



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



In the matter of: )  
)  
) ISCR Case No. 12-03772  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Alison O’Connell, Esquire, Department Counsel  
For Applicant: Jon L. Roberts, Esquire

07/17/2013

**Decision**

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,<sup>1</sup> I grant Applicant’s clearance.

On 4 September 2012, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) listing security concerns under Guideline B, Foreign Influence.<sup>2</sup> Applicant timely answered the SOR, requesting a hearing before the Defense Office of Hearings and Appeals (DOHA). DOHA assigned the case to me 5 December 2012 and I convened a hearing 17 January 2013. DOHA received the transcript 28 January 2013.

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<sup>1</sup>Consisting of the transcript (Tr.), Government exhibits (GE) 1-5, hearing exhibit (HE) I, and Applicant exhibits (AE) A-H.

<sup>2</sup>DoD acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DoD on 1 September 2006.

## Findings of Fact

Applicant admitted the SOR allegations. He is a 40-year-old managing editor employed by a defense contractor since April 2006. He has not previously held an industrial clearance. He was denied access to a special access program by another government agency (AGA) in May 2010, because of program requirements regarding foreign relatives (GE 2-5).

Applicant was born and raised in Lebanon. From 1989 to 1995, he attended an American university in Lebanon, on a scholarship given by a charitable foundation started by a very wealthy, influential, and politically active Lebanese family. Applicant's eligibility for the scholarship was based on a competitive examination. The same program funded the master's program he attended in the U.S. from September 1997 to May 1999. The scholarship program no longer exists. Applicant obtained a second master's degree from a university in the United Kingdom (UK) that Applicant attended from September 2002 to September 2003. Applicant paid for this program with his savings.

While studying in the UK, Applicant met his future wife, a native-born U.S. citizen who was herself studying in the UK. She returned with him to Lebanon, where they were married in October 2003. Shortly after, they returned to the U.S. Applicant became a naturalized U.S. citizen in August 2008, and obtained his U.S. passport in September 2008. As required by U.S. immigration law, he maintained a valid Lebanese passport until his naturalization. His most recent Lebanese passport was issued in March 2004, but he surrendered it to his company facility security officer (FSO) in June 2009, during the processing of his first clearance application. The FSO destroyed the passport.

Applicant's parents, step-mother, and two half-brothers are resident citizens of Lebanon. Applicant's father was employed for many years as the aircraft coordinator for a private company owned by the same very wealthy, influential, and politically active Lebanese family whose charitable foundation provided Applicant's scholarships. He is now retired, and in poor health. Applicant's parents divorced when he was five, and he was largely raised by his father and paternal grandmother. Consequently, he rarely saw his mother growing up. In addition, she suffers from mental health issues that started after her divorce and is incapable of long conversations. Applicant has very little contact with her. Applicant is equally distant from his step-mother, a homemaker with whom he has not had any contact with since April 2011. Applicant has no close relationship with his half-brothers, who are 10 and 15 years older than Applicant, respectively.

Applicant's property in Lebanon was given to him by his father as a wedding present. It has fallen into disrepair because of his neglect over the years, and he is unwilling to spend any money on it. He has been trying to sell it for years, but the poor real estate market and the worsening security situation in Lebanon has made that impossible. He is in the process of giving the property to one of his half-brothers (AE H), because of the potential security concerns it raised if he retains ownership.

Applicant has regular contact with his relatives in Lebanon. Applicant and his family traveled to Lebanon about every 18 months until 2011, when the security situation made travel there problematic. Nevertheless, his contacts cannot be characterized as casual or infrequent.

Lebanon is a nominal parliamentary democracy with a less-than-perfect human rights record. It has both a long history of civil war and of foreign influence by Syria. Lebanon is not a state sponsor of terrorism, but is a permissive environment—particularly in southern Lebanon—for groups recognized by the U.S. as terrorist organizations, considered by Lebanon as “freedom fighters” against Israel. Lebanon, like most Arab states, does not recognize Israel, with which it has been technically at war since Israel’s establishment. The U.S. State Department continues to maintain a travel warning for U.S. citizens contemplating travel to Lebanon.

Applicant estimates his net worth at \$500,000, not including the value of his property in Lebanon (Answer, AE F). He and his wife own their home in the U.S.. Applicant’s annual salary is nearly \$100,000.

Applicant reported his foreign relatives as required on his February 2009 and June 2011 clearance applications (GE 5, 1).

Applicant has an excellent work record (AE B, C). His work and character references (Answer) and witnesses consider him honest and trustworthy handling company proprietary information, and recommend him for his clearance. Applicant is also aware of his security obligations to report any suspicious foreign contacts to his security office.

## **Policies**

The adjudicative guidelines (AG) list factors for evaluating a person’s suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also reflect a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). Any one disqualifying or mitigating condition is not, by itself, conclusive. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guideline is Guideline B (Foreign Influence).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant’s security clearance. The Government must prove, by substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to applicant to refute, extenuate, or mitigate the Government’s case. Because no one has a right to a security clearance, the applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a compelling interest in ensuring each applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The “clearly consistent with the national interest” standard compels resolution of any reasonable doubt about an applicant’s suitability for access in favor of the government.<sup>3</sup>

### **Analysis**

Under Guideline B (Foreign Influence), an applicant’s foreign contacts and interests may raise security concerns if the individual 1) has divided loyalties or foreign financial interests, 2) may be manipulated or induced to help a foreign person, group, organization, or government in a way contrary to U.S. interests, or 3) is vulnerable to pressure or coercion by any foreign interest. Foreign influence adjudications 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, whether the country is known to target U.S. citizens to obtain protected information and/or is associated with a risk of terrorism.<sup>4</sup>

Evaluation of an individual’s qualifications for access to protected information requires careful assessment of both the foreign entity’s willingness and ability to target protected information, and to target ex-patriots who are U.S. citizens to obtain that information, and the individual’s susceptibility to influence, whether negative or positive. More specifically, an individual’s contacts with foreign family members (or other foreign entities or persons) raise security concerns only if those contacts create a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion.<sup>5</sup>

Further, security concerns may arise through connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual’s obligation to protect sensitive information or technology and the individual’s desire to help a foreign person, group, or country by providing that information.<sup>6</sup> In addition, security concerns may be raised by 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

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<sup>3</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>4</sup>AG ¶ 6.

<sup>5</sup>AG ¶ 7 (a).

<sup>6</sup>AG ¶ 7 (c).

exploitation.<sup>7</sup> Finally, failure to report, where required, association with a foreign national may raise security concerns.<sup>8</sup>

Concerning potential mitigating factors, 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.,” largely mitigates the Applicant’s circumstances regarding Lebanon.

While the ongoing risk of terrorist activity by rogue elements in Lebanon raises safety issues addressed by U.S. Government travel warnings, there is no evidence that terrorist elements use violence as a means of obtaining protected information, or that any of Applicant’s relatives live in areas subject to terrorist activity. Similarly, the Lebanese government is not known to target such information, and there is no evidence that they use coercive means or target ex-patriate citizens or former citizens to obtain this information.

Applicant has ongoing contact with his father in Lebanon. Most of the contact is by telephone, although Applicant and his family traveled to Lebanon about every 18 months until 2011 to visit his relatives. Yet the nature and extent of his contact with his relatives abroad are what one might reasonably expect of any immigrant with parents or living in a distant country.

Nothing about his family members’ previous or present occupations or activities creates a heightened risk. None of them has an affiliation with the Lebanese government, or any military, security, or intelligence responsibilities. Applicant’s father worked for a private company. The fact that that company was owned by the very wealthy, influential, and politically active Lebanese family does nothing to heighten the risk that Applicant could be subject to influence because of his father’s past employment. Similarly, the scholarships provided to Applicant by the charitable organization founded by the wealthy, influential, and politically active family were widely—albeit also competitively—available. They might have raised security concerns under Foreign Preference, but for the fact that Applicant obtained them before he became a U.S. citizen. But Applicant has no continuing obligation to the organization that gave him the scholarships, and there seems little likelihood that Applicant could be subject to influence because of the organization’s past support.

Applicant’s Lebanese property, which he is in the process of giving to his half-brother, does not establish AG ¶ 7(e). Applicant has failed to maintain the property, and it plays no part in Applicant’s financial planning. While not de minimus, this is not a substantial property interest in a foreign country that could present a heightened risk of

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<sup>7</sup>AG ¶ 7 (e).

<sup>8</sup>AG ¶ 7 (f).

foreign influence. The property is also mitigated under the first prong of AG ¶ 8(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.”

A heightened risk of undue foreign influence may also be mitigated under AG ¶ 8(b), where “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.” Applicant’s sense of loyalty or obligation to his father cannot be characterized as “so minimal” for the same reasons that his contacts cannot be considered “casual and infrequent.” Yet, there is no similar sense of loyalty to a foreign group, government, or country. Moreover, Applicant has persuaded me that he can be expected to resolve any conflict of interest in favor of the United States, where he has resided since 2003 and established firm roots.

Under the whole-person concept, the administrative judge must evaluate an applicant’s eligibility for a security clearance by considering the totality of his conduct and all relevant circumstances in light of the nine adjudicative process factors listed at AG ¶ 2(a). Applicant has family and financial ties to Lebanon that potentially raise concerns of foreign influence. Applicant has also minimized the risk somewhat by not discussing his work with his relatives in Lebanon. They are unaware that he is applying for a DOD clearance. He is not likely to jeopardize himself, his spouse, or the employment that he needs to provide better opportunities for himself and his spouse. Applicant has demonstrated his reliability and trustworthiness to his co-workers. After considering all the facts and circumstances, I find it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Accordingly, I resolve Guideline B for Applicant.

### **Formal Findings**

Paragraph 1. Guideline B:	FOR APPLICANT
Subparagraphs a-f:	For Applicant

### **Conclusion**

Under the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance granted.

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JOHN GRATTAN METZ, JR  
Administrative Judge