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;

(f) the information was unsubstantiated or from a source of questionable reliability; and

(g) association with persons involved in criminal activity has ceased or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

After considering the above mitigating conditions, I find that none of them apply to the facts of this case. Applicant made no effort to correct his SCA falsification. To the contrary, he continued to provide false statements concerning his Lebanese passport when he was confronted by Government investigators about the whereabouts of his Lebanese passport.

Applicant knew he was required to provide truthful and candid answers during the security clearance process. Applicant's overall behavior demonstrates his unreliability, untrustworthiness, dishonesty, and lack of judgment. Moreover, it shows Applicant's unwillingness to comply with rules and regulations.

### **Whole-Person Concept**

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case, and under the whole-person concept. AG ¶ 2(c). Applicant failed to demonstrate that his family members, in-laws, and friends in Egypt and Lebanon do not pose a security risk, and that he is not in a position to be forced to choose between loyalty to the United States and his connections to family members.

Moreover, Applicant's false statements demonstrate that he cannot be trusted to tell the truth and he is unwilling to comply with rules and regulations. The record evidence fails to convince me of Applicant's eligibility and suitability for a security clearance.

### **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:	AGAINST APPLICANT
Subparagraphs 1.a - 1.g:	Against Applicant

Paragraph 2, Guideline E:

Against APPLICANT

Subparagraphs 1.a – 1.c:

Against Applicant

**Conclusion**

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant eligibility for a security clearance to Applicant. Clearance is denied.

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JUAN J. RIVERA  
Administrative Judge