



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



In the matter of:)
)
) ADP Case No. 20-01044
)
Applicant for Public Trust Position)

Appearances

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

03/03/2022

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant failed to mitigate the trustworthiness concerns regarding financial considerations and criminal conduct. Eligibility for a public trust position to support a contract with the DOD is denied.

Statement of the Case

On April 18, 2018, Applicant applied for a public trust position and submitted an Electronic Questionnaire for Investigations Processing (SF 86). On July 24, 2020, the Defense Counterintelligence and Security Agency (DCSA) Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to her under Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and Directive 4 of the Security Executive Agent (SEAD 4), *National Security Adjudicative Guidelines* (December 10, 2016) (AG), effective June 8, 2017.

The SOR alleged trustworthiness concerns under Guideline F (Financial Considerations) and Guideline J (Criminal Conduct) and detailed reasons why the DCSA adjudicators were unable to find that it is clearly consistent with the national interest to

grant or continue Applicant's eligibility for occupying a public trust position to support a contract with the DOD. The SOR recommended referral to an administrative judge to determine whether such eligibility should be granted, continued, denied, or revoked.

On March 5, 2021, Applicant responded to the SOR and elected to have her case decided on the written record in lieu of a hearing. (Item 2) A complete copy of the Government's file of relevant material (FORM) was mailed to Applicant by the Defense Office of Hearings and Appeals (DOHA) on August 30, 2021, and she was afforded an opportunity after receipt of the FORM to file objections and submit material in refutation, extenuation, or mitigation. In addition to the FORM, Applicant was furnished a copy of the Directive as well as the Adjudicative Guidelines applicable to her case. Applicant received the FORM on September 7, 2021. Her response was due on October 7, 2021. Applicant chose not to respond to the FORM, for as of November 3, 2021, no response had been received. The case was assigned to me on February 8, 2022. The record closed on November 3, 2021.

Findings of Fact

In her response to the SOR, Applicant admitted, with brief comments, most of the SOR allegations pertaining to financial considerations (SOR ¶¶ 1.c. through 1.e.) as well as all of the SOR allegations pertaining to criminal conduct (SOR ¶¶ 2.b., and 2.d. through 2.j.). Applicant's admissions and comments are incorporated herein. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following findings of fact:

Background

Applicant is a 43-year-old employee of a defense contractor. She has been serving as a customer service representative with her current employer since April 2018. She was previously employed by other employers as an in-home service provider (March 2015 – December 2017), a position which she left because she was unable to furnish required support; as a customer service representative (July 2016 – July 2017), a position from which she was fired due to disagreements with her manager; and as a senior customer service representative (August 2009 – September 2014), a position from which she was fired because she was unable to return from a leave of absence because she was depressed. She was unemployed on several occasions: (December 2017 – March 2018), during which she received unemployment compensation; (September 2014 – July 2016), during which she received welfare and/or unemployment compensation; and (September 2005 – August 2009), during which she received county assistance and/or unemployment benefits. She is a 1995 high school graduate. She has never served with the U.S. military. She has never been married. She has two children, born in 2000 and 2001.

Financial Considerations

General source information pertaining to the financial accounts discussed below can be found in the following exhibits: Item 2 (Answer to the SOR, dated July 23, 2021);

Item 3 (SF 86, dated April 18, 2018); Item 4 (Equifax Credit Report, dated August 26, 2021); Item 5 (Equifax Credit Report, dated May 13, 2019); Item 6 (Combined Experian, TransUnion, and Equifax Credit Report, dated May 12, 2018).

In her SF 86, Applicant acknowledged having several financial issues. She reported that she had a vehicle repossessed in 2014 and a credit-card account went to collections after she lost her job and became homeless. She reported another delinquent account, but disputed it. (Item 3 at 32-34)

On January 11, 2019, Applicant was interviewed by an investigator with the U.S. Office of Personnel Management. During that interview, she verified the financial issues she had previously reported in her SF 86. She is willing to pay her delinquent debts, but she is residing in her car and cannot afford to make any payments. She stated that she had never received any financial counseling or debt consolidation counseling. (Item 18 at 7)

A review of Applicant's credit reports from 2018 – 2021 indicates that there are several delinquent accounts. In her Answer to the SOR, she acknowledged several delinquent accounts. She offered no documentation, such as repayment agreements, statements from creditors, receipts, or cancelled checks, to reflect any resolution efforts even though she has been with her current employer since April 2018.

The SOR alleged 15 still-delinquent accounts totaling approximately \$24,982, as set forth below:

SOR ¶ 1.a. is an automobile loan with an unpaid balance of \$11,409 that was placed for collection and charged off. (Item 5 at 1) Applicant denied the allegation, but failed to indicate the basis for her denial. (Item 2 at 1) The account has not been resolved.

SOR ¶ 1.b. is an unspecified type of account that appears to be a loan with an unpaid balance of \$872 that was placed for collection and sold to a debt purchaser. (Item 4 at 2; Item 6 at 5) Although she previously said she was disputing the account, she offered no documentation to support the claimed dispute and failed to offer any reasonable basis to dispute the legitimacy of the debt. The account has not been resolved.

SOR ¶ 1.c. is a department store charge-account with an unpaid balance of \$431 that was placed for collection and charged off. (Item 4 at 2; Item 5 at 2; Item 6 at 6) The account has not been resolved.

SOR ¶ 1.d. is an automobile loan for a vehicle that was repossessed leaving an unpaid balance of \$5,707 that were placed for collection. (Item 5 at 2; Item 6 at 6) The account has not been resolved.

SOR ¶ 1.e. is an unusual collection of 11 unpaid vehicle and penal code violation fines and fees generated over a multi-year period (2006 – 2018) that Applicant has ignored, totaling approximately \$6,563. The violations and fines are as follows: March

2006 (\$733.61) for speeding, failure to appear, and failure to pay (Item 7); January 2007 (\$822.41) for speeding, current month and year tab not properly attached, following too closely, and failure to pay (Item 8); February 2008 (\$770) for mandatory use of safety belts, mandatory use of safety belt or child system, and failure to pay (Item 10); May 2009 (\$591) for driving on a suspended or revoked license, and failure to pay (Item 11); June 2012 (\$675) for evasion of payment of fare, failure to appear, and failure to pay (Item 12); July 2012 (\$710) for evasion of payment of fare, failure to appear, and failure to pay (Item 13); March 2015 (\$541) for red signal – vehicular responsibilities, and failure to appear (Item 14); June 2015 (\$890) for no valid license in possession, failure to appear, and failure to pay (Item 15); and June 2015 (\$830) for improper use of preferential lanes, and failure to pay (Item 16). (Items 7 through 17) Applicant's explanation for the violations was that she just was not driving safely and always got tickets. She failed to list the violations, fines, and fees in her SF 86 because she had so many of them that she could not remember them all. (Item 18 at 6) The accounts have not been resolved.

Other than her general promise made to the OPM investigator in January 2019, Applicant offered no indication that she intended to pay the bills or that she had made any efforts to do so since receiving the SOR.

There is no evidence of financial counseling, a budget, or anything to describe with any specificity Applicant's current financial situation. Applicant did not report her net monthly income, her monthly household expenses, or any monthly debt payments. In the absence of such information, I am unable to determine if she has any monthly remainder available for savings or spending. In January 2019, she reported that she was homeless and was concentrating on survival. (Item 18 at 6) There is a paucity of evidence to indicate that her financial problems are now under control, and it is difficult to determine if Applicant is currently in a better position financially than she had been.

Criminal Conduct

As noted above, over a multi-year period (2006 – 2018) Applicant generated a number of vehicle and penal code violations, fines, and fees, totaling approximately \$6,563. In addition to those 11 reported above, she was also charged with the following offenses: May 2007, she was charged with red signal – vehicular responsibilities, no evidence of current registration, failure to provide evidence of financial responsibility, no valid license in possession, and failure to appear (Item 9); and in April 2018, she was charged with speeding, failure to provide evidence of financial responsibility, and failure to appear (Item 17). Applicant offered no indication that she intended to resolve the violations or pay the fines and fees, or that she had made any efforts to do so since receiving the SOR. Those vehicle and penal code violations have not been resolved.

During her OPM interview, Applicant acknowledged that because she had become depressed over the deaths of her grandmother in 2011 and mother in 2012, as well as her breakup with the father of her children during the same period, she used marijuana on a daily basis by herself or with friends until early 2013. She claimed that she was no longer depressed, so she had no intentions to use marijuana in the future. (Item 18 at 7) This conduct was not alleged in the SOR.

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no one has a ‘right’ to a [position of public trust].” (*Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988)) As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information. The President has authorized the Secretary of Defense or his designee to grant an applicant eligibility for access to such information “only upon a finding that it is clearly consistent with the national interest to do so.” The Deputy Under Secretary of Defense (Counterintelligence and Security) Memorandum, dated November 14, 2004, indicates trustworthiness adjudications will apply to cases forwarded to DOHA. ADP I (critical-sensitive positions) and ADP II (non-critical sensitive positions) constitute such cases.

When evaluating an applicant’s suitability for a public trust position, the administrative judge must consider the guidelines in SEAD 4. In addition to brief introductory explanations for each guideline, the guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant’s eligibility for a public trust position.

An administrative judge need not view the guidelines as inflexible, ironclad rules of law. Instead, acknowledging 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. 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 meaningful decision.

In the decision-making process, facts must be established by “substantial evidence.” “Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record.” (ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1)) “Substantial evidence” is “more than a scintilla but less than a preponderance.” (See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994))

The Government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive, and has the burden of establishing controverted facts alleged in the SOR. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the applicant has the burden of persuasion to present evidence in refutation, explanation, extenuation or mitigation, sufficient to overcome the doubts raised by the Government’s case. The burden of disproving a mitigating condition never shifts to the Government. (See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005))

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 as well. It is because of this special relationship that the Government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to sensitive 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 as to potential, rather than actual, risk of compromise of sensitive information. Furthermore, "security clearance determinations, and by inference, public trust determinations, should err, if they must, on the side of denials." (*Egan*, 484 U.S. at 531) 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.

Analysis

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 concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise trustworthiness concerns under AG ¶ 19:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

The SOR alleged 15 still-delinquent accounts totaling approximately \$24,982. Applicant attributed her inability to maintain those accounts in a current status to her

repeated periods of unemployment and the fact that she was homeless and residing in her car. As noted above, while she was unemployed she was receiving combinations of county assistance, welfare, and unemployment benefits. AG ¶¶ 19(a) and 19(c) have been established, but there is no evidence that Applicant has been unwilling to satisfy his debts regardless of an ability to do so, and AG ¶ 19(b) has not been established.

The guideline also includes examples of conditions that could mitigate trustworthiness concerns arising from financial difficulties 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;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

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

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue

AG ¶¶ 20(b) minimally applies, but none of the other conditions apply. On at least two occasions, Applicant was terminated from employment for cause – situations that were not largely beyond her control. On 11 occasions, her disregard for the requirements of the vehicle and penal code caused her to violate those codes and generate substantial fines and fees. While she contended that she had disputed one of her reported delinquent accounts, she failed to offer a reasonable basis to dispute the legitimacy of that delinquent debt. Other than her general promise made to the OPM investigator in January 2019, she offered no indication that she intended to pay the bills or that she had made any efforts to do so since receiving the SOR, even though she has held full-time employment since April 2018.

A debt that became delinquent several years ago is still considered recent because “an applicant's ongoing, unpaid debts evidence a continuing course of conduct and, therefore, can be viewed as recent for purposes of the Guideline F mitigating conditions.” (ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017) (citing ISCR Case No. 15-01690

at 2 (App. Bd. Sept. 13, 2016)). Applicant offered no evidence of a good-faith effort to contact her creditors, engage in efforts to resolve any of her delinquent debts, or make any payments. Between the date she was interviewed by the OPM investigator in January 2019, and the date her response to the FORM was expected in October 2021, she made no claimed or verifiable efforts to address any of the delinquent debts.

Based on the evidence, it appears that Applicant actually ignored her delinquent accounts for a substantial multi-year period. In fact, because of her cavalier attitude regarding the vehicle and penal code, she simply added to her delinquent debts. Because of her failure to confirm payment of even her smallest delinquent account (a \$541 penal code violation fine and fee) and her failure to furnish documentation regarding any of the accounts, the overwhelming evidence leads to the conclusion that her financial problems are not under control. She has not acted responsibly by failing to address her delinquent accounts while employed and by failing to make limited, if any, efforts of working with her creditors. The Appeal Board has previously commented on such a situation:

Even if Applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties. ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)). A component is whether he or she maintained contact with creditors and attempted to negotiate partial payments to keep debts current.

An applicant who begins to resolve his or her financial problems only after being placed on notice that his or her public trust position is in jeopardy may be lacking in the judgment and self-discipline to follow rules and regulations over time or when there is no immediate threat to his or her own interests. (See, e.g., ISCR Case No. 17-01213 at 5 (App. Bd. Jun. 29, 2018); ISCR Case No. 17-00569 at 3-4 (App. Bd. Sept. 18, 2018) In this instance, Applicant has failed to offer any evidence that she has even begun making such efforts even after the SOR was issued in July 2020.

Trustworthiness decisions are aimed at evaluating an applicant's judgment, reliability, and trustworthiness. They are not a debt-collection procedure. The guidelines do not require an applicant to establish resolution of every debt or issue alleged in the SOR. An applicant needs only to establish a plan to resolve financial problems and take significant actions to implement the plan. There is no requirement that an applicant immediately resolve issues or make payments on all delinquent debts simultaneously, nor is there a requirement that the debts or issues alleged in an SOR be resolved first. Rather, a reasonable plan and concomitant conduct may provide for the payment of such debts, or resolution of such issues, one at a time. Mere promises to pay debts in the future, without further confirmed action, are insufficient. In this instance, Applicant offered no specifics regarding any repayment efforts; submitted no documentary evidence to reflect any payments made; and only made promises of proposed actions. Not one delinquent debt has been resolved.

The Appeal Board has previously explained what constitutes a good-faith effort to repay overdue creditors or otherwise resolve debts:

In order to qualify for application of [the “good-faith” mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant’s debts. The Directive does not define the term “good-faith.” However, the Board has indicated that the concept of good-faith “requires a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation.”

(internal citation and footnote omitted) ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. Jun. 4, 2001)).

There is no evidence of financial counseling, a budget, or current financial information. Applicant’s in-action under the circumstances cast doubt on her current reliability, trustworthiness, and good judgment. See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

Guideline J, Criminal Conduct

The trustworthiness concern relating to the guideline for Criminal Conduct is set out in AG ¶ 30: Criminal activity creates doubt about a person’s judgment, reliability, and trustworthiness. By its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations.

The guideline notes two conditions under AG ¶ 31 that could raise trustworthiness concerns:

- (a) a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual’s judgment, reliability, or trustworthiness; and
- (b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

Applicant’s disregard of the vehicle and penal code has resulted in a substantial number of violations over a multi-year period. In fact, her violations occurred over more than a decade. She clearly established a pattern of minor offenses, none of which individually would affect her trustworthiness eligibility decision. However, she has made no attempt to resolve any of those violations. Accordingly, based on the pattern of actions described above, AG ¶¶ 31(a) and 31(c) have been established.

The guideline also includes examples of conditions under AG ¶ 32 that could mitigate trustworthiness concerns arising from criminal conduct. They include:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Neither of the conditions apply. Applicant has a multiple-incident history of criminal conduct, commencing in March 2006 and continuing periodically until at least April 2018. She was charged with a variety of vehicle and penal code violations, and was fined. She repeatedly failed to appear, and continued generating more violations. Over that period, nothing seemed to work.

Generally, the passage of time without recurrence of additional criminal activity can be construed as some evidence of successful rehabilitation. However, in this instance, the most recent criminal activity was committed in 2018, but her continuing failure to address any of her violations, pay her fines and fees, or appear in court as previously required, indicate that the criminal conduct has not been addressed, resulting in no evidence of rehabilitation. While a person should not be held forever accountable for misconduct from the past, in this instance the past is still relatively recent, and the concerns about future criminal conduct, in light of the failure to address the past and continuing criminal conduct, are continuing. Applicant's past history of criminal conduct, under the circumstances, continues to cast doubt on her reliability, trustworthiness, and good judgment.

Unalleged conduct can be considered for certain purposes, as discussed by the DOHA Appeal Board. (Conduct not alleged in an SOR may be considered: (a) to assess an applicant's credibility; (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation; (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for whole-person analysis under Directive § 6.3.). See ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006); (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See *also* ISCR Case No. 12-09719 at 3 (App. Bd. April 6, 2016) (citing ISCR Case No. 14-00151 at 3, n. 1 (App. Bd. Sept. 12, 2014); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)). Applicant's use of marijuana in the past, as well as her failures to list any of her vehicle and penal code violations in her SF 86 will be considered only for the purposes listed above, not including any assessment of her credibility.

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 SEAD 4, App. A, ¶ 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 SEAD 4, App. A, ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. Moreover, I have evaluated the various aspects of this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis. See *U.S. v. Bottone*, 365 F.2d 389, 392 (2d Cir. 1966); see also ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006).

There is some evidence in favor of mitigating Applicant's financial considerations. Applicant is a 43-year-old employee of a defense contractor. She has been serving as a customer service representative with her current employer since April 2018. She is a 1995 high school graduate.

The disqualifying evidence under the whole-person concept is simply more substantial and compelling. Applicant was previously employed by other employers as an in-home service provider, a position which she left because she was unable to furnish required support; as a customer service representative, a position from which she was fired due to disagreements with her manager; and as a senior customer service representative, a position from which she was fired because she was unable to return from a leave of absence because she was depressed.

Because of Applicant's failure to confirm any efforts to resolve her delinquent accounts, the overwhelming evidence leads to the conclusion that her financial problems are not under control. She was last reported to be homeless and living in her car, although she has been gainfully employed since April 2018. She has not acted responsibly by failing to address her delinquent accounts while employed and by failing to make limited, if any, efforts of working with her creditors. There are lingering questions if Applicant is currently in a better position financially than he had been. Moreover, her woeful record regarding her disregard of vehicle and penal code requirements resulting in repeated violations, fines, and fees, as well as her failure or refusal to appear in court to resolve her violations, generate a continuing doubt about her current reliability, trustworthiness, and good judgment. Overall, the evidence leaves me with substantial questions and

doubts as to Applicant's eligibility and suitability for a position of public trust. For all of these reasons, I conclude Applicant has failed to mitigate the trustworthiness concerns arising from her financial considerations and criminal conduct. See SEAD 4, App. A, ¶¶ 2(d) (1) through AG 2(d) (9).

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 F: | AGAINST APPLICANT |
| Subparagraphs 1.a. through 1.e.: | Against Applicant |
| Paragraph 2, Guideline J: | AGAINST APPLICANT |
| Subparagraphs 2.a. through 2.k.: | Against 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 position of public trust to support a contract with the DOD. Eligibility is denied.

ROBERT ROBINSON GALES
Administrative Judge