DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
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	)	
Applicant for Security Clearance	)	

Appearances

For Government: Philip J. Katauskas, Esquire, Department Counsel
For Applicant: David P. Price, Esquire

November 30, 2011

Decision

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

On March 21, 2011, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing security concerns under Guideline E (Personal Conduct) and Guideline B (Foreign Influence). The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the Adjudicative Guidelines (AG).

In his October 7, 2009, response to the SOR, Applicant admitted one of the two allegations raised under Guideline E and all four allegations raised under Guideline B. He also requested a hearing before an administrative judge. The case was assigned to another administrative judge on June 6, 2011, but it was transferred to me on July 5, 2011, for caseload considerations. The parties agreed to an August 8, 2011, hearing date. A notice to that effect was issued by DOHA on July 19, 2011. Due to a scheduling conflict, an amended notice was issued on July 20, 2011, scheduling the hearing for August 10, 2011. The hearing took place as scheduled.

Department Counsel submitted four documents and information constituting a request for administrative notice concerning the country at issue (Lebanon). The materials were accepted into the record as exhibits (Ex.) 1-4 and administrative notice hearing exhibit (HE1 or HE) without objection. Applicant gave testimony, introduced one witness, and offered 16 documents, which were accepted into the record without objection as Exs. A-P. Applicant was given until August 23, 2011, to submit any additional documents through Department Counsel. With the agreement of the parties, allegation ¶ 2.d was struck due to a change in facts regarding Applicant's brother. Reference to that brother was incorporated into an amended allegation ¶ 2.a.[1] On August 17, 2011, the transcript (Tr.) of the proceeding was received. Also on that date, Applicant forwarded one additional document to Department Counsel. After it was forwarded to me, the document was accepted into the record without objection on September 1, 2011, as Ex. Q. The record was then closed. Based upon a review of the record, security clearance is denied.

Administrative Notice

The Government's HE consists of a summary of facts about the Republic of Lebanon and references 18 U.S. government official documents. Based on those materials, I take notice of the following: The Republic of Lebanon became independent in 1943. Since that time, its history "has been marked by periods of political turmoil interspersed with prosperity."[2] Although it is a parliamentary democracy, the effective exercise of political rights was precluded during a civil war that raged from 1970s until 1992. Post-war reconstruction through 2005 was marked by political instability, economic uncertainty, assassination plots involving Lebanese officials, and clashes between Israeli military forces and Hizballah, a Shia Islamist political organization which has been designated by the United States as a "Foreign Terrorist Organization" and is described as "the most technically capable terrorist group in the world."[3] Hizballah is provided political and material support by Syria, a country designated by the United States as a state sponsor of terrorism and has significant intelligence assets in Lebanon.

The Lebanese government recognizes Hizballah as a legitimate resistance group and political party.[4] Hizballah is closely allied with Iran. It provides support to several Palestinian terrorist organizations, and is known to have been involved in numerous anti

[1] Tr. 19-20. Allegation ¶ 2.a was amended to read: "You have two sisters and a brother who are citizens and residents of Lebanon."

[2] Ex. HE (Administrative Notice) at 1.

[3] *Id.* at 2*, citing to HE attachments* U.S. Department of State, *Country Reports on Terrorism, Chapter 3 - State Sponsors of Terrorism Overview*, dated Aug. 5, 2010, at 3, and U.S. Department of State, *Country Reports on Terrorism, Chapter 6 - Terrorist Organizations* (Terrorist Organizations), dated Aug. 5, 2010, at 2 and 12.

[4] Terrorist Organizations, *supra*, note 3.

U.S. and anti- Israeli terrorist attacks.[5] The United States is concerned about the role played by Hizballah in the Lebanese government, noting that it "clearly remains a danger to Lebanon and the region."[6] In May 2009, the U.S. Permanent Representative in the United Nations condemned Hizballah's "unwarranted interference in the domestic affairs of a sovereign state."[7]

Human rights violations exist within Lebanon. Its security forces have been known to arbitrarily arrest and detain individuals. Detainees have experienced torture and abuse. Lebanese authorities frequently interfere with the privacy of persons regarded as enemies of the government. Americans living and working in Lebanon should understand that they accept risks in remaining. The United States remains concerned about the potential for violence with little or no warning. Dual U.S.-Lebanese citizens may be subject to laws that impose special obligations on them.[8]

The threat of intelligence gathering by Hizballah and its agents remains a concern. Such activities have extended beyond Lebanon's borders. In 2007, for example, a Lebanese national and U.S. citizen pled guilty to charges of fraudulently obtaining U.S. citizenship. She later used that citizenship to gain employment at the FBI and CIA; accessing a federal computer system to unlawfully query information about her relatives and the terrorist organization Hizballah; and conspiring to defraud the United States.[9] Moreover, in 2008, a New Jersey man pled guilty to providing material support to Hizballah by knowingly providing satellite transmission services to Al Manar. The man admitted that he knew Al Manar was operated by Hizballah and that Hizballah had engaged in acts of terrorism as defined by federal law.[10]

Findings of Fact

Applicant is a 49-year-old translator/linguist who has worked for various defense contractors since 2003. The eldest child of Lebanese parents, he was born in Kuwait. He graduated from a Kuwaiti high school in 1981. In 1987, he came to the United States to pursue post-secondary studies and learn the English language.[11] Applicant

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[5] Ex. HE, *supra*, note 2, at 3.

[6] Ex. HE, U.S. Department of State, *Recent Developments in Lebanon* (Recent Developments), dated Mar. 24, 2009, at 2.

[7] Ex. HE, Remarks on Lebanon and Resolution 1559 at 1.

[8] Ex. HE, *supra,* note 2, at 4.

[9] *Id*. at 5, citing to U.S. Dep't of Justice, *Former Employee of CIA and FBI Pleads Guilty*, dated Nov. 13, 2007.

[10] *Id.*, citing to U.S. Dep't of Justice, *Man Pleads Guilty to Providing Material Support to Hizballah TV Station*, Dec. 30, 2008.

[11] Applicant had previously visited the United States for two months as a high school student. Tr. 82.

married in 1989 and relocated to a different part of the United States to continue his studies. Applicant's parents joined him the United States in the early 1990s. Applicant became a naturalized U.S. citizen in 1995. He divorced in 1998. Applicant's father died in 2001, while seeking U.S. citizenship. His mother became a U.S. citizen in 2003.

Applicant never completed his college program. He worked his way up from humble jobs to becoming a trucking service owner/operator from 1999 until 2002. He then turned to linguistics. As a linguist, he has been deployed overseas four times to serve in his professional capacity. During one mission, Applicant was severely injured. His first job was with Company X, where he worked from about October 2002 until August 2003. During that time, he was granted an interim clearance. When he resigned, he was eligible for rehire. He worked for another entity from October 2003 until April 2004, then provided periodic service for yet another entity from September 2004 through December 2004. From December 2004 until August 2006, he worked for a subsidiary or subcontractor under the umbrella of Company X.

After multiple subject interviews, a SOR was issued regarding Applicant's application for a security clearance that noted security concerns arising under Guideline B, Guideline C, and Guideline E.[12] Applicant requested a hearing before a DOHA administrative judge. A hearing was convened, at which Applicant appeared with the aid of counsel.[13] In May 2006, the administrative judge issued a decision in which Guideline B and Guideline C were found in favor of Applicant, but Guideline E was found against him.[14] With regard to the adverse findings, the administrative judge found that at least one explanation provided by Applicant "makes little sense," that his omission of certain information during the investigatory process reflected "poor judgment," and that while the record did not support a finding that Applicant's answers to another question lacked evidence that the omission was deliberate, there was evidence of "questionable

[12] Tr. 166. It is unclear which security application served as the basis for this previous SOR. The evidence reflects that previous applications were completed and dated in January 2003, September 2003, January 2004, August 2004, October 2004, and December 2004. *See* Ex. 3 (AJ Dec. ISCR Case No. 04-08867, dated May 31, 2006) at 4. *See also* Ex. D (Applicant's SF86, dated Dec. 9, 2004). The application forming the basis of the SOR at issue in this case, dated March 2011, would be at least Applicant's sixth effort.

[13] Tr. 142-145.

[14] Ex. 3, *supra*, note 12. The allegations under Guideline B were substantially the same as those raised in the current proceeding, with this proceeding adding consideration of a Lebanese friend, as noted below. The Guideline E allegations appear to have been based on issues concerning answers given regarding a foreign passport and foreign travel and the judgment those answers reflected, not the Guideline E issues presented in this case. Given the changes in Lebanon over the years in relation to Applicant's foreign contacts, the new personal conduct issues, and the implementation of revised adjudicative guidelines that became effective in September 2006, the earlier decision's findings are not binding herein.

judgment."[15] The DOHA Appeal Board affirmed the administrative judge's decision.[16] As a result, Applicant was terminated from his job when his application for a security clearance was denied.[17]

Unemployed from August 2006 until April 2008, Applicant was then hired by his present employer as a linguist. On September 9, 2009, Applicant certified as true his answers to a security clearance application (e-QIP). In response to Section 25(b)(1) (*To your knowledge, have you EVER had a clearance or access authorization denied, suspended, or revoked; or been debarred from government employment? If "Yes," give the action(s), date(s) of action(s), agency(ies), and circumstances. Note: An administrative downgrade or termination of a security clearance is not a revocation*), Applicant answered "Yes." In the space provided, he noted, "Date of action, month/year: 06/2006" and wrote "A misunderstanding of the the [sic] question that resulted in denial. It was not my fault as I was directed by [Company X] FSO to do so."[18] No further comments clarified this statement.

A lengthy personal subject interview was conducted under unsworn declaration on October 26, 2009. The investigator reported Applicant's comments as follows:

> Subject answered the question about having a clearance or access authorization denied, suspended or revoked incorrectly. Subject should have answered the question no (discrepant) because the subject left [Company X] voluntarily in August 2003[.] The subject believes his clearance was terminated because the subject was no longer going to be working for [Company X]. The subject is not aware of ever having a clearance denied, suspended or revoked or being debarred from government employment[.] The subject would have had his clearance terminated when he left [Company X].[19]

In an interrogatory signed on August 23, 2010, Applicant was asked at Item 32 (Personal Conduct), "You failed to list your prior clearance denial on your current security clearance application. Please indicate the reasons you failed to list your denial.

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[15] *Id.* at 8-9. The administrative judge concluded his decision by noting, "An applicant is duty bound to be forthright during all phases of the security investigation."

[16] Ex. 4 (App. Bd. Dec. ISCR Case No. 04-08867, dated Feb. 20, 2007).

[17] Ex. Q (Supplemental submission, dated Aug. 17, 2011). The exact date of the denial varies. The SOR and some sources date the denial as May 31, 2006, the date of the administrative judge's adverse decision. A May 15, 2008, letter from the Defense Security Service states that Applicant's security eligibility was denied on June 8, 2006. Ex. G (DISCO letter, dated May 15, 2008).

[18] Ex. 1 (e-QIP, dated Sep. 9, 2009) at 42-43 of 51.

[19] Ex. C (Applicant's Personal Subject Interview, dated Oct. 26, 2009).

Fully explain."[20] Applicant responded by writing: "I did not fail to list my prior clearance denial on my current security clearance application. I listed the denial on SF86 Section 25, 1B, p. 43."[21] In swearing or affirming his answers, he also swore or affirmed that he had read the summary of the October 26, 2009, interview and "either found the interview report to be accurate" or added corrected information in the space provided.[22] Later, in responding to the SOR, he stated that he had not been provided with an opportunity to review the investigator's summary.[23]

As noted, Applicant is the first-born child in his family. The second-born child in Applicant's family is a sister, who was born in Kuwait but is a citizen by birth of Lebanon. A widowed homemaker, she is presently a resident and citizen of Lebanon with four children. She does not maintain much contact with Applicant, a fact that hurts him personally.[24] The third-born child is a sister who was born in Kuwait who similarly has maintained Lebanese citizenship since birth. She resides in Lebanon. She is a housewife who contacts Applicant on holidays, but seldom at other times.[25] Her husband is an officer in the Lebanese Army. Applicant last saw this sister and her husband after Applicant's father died in early 2001. The fourth-born child in Applicant's family is also a sister, who was born in Kuwait as a Lebanese citizen. She is now a U.S. citizen who is married to a U.S. citizen. They have children who are U.S. citizens.

Applicant's youngest sibling is a brother, who was also born in Kuwait as a Lebanese citizen. The brother was preparing to seek U.S. citizenship when he was involved in a vehicular accident that resulted in an individual's death. He was imprisoned in the United States as a result of the death. He was deported to Lebanon in 2010 after he completed his period of incarceration. The brother remains a resident and citizen of Lebanon. His wife is a U.S. born citizen who lives in the United States with

[20] Ex. 2 (Interrogatory, dated Aug. 23, 2010) at 21.

[21] *Id.*

[22] Tr. 149-151; *Id.* at 23. In his response to the SOR, however, Applicant denied that he was "provided with an opportunity to review or comment upon what" the investigator wrote in the summary. *See* SOR response, dated Apr. 28, 2011, at 2. Applicant later characterized the interviewer's underlying summary as "very ambiguous." Tr. 166.

[23] *Id.*

[24] Tr. 99.

[25] Ex. 3, *supra*, note 12, at 7. To Applicant's distress, his two sisters in Lebanon do not regularly visit, communicate, or maintain contact. He explained that in their culture, it is incumbent upon the younger siblings to make such efforts as a gesture of respect to the eldest sibling. Tr. 99-102.

their child.[26] Applicant's relationship with his brother has long been strained. The brother did not and does not respect his advice and familial authority.[27]

Applicant also has an acquaintance who resides in Kuwait, but who is a citizen of Lebanon.[28] Applicant has referred to this male individual, whom he has known since high school, as a "friend." They were in school together and, along with the boy's brother, played soccer together after high school. Applicant does not know much about these peers' family.[29] The acquaintance's brother, however, is now a resident and citizen of the United States who maintains a security clearance.[30] Applicant and the friend's brother were roommates for a while when Applicant attended a U.S. college. The friend, however, has never visited the United States. Over the years, Applicant has complained to his former roommate that the brother in Kuwait does not keep contact with Applicant. This led to a telephone conversation in early 2011 with the former friend. Distance and years had increasingly affected their childhood friendship since Applicant moved to the United States.[31] Applicant now considers this man to be a mere acquaintance. A current close friend of Applicant's conveyed his impression that Applicant's childhood friend is now better termed an acquaintance with whom he once shared a past, but who is not a present friend.[32]

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required in evaluating an applicant's eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's over-arching adjudicative goal is a fair, impartial, and commonsense decision. Under AG ¶ 2(c), this process is a conscientious scrutiny of a number of variables known as the "whole-person concept." All available, reliable information about the

[26] Tr. 104.

[27] Tr. 101-104. Applicant described their relationship as "not good." Tr. 101.

[28] The friend with whom Applicant once shared a teenage friendship now lives in Kuwait. Tr. 92. His residence was erroneously referenced as Lebanon at least once during the hearing. Tr. 71.

[29] Tr. 92.

[30] Tr. 93-94.

[31] Tr. 97.

[32] Tr. 72-75.

person, past and present, favorable and unfavorable, must be and are considered in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." In reaching my decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence submitted.

The Government must present evidence to establish controverted facts alleged in the SOR. An applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ."[33] The burden of proof is something less than a preponderance of evidence. The ultimate burden of persuasion is on the applicant.[34]

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk an applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." *See also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information). "The clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials."[35] Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.[36] The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant.[37] It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. Based upon consideration of the evidence, I

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

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

[35] *Id*.

[36] *Id*.

[37] Executive Order 10865 § 7.

find Guideline E (Personal Conduct) and Guideline B (Foreign Influence) to be pertinent to the case. Conditions pertaining to these guidelines that could raise a security concern and may be disqualifying, as well as those which would mitigate such concerns, are discussed below.

Analysis

Guideline E – Personal Conduct

Security concerns arise from matters of personal conduct because "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."[38] In addition, "any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process" is of special interest.[39]

In May 2006, a DOHA administrative judge issued an adverse decision regarding Applicant that denied him a security clearance. The Defense Security Service (DSS) noted the effective date of that denial as June 8, 2006. Consequently, Applicant lost his job with a subsidiary or subcontractor of Company X in August 2006. In an October 26, 2009, interview, Applicant claimed that he was not aware of *ever* having had a security clearance denied, but only terminated (when he left a job with Company X in 2003). If this explanation was intentionally false or misleading, it would be sufficient to raise Personal Conduct Disqualifying Condition (PC DC) 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*). With a PC DC potentially raised, the burden shifts to Applicant to mitigate the security concerns.

Applicant's statements or representations of his statements regarding his past security clearance status consist of the following:

● May 2006 – After an SOR was issued and a hearing was held, a DOHA administrative judge issued a decision denying Applicant a security clearance. That decision was affirmed by the DOHA Appeal Board in February 2007.

● May 2008 – DSS DISCO letter is issued to Applicant, referencing his 2006 security clearance denial.

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[38] AG ¶ 15.

[39] *Id.*

● September 2009 – Applicant completed a security clearance application in which he noted a 2006 clearance denial that he described as having been based on the misunderstanding of a question.

● October 2009 – After discussing his past employment, including the time during which Applicant first worked for Company X, Applicant gave a statement that led an investigator to note: "The subject is not aware of ever having a clearance denied, suspended or revoked or being debarred from government employment." This statement is not qualified in any manner.

● August 2010 – Applicant referenced his September 2009 security clearance application answer regarding a past clearance denial, but also adopted the October 2009 investigator's summary without correction, qualification, or comment.

● 2011 – The current SOR alleges that Applicant's comments to the investigator were deliberately false or misleading when he claimed that he had never had a clearance denied, but only terminated when he left his employment with Company X. Rather, it notes that his prior security clearance application was denied as a result of the adverse May 2006 DOHA administrative judge's decision.[40] In response, Applicant implied that he was previously denied the opportunity to review or comment on the interviewer's summary. No reference is made to his adoption of that summary in 2010. He wrote that the attributed comment was based on a misunderstanding.

Applicant's testimony at the hearing did not resolve the inconsistencies presented by the facts. He initially disclosed the 2006 denial in his September 2009 application, then, during the October 2009 interview, made the sweeping statement that he was not aware of ever having had a clearance denied, suspended, or revoked. By way of explanation, he testified that there was confusion about his periods of employment with Company X and its subsidiary/subcontractor, and the various forms of clearances he has maintained.[41] He asserted that the discrepancy is based on miscommunication.[42] He argued that the investigator's summary is incorrect, and that she "mis-comprehended" his statements during the lengthy interview.[43] However, he adopted the summary, including his denial of a past clearance denial, without comment or objection in August 2010 - while incongruously referencing back to his initial disclosure of a denial in his 2009 application. Moreover, in reference to the investigator's summary, he later stated in his response to the SOR that he had not been provided with the opportunity to review or comment on the summary. Yet at the hearing,

[40] SOR allegations ¶¶ 1.a-1.b.

[41] Tr. 129-130. Applicant did not elaborate as to any other clearances.

[42] Tr. 132.

[43] Tr. 146-148

he acknowledged that he adopted the summary's contents when he completed the 2010 interrogatory.

While it is recognized that English is not Applicant's first language, he has been actively employed as a linguist by U.S. defense contractors for his translation and cultural expertise for many years. Moreover, he is not a novice with regard to the security clearance process. Applicant has completed multiple security clearance applications. He has been interviewed by investigators more than once. It can be assumed that he also had previous experience completing interrogatories. He appeared before a DOHA administrative judge once before, and appealed the resultant decision. Furthermore, the adverse 2006 decision was based, at least in part, on issues related to incomplete answers or misunderstandings. Consequently, he knew or should have known that full, frank, and candid answers are an integral part of this process.

In 2010, however, when given the opportunity to review and note any corrections regarding his October 2009 subject interview summary, Applicant adopted the summary as written. He did so without qualification or correction. This adoption included the unqualified statement that "subject is not aware of ever having a clearance denied, suspended or revoked." Given such an opportunity, a reasonable person would have then noted any misstatements or registered any disputes about his broad statement if it was untrue or incorrect. This is particularly true for an individual with considerable experience in the investigatory and interview process. Consequently, I conclude that Applicant must have intentionally falsified or provided a misleading answer when he made this representation during his interview. My conclusion is further bolstered by Applicant's denial in his Response to the SOR that he had not had an opportunity to review and comment on the interview summary previously, when, in fact, it was shown at hearing that he had adopted the interview summary in his 2010 interrogatory. Given these facts, neither Personal Conduct Mitigating Condition AG ¶ 17(a) (*the individual made prompt, good faith efforts to correct the omission, concealment, or falsification before being confronted with the facts*), AG ¶ 17(c) (*the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment*), nor AG ¶ 17(e) (*the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress*) apply. None of the other mitigating conditions apply.

Guideline B – Foreign Influence

The concern under Guideline B is that foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. The adjudication can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target U.S.

citizens to obtain protected information or is associated with a risk of terrorism. Conditions pertaining to this adjudicative guideline that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, are discussed in the conclusions below.

The country at issue is Lebanon. Due consideration is given to those facts set forth above regarding that country. It is noted, however, that while the government of Lebanon is not known to target U.S. citizens to obtain protected information and is not directly associated with terrorist activity, it does recognize a foreign terrorist organization (Hizbollah) as a legitimate resistance group and political party. Hizballah and its associates have been directly linked to terrorist activity and information gathering efforts within the United States. It is also recognized that the situation in Lebanon has not significantly improved since Applicant's family members were last examined by a DOHA administrative judge in 2006, and that neither the presence of nor the threat represented by Hizballah has waned. Therefore, heightened scrutiny is warranted with regard to the admitted allegations concerning Applicant's relatives with citizenship and residency in Lebanon (two sisters, brother, and brother-in-law who serves as an officer in the Lebanese Army). Those familial relationships, as well as his relationship with a Lebanese friend living in Kuwait, give rise to Foreign Influence Disqualifying Conditions AG ¶ 7(a) (*contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of exploitation, inducement, manipulation, pressure, or coercion*) and AG ¶ 7(b) (*connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information*). With disqualifying conditions raised, the burden shifts to Applicant to mitigate security concerns.

Due in part to his siblings' resistance to give Applicant the deference and respect culturally extended to the eldest sibling and head of the family, Applicant does not maintain close relationships with his foreign siblings. Applicant has two sisters who are residents and citizens of Lebanon. His oldest sister is a widow and homemaker. They maintain negligible contact. His next oldest sister is a homemaker married to an officer in the Lebanese Army. They only exchange perfunctory greetings on major holidays. Applicant's brother, who was incarcerated in the United States before being deported back to Lebanon, is also a resident and citizen of the Lebanon. Applicant's relationship with his brother is "not good," and the facts indicate both that the two are estranged and that the Applicant is unhappy with his younger sibling's failure to respect his authority. There is nothing in the record to indicate that any of these siblings are agents of a foreign power or is in a position to be exploited. Foreign Influence Mitigating Condition AG ¶ 8(a) (*the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S.*) and AG ¶ 8(c) (*contact or communication with foreign citizens*

is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation) applies to these three siblings.

Applicant's brother-in-law is an officer in the Lebanese Army. However, the two have not seen each other since about 2001, after the death of Applicant's father. Given the perfunctory nature of communications between Applicant and the officer's wife, it may be concluded that subsequent written or telephonic contact between Applicant and the officer, if any, has been minimal. Applicant's position of vulnerability with regard to his brother-in-law is minimal. Also at issue is a friend from Applicant's teenage years in Kuwait. This individual is a citizen of Lebanon and a resident of Kuwait. Applicant credibly depicted the natural disintegration of their relationship due to time and geography. Applicant's depiction of this childhood friend clearly represents a casual acquaintance, an assessment supported by a current close friend of Applicant. With regard to this individual and Applicant's brother-in-law, AG ¶ 8(b) (*there is no conflict of interest, either because the individual's sense of loyalty to or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest*) and, to a greater degree, AG ¶ 8(c) (*contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation*) applies.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a). Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case, as well as the whole-person factors. Applicant is a mature man with some post-secondary education and nine years experience as a linguist. He immigrated to this country to pursue his education and refine his English language skills. He is dedicated to his work. Applicant was wounded on one of his four foreign deployment while in service to this country. When he completed the 2009 security clearance application, he had experience with the security clearance process, including the completion and certification of a security clearance applications, cooperating with investigators, and appearing at a DOHA hearing. This is the second time Applicant's answers during the security clearance process have raised significant security concerns regarding personal conduct and his participation in the clearance application and investigation process. He knew the importance of actively

giving detailed, accurate, and consistent answers to relevant questions, and the responsibility of verifying those answers.

With regard to issues concerning foreign influence, despite the continued unrest in Lebanon and the growing influence of Hizballah, Applicant provided sufficient information regarding his foreign siblings, in-law, and childhood friend to mitigate foreign influence security concerns. He did so mainly by highlighting their increasingly casual relationships and infrequent contact. He also demonstrated that those same factors do not create a heightened risk of exploitation, inducement, manipulation, pressure, or coercion.

What remains worrisome are issues regarding personal conduct and his reliability. In his September 2009 application, he indicated that he had a security clearance denied in 2006. Then in October 2009, he recanted that information and stated that he was not aware of *ever* having a clearance denied – even though he had undergone an onerous process in 2006 that culminated in a 2007 Appeal Board decision. Next, in August 2010, he incongruously reaffirmed his September 2009 security clearance application disclosure of a 2006 denial – yet adopted in whole without comment or correction the October 2009 interviewer's summary. Then in 2011, he denied having been provided the opportunity to review the investigator's summary. Later, at the hearing, he acknowledged the interrogatory containing his adoption of that summary.

It is possible that the interviewer was mistaken in her summary. Yet it was Applicant's responsibility to note any objections or mistakes in that summary when he was given that opportunity in 2010. Rather than note any objections or cite to any mistakes at that time, however, he both adopted her summary and his denial of never having had a security clearance denied – never raising any issues regarding the accuracy of the summary. To now disavow that adopted summation as a simple oversight seems self-serving. It also raises serious issues regarding judgment, candor, and reliability.

I have duly considered all the exhibits and relevant facts in this case, including Applicant's familiarity and past issues with the investigatory and administrative hearing process, the past admonitions regarding the necessity of his providing full and candid answers throughout that process, his linguistic fluency, his answers to relevant questions, and his overall testimony. There is no evidence that Applicant is disloyal. However, his failure to consistently, fully, directly, and honestly provide clear answers to direct questions sustains personal conduct security concerns. As noted, any doubt concerning personnel being considered for access to classified information will be resolved in favor of national security. Clearance is denied.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline E:	AGAINST APPLICANT
Subparagraphs 1.a-1.b:	Against Applicant
Paragraph 2, Guideline B:[44]	FOR APPLICANT
Subparagraphs 2.a-2.c:	For Applicant

Conclusion

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

ARTHUR E. MARSHALL, JR.
Administrative Judge

[44] As noted, supra, ¶ 2.a was amended to incorporate the substance of the struck ¶ 2.d.