



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



In the matter of:)
)
) ADP Case No. 20-00186
)
Applicant for Public Trust Position)

Appearances

For Government: Brian Farrell, Esq., Department Counsel
For Applicant: *Pro se*

04/21/2022

Decision

MURPHY, Braden M., Administrative Judge:

Applicant did not provide sufficient information to mitigate the trustworthiness concerns under Guideline E, personal conduct or Guideline F, financial considerations. Applicant’s eligibility for access to sensitive information is denied.

Statement of the Case

On May 24, 2019, Applicant submitted a questionnaire for national security positions (application), seeking eligibility for a public trust position and access to national security sensitive information, in connection with her employment in the defense industry. On September 22, 2020, following a background investigation, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant alleging trustworthiness concerns under Guideline E, personal conduct and Guideline F, financial considerations. The DOD issued the SOR 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 Security Executive Agent

Directive 4, *National Security Adjudicative Guidelines* (AG) effective within the DOD on June 8, 2017.

Applicant answered the SOR on October 26, 2020, and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). The case was assigned to another DOHA administrative judge on November 11, 2021. On January 10, 2022, DOHA issued a notice scheduling the hearing for January 27, 2022. The hearing was to take place through use of an on-line platform.

The case was assigned to me on January 26, 2022, when the original administrative judge was unable to participate. (Tr. 9) The hearing occurred as scheduled. At the hearing, Department Counsel submitted Government's Exhibits (GE) 1 through 9. Applicant testified and submitted Applicant's Exhibits (AE) A through L. (In error, two documents were marked as AE F; they are now marked as AE F(1) and AE F(2)). All exhibits were admitted without objection. I held the record open until February 21, 2022 to provide Applicant the opportunity to submit additional documentation. She subsequently provided documents that are marked as AE M through AE U and admitted without objection. Those documents are identified in the facts section, below. DOHA received the hearing transcript (Tr.) on February 4, 2022.

Findings of Fact

In her Answer to the SOR, Applicant admitted SOR ¶¶ 1.a, 1.b, 1.d, 2.d, 2.e, 2.f, 2.g, and 2.h. She partially admitted and partially denied SOR ¶¶ 1.e, 2.a, 2.b, 2.c, 2.i, 2.j, and 2.k. She denied SOR ¶ 1.c. Her admissions and explanations are incorporated into the findings of fact. After a thorough and careful review of the pleadings and exhibits submitted, I make the following additional findings of fact.

Applicant is 30 years old. She and her husband married in May 2016. They separated in September 2017 and a divorce is pending. They have a son, age nine, who lives with Applicant and her brother. Applicant and her husband have an informal custody-sharing arrangement, and he provides her financial support. (Tr. 44-47, 130)

Applicant graduated from high school in 2010. She reported on her application that she attended a year of college (2014-15) but did not earn a degree. (GE 1 at 13) She has worked for a large defense contractor for the last three years, since February 2019. (GE 1 at 14) She works full time as a tech specialist in the travel office and is currently teleworking. She earns \$20.79 an hour and her 2021 W-2 shows an annual income of \$37,779. She has not held a prior clearance or eligibility for a position of public trust. (Tr. 15) Before taking her current job, she worked at a restaurant the previous seven years (2012-2019). (GE 1; Tr. 15, 47-49; AE M, AE R)

In March 2010, when she was in high school, Applicant was with friends at a mall and was caught by a security guard trying to shoplift a piece of costume jewelry from a department store. She was arrested and charged with shoplifting. In May 2010, she received a 40-day suspended jail sentence, and was placed on two years of

unsupervised probation. She completed her probation and some community service. (Tr. 50-51, 96-98) (SOR ¶ 1.a)

In August or September 2010, Applicant and a friend were at the friend's house in State 1, where she grew up. They took a check from the friend's father's checkbook, filled it out, signed his name, and used the check to withdraw money from his bank account. She spent some of the money at a mall. At the time, Applicant was preparing to go to college, in State 2. She acknowledged when she moved to State 2, she took a fraudulent check, or money cashed with one, to use there "to buy things." (Tr. 51-57, 70, 98-101, 106-109)

The friend's father filed charges when he learned his check(s) had been stolen, though Applicant testified that he tried to get the charges dropped when he learned his daughter and Applicant were responsible. (Tr. 51-57) In fall 2010, when she was in college in State 2, Applicant and her college roommates were questioned by campus police. Applicant was also questioned about using other people's credit cards, charges were noted on her FBI record (GE 3) but she denied that conduct. (Tr. 101-106) In October 2010, she was charged, in State 2, with felony identity theft. (SOR ¶ 1.d(i)) Applicant's FBI record reflects that she was also charged with multiple misdemeanor counts of fraud and larceny (theft of services under \$1,500), as well as misdemeanor unlawful use of a credit card (under \$1,500). (GE 3)

In January 2011, Applicant was arrested and charged in State 1 with identity fraud and obtaining money by false pretenses, both felonies. In March 2011, Applicant pleaded guilty to reduced misdemeanor charges, and she was sentenced to 12 months of jail time (10 months suspended) and three years of unsupervised probation. (GE 5) Her probation for the shoplifting charge above was revoked, and she was sentenced to time served (about 40 days). (GE 5, GE 6; Tr. 51-57) (SOR ¶ 1.b) The State 2 charges were *nolle prossed*, also in March 2011. (Tr. 64-71; GE 3)

Applicant's public trust application included the following question: "Have you EVER been charged with any felony offense?" (GE 1 at 32) Applicant's answer of "NO" to that question is alleged as being deliberately false in both respects, since she did not report her felony charges in State 1 or State 2. (SOR ¶¶ 1.d(i) and d(ii)).

None of the State 2 misdemeanor charges were alleged in the SOR. The State 2 felony charge was alleged not for the offense itself, but rather only as a falsification on her application for a position of public trust. (SOR ¶ 1.d(i)) Applicant testified that she did not list the State 2 felony charge on her application because she believed it had been expunged and was no longer on her record. (Tr. 71-72, 75)

When asked why she did not list her State 1 felony charges on her application (SOR ¶ 1.d(ii)), Applicant asserted that she was not required to report the offense because she thought (incorrectly) it had occurred more than 10 years earlier. She also asserted that her boss and a contact at DOD, Ms. C, told her she did not have to report

it. Applicant was given the opportunity to document that contact after the hearing, but did not do so. (Tr. 71-73, 76-80)

By February 2018, Applicant had separated from her husband and had moved into an apartment. She testified that she went to an ATM machine to make a deposit so she could get a money order to pay her rent. Money was tight because she was working at a restaurant, with limited income. She said that the deposit jammed in the machine, so she could not withdraw any money. She contacted the credit union the next day. (Tr. 57-62, 118) She also provided her apartment complex a letter from the credit union to show that “due to an ATM error, the funds were not credited to her account” on January 31, 2018 and she was credited \$124 the next day, February 1, 2018. (AE F(2)) Applicant used that letter to avoid the \$500 charge for paying rent late.

According to the Government’s evidence, the apartment complex became suspicious about the document they received from Applicant, so they contacted the bank, which, in turn, contacted the police. The Government’s evidence includes a letter that the bank received from the apartment complex, purportedly on credit union stationery, with a signature from the bank representative, reflecting that Applicant’s account had been credited \$824, not \$124, on February 2, 2018. (GE 4 at 4, 8) The letters show what the report calls “obvious differences,” not only in the amounts, but also the stationery letterhead, the typeface, the location of the bank branch address on the document, and the fact that one letter contains a signature and the other does not. (GE 4 at 7, 8) The matter was forwarded to the police for appropriate action.

SOR ¶ 1.c alleges that Applicant “substantially altered the letter and submitted the altered document to her apartment complex;” and that in June 2018, she was charged with felony perjury – falsely swearing an oath, and felony “other forgery writing.” In December 2018, the charges were dismissed. (Tr. 109-113) Applicant denied the allegation in her answer.

Applicant acknowledged that for February 2018, she underpaid her rent about half (\$700 of \$1,400), but that she paid the full rent on February 2, along with the letter from the bank. She said this was the only time she was late paying rent. (Tr. 116-123) In July 2018, Applicant’s apartment complex obtained a judgment against her for unlawful detainer (for non-payment of rent). (GE 4 at 9; GE 9) Applicant stated that the eviction process had begun but she was allowed to break her lease, and she did not have to appear in court. (Tr. 113-118)

In answering questions on her public trust position application about her criminal record, Applicant explained that in November 2018, she was informed by a prior employer about outstanding criminal charges. She contacted county authorities, who told her there was an arrest warrant for her on a perjury charge. She turned herself in, was booked and released. She went to court soon after and the charges were dropped. (GE 1 at 31, 32; AE A, AE B)

Applicant asserted in her testimony that she had never seen the second letter before, did not put the bank representative's signature on it, and did not send it to her apartment complex. She denied that she forged the letter from the credit union. She acknowledged that without the letter, she would have had to pay a \$500 late fee. (Tr. 111, 146-152, 179-180, 183-192) She also denied committing perjury in court. She said she was not arrested or served a warrant; she said that the matter came up in her background check for a job interview with a bank. (Tr. 152-158)

Applicant's FBI Record does not reflect criminal charges relating to these events, but they are referenced in Applicant's report of investigation as having been discussed in her background interview. (GE 2 at 22-23, 30) They are also documented by AE A, a court database record provided by Applicant.

On multiple occasions since October 2017, Applicant's driver's license was suspended after she failed to appear in court for traffic violations or after she failed to pay the related fines and court costs. (SOR ¶ 1.e(i), (ii), (iii), and (iv)). Applicant admitted the various suspensions, but documented that she has paid all fines and costs and that her driver's license has been in good standing since April 2020. (Answer; Tr. 80-82, AE E, AE G – AE K, and AE S)

Applicant said she was not proud of the things she did in her youth, and makes no excuses, but has grown. It was a dark time in her life. She denied the charge in 2018. She is a hard-working, law-abiding citizen who is raising her son. Applicant has had no other arrests or criminal offenses. (Tr. 93-94, 158-159, 181)

The financial allegations in the SOR mostly concern delinquent federal student loans (about \$14,500), but also some medical debts (about \$900) and two other debts (\$1,198 and \$629) for a total of just over \$17,000. Applicant disclosed various debts on her application and discussed them in her background interview. (GE 1, GE 2) The debts are also established by July 2019 and February 2020 credit reports. (GE 7, GE 8)

SOR ¶¶ 1.a (\$7,630), 1.b (\$1,564), 1.c (\$1,513), 1.i (\$966), 1.j (\$1,158) and 1.k (\$1,666) are Applicant's delinquent federal student loans, which she used to pay for college. She has no private student loans. She dropped out of college when she gave birth to her son. (Tr. 83-88) The loans all became delinquent in 2016, when she was working at the restaurant. (GE 7)

In February 2020, Applicant was to enter into a repayment program to rehabilitate her defaulted loans (then totaling about \$17,300) by making payments of \$110 a month and then \$5 a month on separate accounts. (GE 2 at 33; AE D; Tr. 123-128) It is not clear that she did so, as AE U, a February 2022 credit report, does not reflect that she made such payments, nor are they otherwise documented in the record.

In spring 2020, federal student loans were placed in forbearance or deferment status by the federal government due to the COVID-19 pandemic. (AE C, AE P) That program has now been extended by the Biden Administration until the end of August

2022. (See <https://studentaid.gov/announcements-events/covid-19>). Applicant is not making student loan payments now but plans to do so once the forbearance period ends. (Tr. 133-140)

SOR ¶ 1.d (\$1,198) is a past-due power bill. Applicant admitted the debt but said her husband was responsible for it and was paying it off. She said they had trouble changing the name on the account. She asserted that the account is now paid, because she has an active power account with the same company. (Answer; Tr. 90-92) She provided a supporting letter from her husband in which he said he was paying Applicant to cover the bill. (AE F(1)) However, no payments to the power company are documented.

SOR ¶ 1.e (\$629) is an insurance bill reported for collections. She admitted the debt in her answer, but at her hearing she asserted that her husband was responsible and that the debt had been taken care of. (Tr. 92) No payments are documented, however.

SOR ¶¶ 1.f (\$543), 1.g (\$274) and 1.h (\$81) are all past-due medical debts to unidentified creditors. (GE 7) Applicant recognized the accounts, admitted the debts in her answer, and said they had been paid or that she was on a payment plan. She said the debts were due to unplanned surgery. At least one of the debts has been paid. (Answer; Tr. 88-89; AE Q) She has medical insurance through her job. (AE M)

Applicant testified that her finances are now stable. According to her budget, Applicant reported monthly income of \$3,722 and expenses of about \$2,486. (AE T; Tr. 163-164) She pays about \$1,470 a month in rent and utilities. Her husband helps by paying \$500 a month. She has a car payment of about \$460. She said she pays \$25 a month for a credit monitoring service. She said she had about \$1,200 in her checking account and about \$3,000 in savings. (Tr. 128-145) Her credit score is now 611. (AE O)

Applicant's program manager said in a letter that she has an "amazing work ethic" and is a highly productive part of the company's workforce. She has initiative and enthusiasm. He recommends that she receive a common access card so she can assume her full duties. (AE L)

Applicant's stepmother attested to her character and said Applicant has turned her life around and has overcome the challenges of her youth. She is a devoted family member and hard worker, with excellent leadership qualities. (AE L)

Policies

It is well established that no one has a right to a security clearance, or, as here, for a trustworthiness determination. As the Supreme Court has held, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988).

When evaluating an applicant's suitability for a position of public trust, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used 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 commonsense decision. According to AG ¶ 2(a), 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 national security eligibility will be resolved in favor of the 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 not drawn 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, 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 and has the ultimate burden of persuasion to obtain a favorable security decision."

A person who seeks access to sensitive 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 safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of sensitive information.

Analysis

Guideline E, Personal Conduct

AG ¶ 15 expresses the trustworthiness concern for personal conduct:

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 or sensitive information. . . .

AG ¶ 16 describes conditions that could raise a trustworthiness concern and may be disqualifying. The following disqualifying conditions are potentially applicable:

(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 national security eligibility or trustworthiness, or award fiduciary responsibilities; and

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information.

As alleged in the SOR, Applicant was arrested and charged with shoplifting in March 2010, and was later convicted. (SOR ¶ 1.a) She was arrested and charged with identity fraud and obtaining money by false pretenses, both felonies, in November 2010, in State 1, after she and a friend stole a check from the friend's father, signed his name, cashed the check, and spent the money. She later pleaded guilty to lesser misdemeanor offenses. (SOR ¶ 1.b). Those allegations constitute criminal conduct, and they might have been alleged as such under Guideline J. Since they were alleged and established under Guideline E instead, AG ¶ 16(c) applies to those allegations.

Out of the same circumstances, Applicant also faced a felony charge of identity theft in State 2, where she was attending college at the time. She failed to disclose that felony charge on her application (discussed below) but the State 2 felony charge itself was not alleged in the SOR (nor were a series of related misdemeanor charges, all established by Applicant's FBI record, GE 3). Since those offenses were not independently alleged in SOR, no disqualifying conditions apply to them. Conduct that was not alleged in the SOR will not be considered for disqualifying purposes, but may be considered when making a credibility determination, in the application of mitigating conditions and in a whole-person analysis.

Applicant was also charged in State 1 with perjury and other forgeries, both felonies, on the basis of the false letter that was presented to her apartment complex in February 2018. Applicant provided documentation of the charges in her own evidence (AE A). Further, notwithstanding the dismissal of the charges, I nonetheless find that GE 4 provides substantial evidence that Applicant "substantially altered" the letter from the credit union as alleged, and submitted it to her apartment complex, which is what led them to notify the credit union of their suspicions, which, in turn, led the credit union to

contact the police. Even though the charges were dismissed, the Government has met its burden to establish SOR ¶ 1.c by substantial evidence, and AG ¶ 16(c) applies.

Applicant's various driver's license suspensions, all alleged in SOR ¶ 1.e, are also established. AG ¶ 16(c) applies to them.

On her application for a position of public trust, Applicant offered an explanation for her 2018 felony charges (SOR ¶ 1.c) but did not list her earlier felonies arising in either State 1 or State 2 after she and her friend stole a check from the friend's father's checkbook, signed it, cashed it, and Applicant used the money, in both State 1 and State 2. Applicant did not disclose those felony charges on her application, despite the plain language of the question ("Have you EVER been charged with any felony offense?") calling for her to do so. I find that AG ¶ 16(a) applies to both SOR ¶¶ 1.d(i) and 1.d(ii).

AG ¶ 17 sets forth potentially applicable mitigating conditions under Guideline E:

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

Applicant has had several issues with her driver's license in recent years mostly for unpaid fines and court costs, but they are also minor, and resolved, as she has had a valid driver's license for almost two years. However, Applicant has a difficult record to mitigate. This is not only because of her criminal record, with arrests and charges in 2010, 2011, and 2018, but also because her conduct has escalated. She began in 2010 with shoplifting. Then, later that year, with a friend's help, she stole a check from the friend's father's checkbook, forged his name, cashed the check at a bank, and used the money, both in State 1 and in State 2, in college. This led to felony charges of identity theft and identify fraud, as well as a series of misdemeanor charges. Most recently, she engaged, either by herself or perhaps with help, in the fraudulent creation of a false letter from a credit union to evade a late fee when she could not make rent. Applicant has also not admitted any wrongdoing in this latest incident, notwithstanding a strong suggestion, supported by documentation from the Government, that she faked the letter from the credit union to get out of paying a late fee. Her actions suggest a pattern of conduct that is not only troubling but seems to be growing more sophisticated. She also falsified her application in failing to disclose her older felony charges, as required by the plain text of the question. Applicant did not provide sufficient evidence that either AG ¶¶ 17(c) or 17(d) should apply.

Guideline F, Financial Considerations

The trustworthiness concern relating to the guideline for financial considerations is set out in AG ¶ 18:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security [trustworthiness] concern insofar as it may result from criminal activity, including espionage.

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

AG ¶ 19 provides conditions that could raise financial trustworthiness concerns. The following are potentially applicable:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant has a history of delinquent student loans and other debts, AG ¶¶ 19(a) and 19(c) apply.

The financial considerations guideline also includes potentially applicable mitigating conditions, under AG ¶ 20:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business

downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances; and

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant incurred federal student-loan debts while pursuing a college degree. Those debts are ongoing, as are most of her other debts. AG ¶ 20(a) does not apply.

Applicant experienced financial issues before finding more steady employment in the defense industry. AG ¶ 20(b) has some application, since her debts are due to some extent to circumstances beyond her control, including low income, marital instability, and unplanned medical expenses. However, she has been gainfully employed, full time, for over three years. She has separated from her husband but they remain married, and he provides her financial assistance.

Applicant did not establish that she rehabilitated her delinquent federal student loans before the federal government placed federal student loans in forbearance status due to the COVID-19 pandemic. The current forbearance status of those loans does not excuse Applicant's inaction in failing to address those debts more responsibly earlier. She did not provide sufficient evidence to establish that she undertook reasonable steps to rehabilitate her student loans even by making minimal payments. She did not establish that she undertook responsible, good-faith efforts to resolve her debts. While I consider that her medical debts are mitigated, her other debts are not. Applicant has achieved some measure of financial stability through her current employment but she needs to establish a track record of addressing her debts more responsibly to establish mitigation. AG ¶¶ 20(b) and 20(d) do not fully apply.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance or position of public trust by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a position of public trust 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. I have incorporated my comments under Guidelines E and F in my whole-person analysis.

Applicant has provided some evidence of changed circumstances. She has clearly struggled to get where she is in life, and is trying to improve herself financially and to put her difficult past behind her. I have considered her positive work and personal character evidence. Her overall record, however, is difficult to overcome, particularly since she seeks eligibility for a position of public trust. A person in that position is entrusted with access to people's personally identifiable information. Applicant has already breached that trust, as she has felony charges of identity theft and identity fraud. She also has unresolved financial delinquencies, including federal student loan debt, and she has a prior record of engaging in identity theft and misrepresentations when she is in financial trouble, a record that shows she is not a suitable candidate for a position of public trust. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility for access to sensitive information. Applicant has not established that she is a suitable candidate for access to sensitive information and a position of public trust.

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.d:	Against Applicant
Subparagraph 1.e:	For Applicant
Paragraph 2, Guideline F:	AGAINST APPLICANT
Subparagraphs 2.a-2.e, 2.i-2.k:	Against Applicant
Subparagraphs 2.f-1.h:	For Applicant

Conclusion

In light of all of the circumstances, presented by the record in this case, it is not clearly consistent with national security to grant Applicant's access to sensitive information. Eligibility for access to sensitive information and for a position of public trust is denied.

Braden M. Murphy
Administrative Judge