



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



In the matter of: )  
 )  
----- ) ISCR Case No. 07-01447  
SSN: ----- )  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Alison O’Connell, Esquire, Department Counsel  
For Applicant: *Pro Se*

March 14, 2004

**Decision**

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant submitted his security clearance application (SF 86) on February 7, 2006. On August 8, 2007, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant a Statement of Reasons (SOR) detailing the security concerns under Guideline C and Guideline B. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant answered the SOR in writing on August 21, 2007, and requested a hearing before an Administrative Judge. On November 2, 2007, Department Counsel indicated the Government was prepared to proceed, but at the same time moved for administrative notice of certain facts pertinent to Lebanon. On November 8, 2007, the case was assigned to me to conduct a hearing on Applicant’s security suitability. On November 13, 2007, I granted Applicant until December 3, 2007, to file any objections

and/or to propose alternative facts for administrative notice. Applicant did not respond by the due date. On December 10, 2007, I scheduled a hearing for January 24, 2008.

The hearing was convened as scheduled on January 24, 2008. Four Government exhibits (Ex. 1-4) and eight Applicant exhibits (Ex. A-H) were admitted without any objections. Applicant also testified, as reflected in a transcript (Tr.) received by DOHA on February 5, 2008. Based upon a review of the case file, pleadings, exhibits, and testimony, and the facts for administrative notice, eligibility for access to classified information is granted.

## **Procedural and Evidentiary Rulings**

### **Request for Administrative Notice**

On November 2, 2007, Department Counsel requested administrative notice be taken of certain facts relating to Lebanon.<sup>1</sup> The request was based on publications from the U.S. State Department and the Congressional Research Service, and on three press releases from the U.S. Department of Justice. The government's formal request and the attached documents were not admitted into evidence but were included in the record.

At the hearing on January 24, 2008, Applicant presented a written response (Ex. C) in which he contested the relevance of the information about Lebanon to his security suitability. After consideration of the source documents provided by the Government and of the respective positions of the parties, I agreed to take administrative notice of particular facts, which are set out in the Findings of Fact.

## **Findings of Fact**

DOHA alleged under Guideline C, foreign preference, that Applicant exercises dual citizenship with Lebanon and the United States (U.S.) (SOR ¶ 1.a), and that he possesses an identification document issued by the Lebanese government (SOR ¶ 1.b) that he uses in lieu of a visa when traveling to Lebanon (SOR ¶ 1.c). Under Guideline B, foreign influence, DOHA alleged that Applicant's mother is a resident citizen of Lebanon (SOR ¶ 2.a), that Applicant purchased the home in which his mother resides and surrounding land in Lebanon in 1997 (SOR ¶ 2.b), and that Applicant travels to Lebanon about one to two times per year with last trip of record in July 2007 (SOR ¶ 2.c). Applicant admitted his dual citizenship, his possession and use of the Lebanese identification card, his mother's Lebanese residency and citizenship, and his purchase of his mother's current residence in 1997. He also admitted traveling to Lebanon, although not every year. Applicant denied any preference for Lebanon or that he could be subjected to foreign influence because of his ties to Lebanon. After consideration of the evidence of record, I make the following findings of fact.

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<sup>1</sup>Then assigned Department Counsel Fahryn Hoffman, Esq. filed the request for administrative notice.

Applicant is a 48-year-old program manager who has worked for his present employer, a U.S. defense contracting firm, since January 2006 (Ex. 1). He is seeking a secret-level clearance, having been granted an interim clearance (Tr. 24).

Applicant was born in Lebanon in January 1960 to a Jordanian father and Lebanese mother. Under Lebanese law, Applicant acquired the father's citizenship on birth (Tr. 66). His father left them when he was only one month old, and Applicant was raised by his mother in Lebanon (Tr. 59, Ex. 3). He met his father once, when he was nine (Ex. 3).

In 1980, Applicant was accepted to a university in the U.S. (Ex. 3). Applicant had only a birth certificate, so his mother took him to Jordan where he obtained a Jordanian passport that he used to enter the U.S. in 1981 (Tr. 66). On December 21, 1982, Applicant acquired Lebanese citizenship by presidential decree (Ex. 3, Tr. 67). Two days later, he was issued a Lebanese passport that he used for foreign travel through October 1987 (Ex. 2).

Applicant had two years of college in Lebanon at a private university before coming to the U.S. (Tr. 63, 76). He finished his bachelor's degree in the U.S. in civil engineering and then obtained his master's degree in the same discipline in June 1984 (Tr. 63). Applicant married in the U.S. in July 1982, but he and his first wife divorced in October 1985 (Ex. 1). After he finished his graduate study, Applicant decided to remain in the U.S. because of hostilities in Lebanon (Ex. 1, Tr. 63). He began working as manager of product support for a provider of project management software systems (Ex. D).

In August 1987, Applicant married his current spouse, a native of Puerto Rico (Ex. 1). They have three children, daughters born in May 1989 and December 1990, and a son born in September 1999 (Ex. 1, Tr. 64). Within a few years of their marriage, Applicant's spouse obtained derivative Lebanese citizenship through Applicant so she could take care of matters in Lebanon if something happened to Applicant ("I mean I just have my mother there and I have to take care of her") and to facilitate his spouse's entry into Lebanon for vacations (Tr. 73-74).

In February 1989, Applicant became a naturalized U.S. citizen (Ex. 1, Ex. 4). He took an oath to renounce all foreign allegiances, to support and defend the U.S. Constitution and its laws, and to bear arms or perform noncombatant service or civilian service on behalf of the U.S. if required.

From March 1994 to August 2001, Applicant worked as a program manager in the semiconductor industry in the U.S. (Ex. 4). He and his spouse bought their home in the U.S. in about August 1995 (Ex. 1, Ex. C). Applicant put a lot of work into his home, including hardwood floor, painting, and landscaping work (Ex. C). In 1997, Applicant's mother sold him her home in Lebanon and the surrounding 1 1/2 acres for nominal consideration (\$1.00) in accord with Lebanese tradition (Ex. 1, Ex. 4, Tr. 88-92). She continued to reside in the home (Ex. 4), which is located between Beirut and Tripoli in

the heart of the Christian section (Tr. 50, 90). Applicant estimated the value of his home in Lebanon at about \$100,000, but resale value was affected by the political situation (Tr. 90-93).

In late September 1998, he obtained his U.S. passport (Ex. 2). In October 1998, he began to travel frequently to East Asia for business, and he stopped off in Lebanon to see his mother for a few days en route home in March 2000, September 2000, and February 2001. He traveled on his U.S. passport (Ex. 2, Ex. C, Tr. 46). While he exited and entered Lebanon on his U.S. passport, he also presented a Lebanese identification card that he had obtained in about 1999<sup>2</sup> so that he could avoid the costs of a visa and he could stay as long as he wanted:

Actually, Americans can get a visa at the airport, American citizens can, you know, they don't need a visa, they can get it at the airport, so it's really I can pay \$50 to get the visa and go in, the only difference is that they may give you a visa for a month, or two or three versus this.

(Tr. 70). Applicant's mother visited him and his family in the U.S. for a few weeks each summer until about 2001 (Ex. 4, Tr. 78-79).

Applicant had stayed on after a corporate acquisition until September 2001 when he became unemployed (Ex. 1). That month, Applicant accompanied his mother back to Lebanon. She had broken her ankle during a six-week visit with Applicant and his family in the U.S. and Applicant wanted to assist her (Tr. 79-80, 102). He stayed in Lebanon for less than a week (Ex. E). That trip was also on his U.S. passport and Lebanese ID card (Ex. 2).

After about nine months of unemployment, Applicant went to work in July 2002 as a program director for a supplier of secure media with security, identification, and digital content applications (Ex. 1, Ex. D). He managed a program to supply a secure identification system to Latvia (Ex. D), and traveled there on business in February 2004. Before returning home, he went to Lebanon to see his mother for a few days (Ex. 2, Ex. E). In October 2004, Applicant traveled to Jordan on business. He stopped off in Lebanon for about four days en route to Jordan (Ex. 4, Ex. E). In December 2004, Applicant and his family went to Lebanon for vacation since his wife and children had never been there (Ex. E, Tr. 46, 86-87). He coordinated it with a business trip to Albania, and spent another four days in Lebanon before returning to the U.S. in January 2005 (Ex. E, Tr. 46). While in Lebanon, he had a two hour meeting with Lebanese government officials regarding his employer creating driver's licenses for a new identification program in Lebanon. The business meeting was arranged by his employer's sales department (Ex. 4). All his trips were on his U.S. passport and he presented his Lebanese identification at the Lebanese border (Ex. 2, Ex. E).

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<sup>2</sup>Applicant testified that someone in the village had to certify in writing personal acquaintance with him and the document had to be presented along with his picture to some office in Lebanon (Tr. 69). He does not remember whether he or his mother applied for the ID card for him (Tr. 69-70).

Applicant was devoted to his work and he consistently met his commitments (Ex. G). Yet in September 2005, Applicant was again unemployed (Ex. 1). Applicant took a seven-day vacation to Lebanon to see his mother in late October/early November 2005 (Ex. E).

In January 2006, Applicant took his present job as a transportation security agency program manager with an imaging technology company (Ex. 1). On February 7, 2006, Applicant completed a Questionnaire for Sensitive Positions (SF 86) in application for a secret-level security clearance (Ex. 1, Tr. 24). Applicant indicated that he and his spouse had dual citizenship with the U.S. and Lebanon, but that his children had only U.S. citizenship. He disclosed his mother's Lebanese residency and citizenship, as well as his ownership of his mother's residence and surrounding land in Lebanon. Applicant reported the two hour sales presentation to Lebanese officials in January 2005 regarding their driver's license program, and contact with Latvian road and safety directorate officials from February to May 2004. He also reported his foreign business and pleasure travel since October 1998 with the exception of the business trip to Jordan in October 2004. Applicant did not report his Jordanian citizenship, but he disclosed his father had been a native Jordanian citizen until his death. (Ex. 1) Applicant was granted an interim secret clearance for his duties.

On August 2, 2006, Applicant was interviewed by an authorized investigator for the Department of Defense. Applicant admitted he was a Lebanese citizen, and indicated that any citizen born in Lebanon is a citizen of Lebanon for life, even if another citizenship is acquired. He denied any voting in Lebanese elections, serving in Lebanon's military, or exercising privileges/benefits of Lebanese citizenship, and asserted that his loyalties lie with the U.S. He added that his mother had worked for the Lebanese government as a teacher until she retired. Applicant related that he visits her whenever he can, about once or twice a year, and speaks with her about once a month. He indicated that his mother used to visit him in the U.S. annually but that her health no longer permitted it. Applicant explained his purchase of her home for \$1.00 but averred this foreign asset was insignificant in relation to his net worth. He denied any plan to return to Lebanon to live and was not sure what he was going to do with the home on his mother's death. Applicant also explained his business contacts with foreign nationals during his previous jobs, but the investigator's report does not mention Applicant's business meeting in Jordan in October 2004. (Ex. 2) Asked whether he was willing to renounce his Lebanese citizenship, Applicant told the investigator he would rather answer the question later if he had to (Tr. 58).

In response to DOHA interrogatories, Applicant on May 8, 2007, forwarded to DOHA copies of his current U.S. and expired Lebanese passports, which confirm he had used his U.S. passport for all his foreign travel since acquiring U.S. citizenship. Applicant responded "No" to whether he had obtained a visa to travel to Lebanon and indicated, "A visa is not required for Lebanese citizens entering Lebanon on an American passport." (Ex. 2)

Applicant traveled to Lebanon for four days in July 2007 to attend an uncle's funeral (Ex. 2, Tr. 48-49, 87). Applicant went to provide moral support for his mother (Tr. 49). He entered and exited Lebanon with his Lebanese ID card and U.S. passport (Ex. E, Tr. 112-13).

In July 2007, Applicant was asked to authenticate the investigator's report of his August 2006 subject interview. Applicant indicated on July 19, 2007, that the report did not reflect accurately all the information he had provided during his interview. He added that he and a coworker had traveled to Jordan in October 2004 where they met with a corporate partner from Iraq concerning providing driver's licenses in Iraq. (Ex. 4) In response to separate interrogatories about his travel to Jordan recorded in this U.S. passport but not listed on his SF 86 or disclosed during his August 2006 interview, Applicant indicated that if he had omitted the business trip from his SF 86, it was a mistake. He reiterated it had been discussed during his subject interview. Asked about relatives in Jordan, Applicant indicated that his father had died 15 years before, and that one uncle still lived in Jordan. In response to what documentation he presented to enter Lebanon on his U.S. passport, Applicant provided a copy of his "Ikraj Quide" (identification card). Applicant reported recent travel to Lebanon in July 2007 on the death of his uncle. (Ex. 3)

Applicant has never taken any action to renounce his Jordanian or Lebanese citizenship. He has not used a Jordanian passport since he came to the U.S. in 1981, and does not think of himself as a Jordanian citizen (Tr. 67-68). He is willing to renounce his Lebanese citizenship if it means he would maintain his clearance (Tr. 58, 60, 71-72).<sup>3</sup>

Applicant's mother is in her early 80's (Ex. 1, Tr. 75).<sup>4</sup> She lives by herself in the home she conveyed to Applicant for \$1.00 consideration in 1997. She pays someone to take care of her (Tr. 74-75). Her small village is located about 20 miles from the site of a bomb blast in June 2007 (Tr. 115). Applicant is not concerned because his mother is not in a group targeted by what he regards as "lower level, mafia type activity" (Tr. 116-17).

Applicant's mother had been a teacher of education at a government-owned Lebanese university for 30 years before she retired (Tr. 75-76). She obtained her master's degree in the U.S. in 1952 (Tr. 81), and returned to Lebanon to finish her teacher's training (Tr. 75). She had legal U.S. permanent residency status in the 1990s<sup>5</sup> (Tr. 80), but "because she was coming here every year they took it back" and gave her a five-year visa (Tr. 81-82). Applicant's mother has elected to stay in Lebanon because

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<sup>3</sup>During his closing argument, Applicant offered to surrender possession of his Lebanese ID card to the Department of Defense and asserted he can obtain the visa needed to see his mother (Tr. 135).

<sup>4</sup>According to the birth date reported on his SF 86, his mother turned 82 in January 2008 (Ex. 1). Applicant testified she was 83, however (Tr. 75).

<sup>5</sup>Applicant testified his mother was granted permanent residency several years after he became a citizen (Tr. 81). Since he did not obtain his U.S. citizenship until 1989, she was likely given her green card in the 1990s.

of her health insurance benefit in Lebanon and friends/neighbors in Lebanon (Tr. 82-83). Even with health insurance, she spends about \$150 a month on medication (Tr. 110). She supports herself on her pension of about \$300 to \$400 a month and Applicant's financial assistance, which averages out to about \$3,000 to \$4,000 per year (Tr. 109-11). Two years ago, he had heat installed in the home for her (Tr. 96). He gives her checks for the year when he goes to Lebanon or sends the checks over with someone (Tr. 97). His mother handles paying any taxes or fees on the home (Tr. 98). Applicant is on his mother's bank account in Lebanon but he does not use her account (Tr. 98).

Applicant now calls his mother every other Sunday and more frequently if necessary to check on her (Tr. 76-77). She reports to him what is going on in Lebanon (Tr. 77). When Applicant travels to Lebanon to visit her, he also sees other maternal family members (his mother's brother and sister and cousins present) who reside in the same small village (Tr. 78, 84). As of January 2008, Applicant had three cousins working outside of Lebanon (two in Abu Dhabi and one in Saudi Arabia) because of the lack of work in Lebanon (Tr. 117). Applicant has gotten together with friends from the village on occasion when in Lebanon but he does not have regular contact with them (Tr. 85-86).

Applicant is not sure what he will do with the property he owns in Lebanon on his mother's death. He regards it as "nothing more than a summer vacation home at best," and denies he could be influenced even if the home were to be seized (Tr. 94).

As of January 2008, the Lebanese government had issued a new identification card which Applicant does not have (Tr. 112). When he went to Lebanon for his uncle's funeral in July 2007, he entered on the ID card in his possession (Tr. 113). During his closing argument at his January 24, 2008 hearing, Applicant was prepared to present DOHA with his Lebanese papers for destruction, not knowing whether his clearance would be continued (Tr. 133). To Applicant's knowledge, no one in Lebanon knows he has a security clearance (Tr. 114).

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Following review of official publications of the U.S. government that address the history, economic and political activities in Lebanon, and its relationship to the U.S., I take administrative notice of the following facts:

Lebanon is a parliamentary republic at the eastern end of the Mediterranean Sea. From 1975 to 1991, it was convulsed in a religious and ethnically-driven civil war. Regional tensions persisted, with the terrorist organization Hizballah<sup>6</sup> targeting Israel from within Lebanon and Israel retaliating. Israeli troops withdrew from Lebanon in May 2000 after 22 years of Israeli occupation. The level of violence along the Israeli-

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<sup>6</sup>Hizballah has been designated by the U.S. Department of State as a foreign terrorist organization. See State Department's Fact Sheet, *Foreign Terrorist Organizations*, dated October 11, 2005.

Lebanon front decreased dramatically until a month-long war between Hizballah and Israel in July/August 2006. The conflict ended in a cease-fire imposed by a United Nations Security Council resolution and enforced by the presence of international peacekeeping forces in Lebanon.

Syria, which views Lebanon as part of its territory, maintained a military presence in Lebanon from March 1976 until April 2005, when it withdrew under international pressure. Syrian intelligence assets remain in Lebanon, and Syria continues to have a strong influence in Lebanese politics. Influential persons in Lebanon critical of Syrian interference in Lebanon have been targeted for assassination, and more than 32 have died since October 2004. The U.S. considers Syria to be a state sponsor of terrorism. Pro-Syrian forces, led by Hizballah, began months of massive demonstrations and occasional violence in November 2006 with the aim of bringing down Lebanon's democratically elected government.

Lebanon has a mixed record with respect to human rights. The government had taken significant steps to increase freedom of assembly and association and to prevent unauthorized eavesdropping of private citizens until the conflict between Israel and Hizballah in 2006. There were no reports of politically motivated disappearances caused by government forces, but security forces abused detainees and in some instances used torture in 2006. There were instances of arbitrary arrest, government corruption and lack of transparency, restrictions on freedom of the press, limitations on freedom of movement for unregistered refugees, violence against women and children.

Lebanon does not have a history of targeting U.S. citizens to obtain protected or sensitive information. The U.S. seeks to maintain its traditionally close ties to Lebanon, and to help preserve Lebanon's independence, sovereignty, national unity, and territorial integrity. The U.S. supports the full implementation of UN Security Council Resolution 1559 that required all remaining foreign forces withdraw from Lebanon and the disarming of all militias, including Hizballah and several Palestinian groups in Lebanon. The Lebanese government has not taken the necessary steps to disarm extralegal armed groups, including Hizballah. Hizballah has a strong bloc of supporters in Lebanon's parliament, who continue to view it as a legitimate resistance group and political party. The Lebanese government has taken action against extremists linked to al-Qaida, but threats of attacks against western and Lebanese government interests by terrorist extremist groups, the assassinations in June 2007 and September 2007 of two anti-Syrian members of Lebanon's parliament, and bomb explosions in a town north of Beirut<sup>7</sup> and in Beirut neighborhoods since May 2007, led the U.S. State Department in October 2007 to strongly urge American citizens to defer travel to Lebanon.

## **Policies**

When evaluating an Applicant's suitability for a security clearance, the Administrative Judge must consider the revised adjudicative guidelines (AG). In addition

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<sup>7</sup>Applicant testified the town is located about 20 miles from his mother's village (Tr.115).

to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful 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 overarching adjudicative goal is a fair, impartial and common sense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept." The Administrative Judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, 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 this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the Applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The Applicant has the ultimate burden of persuasion as to obtaining a favorable security decision.

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 the Applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

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).

## Analysis

### Guideline C—Foreign Preference

When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States. (AG ¶ 9). Although born in Lebanon, Applicant was solely a citizen of Jordan until after he came to the U.S. to continue his education in 1981. He acquired his Lebanese citizenship in late 1982, and his U.S. citizenship in February 1989. Applicant has not exercised his Jordanian citizenship after entering the U.S. on a Jordanian passport, and did not travel on his Lebanese passport after obtaining his U.S. passport. However, in 1999 he obtained a Lebanese identification card and used it in lieu of a visa to enter Lebanon on his U.S. passport on about nine occasions between March 2000 and July 2007. As Applicant testified (Tr. 70) and confirmed by the U.S. State Department,<sup>8</sup> Applicant could have purchased a short-term visa at the border. With the Lebanese ID, he was not subject to the time restriction or the cost associated with a visa. His active exercise of this benefit of foreign citizenship raises security concerns under AG ¶ 10(a) (“exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen or through the foreign citizenship of a family member”).<sup>9</sup> In the absence of evidence showing he could gain entry to Lebanon solely on this ID card without a valid passport, the risk is not of unverifiable travel, but Applicant could be prone to make decisions to protect this foreign benefit.

Applicant submits he is willing to renounce his Lebanese citizenship. Although the Directive does not require that foreign citizenship be revoked for mitigation under AG ¶ 11(b) (“the individual has expressed a willingness to renounce dual citizenship”), an expressed willingness is entitled to less weight if it is conditional. At his hearing, Applicant initially indicated that he was willing to renounce his Lebanese citizenship only on assurances that he would retain his clearance if he did so (“if that is the only issue, you know, then I’ll surrender it but if I surrender it and it’s still going to be denied, then what’s the purpose?” Tr. 71). However, during his closing argument, Applicant wanted to present me with his Lebanese papers for destruction, not knowing whether his clearance would be continued (Tr. 133).

While the U.S. Government does not encourage its citizens to remain dual nationals because of the complications that might ensue from obligations owed to the country of second nationality, the Department of Defense does not require the renunciation of foreign citizenship in order to gain access. Yet there must be adequate

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<sup>8</sup>In its *Consular Information Sheet*, dated October 20, 2006, the State Department reports that American citizens entering Lebanon for tourism can purchase a short-term visa at the border.

<sup>9</sup>AG ¶ 10(a) includes a list of actions considered as an exercise of a right, privilege, or obligation of foreign citizenship. Although the use of a foreign ID card is not specifically enumerated, the list is not all-inclusive.

assurances that a dual citizen will not actively exercise or seek rights, benefits, or privileges of that foreign citizenship.

Applicant could have renewed his Lebanese passport after he became a naturalized U.S. citizen but chose not to. By traveling on his U.S. passport even to Lebanon, Applicant showed his preference for the U.S. While he presented a Lebanese ID card at the border, it was for convenience in travel and not reflective of an affinity for Lebanon. There is no evidence that he understood the concerns raised by his acceptance of this benefit of his foreign citizenship before the SOR was issued. Although at the eleventh-hour, his willingness to provide his Lebanese papers to the Department of Defense for destruction shows he can be counted on to not exercise any benefit of his foreign citizenship in the future, which includes refraining from the use of the foreign ID card. Applicant testified, with no rebuttal evidence from the Government, that the Lebanese government issued a new ID card that he has not acquired (Tr. 112-13). The acquisition of derivative Lebanese citizenship for his spouse shortly after their marriage was out of concern that his mother be taken care of rather than out of a preference for Lebanon. It is noted that his children are citizens of the U.S. only, and he is not likely to jeopardize his life in the U.S. or their safety by acting in preference for Lebanon over the U.S.

#### **Guideline B—Foreign Influence**

The security concern relating to the guideline for foreign influence is set out in AG ¶ 6:

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. 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.

Applicant is close to his mother, who is a resident citizen of Lebanon (SOR ¶ 2.a). He provides her financial support, owns the home she lives in, and calls her regularly to check on her. While Applicant also has maternal relatives (an aunt, an uncle, cousins) and some longtime friends from the village whom he has visited in Lebanon, the nature of his relationships with them is more casual and not likely to raise a heightened risk. Although Lebanon and the U.S. have strong ties, Lebanon is a turbulent nation plagued by violence, and it is heavily influenced by Syria, a state sponsor of terrorism. The security concerns underlying 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

foreign exploitation, inducement, manipulation, pressure, or coercion”) are implicated because of his close ties to his mother in Lebanon.

However, the Government did not establish its case for consideration of 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 of technology and the individual’s desire to help a foreign person, group, or country by providing that information”). Given Applicant’s mother is an 82-year-old retiree living in a small village in the middle of Lebanon’s Christian sector, there is nothing about her situation that presents a conflict of interest with his obligation to protect classified information. While she benefits from health care and a pension in Lebanon, it is not clear that these interests present a conflict of interest with Applicant’s obligation to protect classified information. Applicant certainly wants to help his mother, but that alone is not enough to fall within AG ¶ 7(b). The concern is with the heightened risk of exploitation, coercion, pressure, or influence because of his close relationship with his mother, and that is covered more appropriately under AG ¶ 7(a).

Applicant owns the home his mother lives in and its surrounding acreage in Lebanon (SOR ¶ 2.b). He estimated the value of the house at about “\$100,000 maybe” (Tr. 93), which is considerably less than the value of his U.S. assets (home ownership, career, other financial investments). Applicant testified credibly that “the house itself, assuming [his] mother is not there, they can do whatever they want, whoever they are, it won’t effect him” (Tr. 94). While Applicant cares little for the house itself, this foreign property asset presents the potential for foreign influence as long as his mother is alive and living in the home. AG ¶ 7(e) (“a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign-operated business, which could subject the individual to a heightened risk of foreign influence or exploitation”) applies.

The Government alleged separate foreign influence concerns about Applicant’s travel to Lebanon once or twice a year to as recently as July 2007 (SOR ¶ 2.c). Applicant traveled to Lebanon on nine occasions since March 2000. Most of the trips were of short duration to see his mother. AG ¶ 7(i) applies where there is “conduct, especially while traveling outside the U.S., which may make the individual vulnerable to exploitation, pressure, or coercion by a foreign person, group, government, or country.” There is no evidence of conduct that would implicate AG ¶ 7(i) with the possible exception of the use of the Lebanese ID card which was a legal exercise of his Lebanese citizenship. The primary relevance of his foreign travel is that it confirms the close relationship with his mother in Lebanon.

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.”) is difficult to satisfy, given the country involved is Lebanon. In October 2007, the U.S. State Department issued an updated travel warning strongly advising U.S. citizens to defer travel to Lebanon due to

the threat of terrorist attacks in Lebanon, relying in part on a June 2007 explosion in a city that is located only about 20 miles from Applicant's mother. Applicant recognizes the risk to physical security that exists in an unstable environment, but submits this "low level mafia-type activity" is targeted at politicians (Tr. 116-18) rather than at his elderly mother in a small village. Terrorism is not limited to indiscriminate acts of violence intended to incite fear. It often has political aims, and where it is allowed to operate unchecked or is condoned, one has to question the ability and/or willingness of a government to protect its citizens against interference, coercion, or other abuses. Hizballah's involvement in the Lebanese government and Syrian interference in Lebanese affairs raise considerable concerns in this regard. Applicant's mother had been a professor at a public university in Lebanon for some 30 years and she now relies at least in part on her government pension. It is difficult to completely discount the risk of undue foreign influence, especially in light of Applicant's strong bonds of affection and obligation toward his mother.

Applicant's vulnerability to undue foreign influence may nonetheless be mitigated by deep and longstanding relationships and loyalties in the U.S. (see AG ¶ 8(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")). Applicant's actions show a primary loyalty to the U.S., where he has established roots since 1981. On earning his master's degree, Applicant elected to remain in the U.S. In 1987, he married a U.S. citizen and since raised three children, who are solely citizens of the U.S. In February 1989, he voluntarily acquired U.S. citizenship. All his subsequent foreign travel has been with his U.S. passport in hand. But for the house in Lebanon, which his mother essentially gave to him, his financial assets are all in the U.S. He exhibited pride in his ownership of his house in the U.S., and while he is listed on his mother's bank account in Lebanon, he testified credibly to it being her account. Applicant showed some understanding of the concerns presented by his mother being in Lebanon by not informing others, including his mother, that he has a security clearance (Tr. 113). The risk of undue foreign influence is not eliminated, but Applicant has shown he is likely to recognize a potential conflict should one arise. AG ¶ 8(b) 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):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) extent to which

participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept.

The salient issue in the security clearance determination is not in terms of loyalty or allegiance, but rather what is clearly consistent with the national interest. See Executive Order 10865, Section 7. An applicant may have the best of intentions and yet be in an untenable position of potentially having to choose between a dear family member and the interests of the U.S. There is no indication that Applicant has ever intentionally acted in violation of his employers' or U.S. interests. By all accounts, Applicant is an ethical person who has a strong sense of obligation, not only to his mother in Lebanon, but also to his immediate family in the U.S. and to his employer. I am persuaded that Applicant can be counted on to refrain from exercising any benefit of his Lebanese citizenship in the future and to act consistent with the U.S. interests in the event of any undue foreign influence.

### **Formal Findings**

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

Paragraph 1, Guideline C:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Paragraph 2, Guideline B:	FOR APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraph 2.b:	For Applicant
Subparagraph 2.c:	For Applicant

## **Conclusion**

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

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ELIZABETH M. MATCHINSKI  
Administrative Judge