



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



In the matter of:

Applicant for Public Trust Position

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ADP Case No. 14-00590

Appearances

For Government: Pamela Benson, Esq., Department Counsel
For Applicant: *Pro se*

09/04/2014

Decision

HARVEY, Mark, Administrative Judge:

Applicant’s statement of reasons (SOR) alleges 13 delinquent debts, totaling \$64,109 and two bankruptcies. She is credited with resolving or establishing payment plans to address ten debts; however, she did not make sufficient progress resolving five debts, totaling \$56,747. She has a history of not filing or fully paying her federal income taxes, and she failed to establish a payment plan to address her delinquent federal income taxes after becoming employed on January 1, 2013. Financial considerations concerns are not mitigated. Her eligibility to occupy a public trust position is denied.

Statement of the Case

On October 9, 2013, Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP) version of an application for a public trust position (SF 86). (Item 4) On March 11, 2014, the Department of Defense (DOD) issued an SOR to Applicant, pursuant to Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended, and modified; DOD Regulation 5200.2-R, *Personnel Security Program*, dated Jan. 1987, as amended (Regulation); and the adjudicative guidelines (AG) promulgated by the President on December 29, 2005.

The SOR alleges trustworthiness concerns under Guideline F (financial considerations). (Item 1) The SOR detailed reasons why DOD was unable to find that it is clearly consistent with the national interest to grant or continue Applicant's eligibility to occupy a public trust position, which entails access to sensitive information. (Item 1) DOHA recommended referral to an administrative judge to determine whether such access to sensitive information should be granted, continued, denied, or revoked.

On April 7, 2014, Applicant responded to the SOR, and she waived her right to a hearing. (Item 3) On June 27, 2014, Department Counsel completed the File of Relevant Material (FORM),¹ and on July 16, 2014, the FORM was provided to Applicant. The Applicant provided an undated response to the FORM, and on August 19, 2014, Department Counsel indicated she did not object to my consideration of the FORM response. On August 28, 2014, the Defense Office of Hearings and Appeals (DOHA) assigned Applicant's case to me.

Findings of Fact²

In her Answer to the SOR, Applicant admitted the SOR allegations in ¶¶ 1.a, 1.b, 1.d, 1.g-1.i, and 1.k-1.o, and she provided mitigating information. (Item 3) Her admissions are accepted as findings of fact.

Applicant is a 54-year-old provider data analyst employed by a defense contractor since September 30, 2013. (FORM response) From September 1983 to June 1984, she "attended an accelerated program equal to 2 years/Associate degree," and she received an Associate's diploma in June 1984. (Item 4) She has not served in the military. (Item 4) In 1992, Applicant married, and she has three children ages 21, 34, and 35, and two stepchildren ages 23 and 26. (Item 4)

Financial Considerations

Applicant's history of delinquent debt is documented in her credit reports, her SF 86, her bankruptcy documentation, her SOR response, and her FORM response. Applicant described three circumstances beyond her control that contributed to her financial problems. (FORM response) She said she was unemployed from February 2011 to January 2013. (Item 4) Her town increased her real estate taxes, and she could not afford her residence. (FORM response at 1) She had substantial bills for home renovations and repairs. (FORM response at 1) In 2008, her residence was sold using a short sale, and she had to pay rent. (FORM response at 1) She claimed her

¹The FORM describes the content of Applicant's November 20, 2013 Office of Personnel Management (OPM) personal subject interview (PSI) at pages 5-6, and suggests "[i]f Applicant disagrees with the information summarized from her Subject Interview report, please provide corrected information in the Reply to this Government Brief." (FORM at 5 note 9) The file did not contain a copy of the OPM PSI. Since the OPM PSI was not an exhibit or part of an exhibit and Applicant did not specifically address the OPM PSI in her FORM response, it will not be considered as substantive evidence.

²Some details have been excluded in order to protect Applicant's right to privacy. Specific information is available in the cited exhibits.

underpayments of her federal income taxes were largely due to errors using TurboTax software from 2007 to 2010. (FORM response at 1)

Applicant's SOR alleges 13 delinquent debts, totaling \$64,109 as follows: (1)-(3) ¶ 1.a (\$15,660), ¶ 1.b (\$22,480), ¶ 1.c (\$4,889) for federal income taxes; (4) ¶ 1.d (\$253) is a medical debt that resulted in a judgment; (5) ¶ 1.e³ (\$5,035) is a 2009 judgment; (6) ¶ 1.f (\$1,242) is a 2010 judgment; (7) ¶ 1.g (\$79) is an insurance collection debt; (8) ¶ 1.h (\$275) is a medical collection debt; (9) ¶ 1.i (\$347) is a medical collection debt; (10) ¶ 1.j (\$13,465) is a student loan collection debt; (11) ¶ 1.k (\$237) is a telecommunications collection debt; (12) ¶ 1.l (\$89) is a utilities debt that is 120 days past due; (13) ¶ 1.m (\$58) is a debt owed to a library; (14) ¶ 1.n states Applicant filed for bankruptcy under Chapter 13 of the Bankruptcy Code in August 2001 and the bankruptcy was dismissed with prejudice in December 2003; and (15) ¶ 1.o states Applicant filed for bankruptcy under Chapter 13 of the Bankruptcy Code in December 2007, and her bankruptcy was voluntarily dismissed in January 2008.

SOR ¶ 1.d (\$253) is a medical debt that resulted in a judgment. Applicant explained that she checked or planned to check the local courts to locate the debt, and she planned to pay the amount in full. (SOR response) She did not provide updated information on the disposition of this debt. (FORM response)

Applicant said the debt in SOR ¶ 1.e (\$5,035) resulted from a loan from Applicant's father. (FORM at 6) She said her father later withdrew the 2009 judgment, and the debt was paid. (FORM at 6; SOR response)

SOR ¶ 1.f (\$1,242) is a 2010 judgment. Applicant said she paid a law firm \$550, and she plans to pay the law firm \$100 monthly until the debt is resolved. (SOR response) She provided proof that she made one \$100 payment on April 7, 2014. (FORM response at 22)

SOR ¶ 1.g (\$79) is an insurance collection debt. (Item 1) On April 7, 2014, Applicant paid the debt in SOR ¶ 1.g. (SOR response, FORM response at 22)

SOR ¶ 1.h (\$275) is a medical collection debt. (Item 1) On March 31, 2014, Applicant paid the debt in SOR ¶ 1.h. (SOR response, FORM response at 22)

SOR ¶ 1.i (\$347) is a medical collection debt. On April 7, 2014, Applicant said she intended to pay this debt in the next 30 days. (SOR response) When she submitted her FORM response, she did not include any evidence about paying this debt. (FORM response)

SOR ¶ 1.j (\$13,465) is a student loan collection debt. In her SOR response, Applicant said, "I deny; the principal balance of \$2,300 was paid multiple times over the

³The SOR contains two subparagraphs each of 1.e, 1.f, and 1.g. (Item 1) I have renumbered the SOR paragraphs in the sequence as they are listed in the SOR beginning with the second 1.e as 1.g. (Item 1)

course of ten years to various collection agencies. And I continue to get billed. . .” (SOR response) Applicant paid \$540 in three \$180 payments in May 2014, June 2014, and July 2014. (FORM response at 17-19)

Applicant provided detailed payment data concerning her cell phone showing payments from July 2013 to July 2014 totaling \$2,458, and she believes her cell phone account is current. (FORM response at 16) SOR ¶ 1.k alleges a telecommunications collection debt for \$237. On March 31, 2014, she paid this debt. (SOR response; FORM response at 22)

Applicant provided detailed payment data concerning her utilities showing payments from August 2012 to August 2014, and she believes her utilities are current. (FORM response at 15) SOR ¶ 1.l alleges an overdue utilities debt for \$89. She is credited with payment of this debt. (SOR response)

SOR ¶ 1.m (\$58) is a debt owed to a library. Applicant paid the debt on April 3, 2014. (SOR response; FORM response at 20)

An August 12, 2014 law firm letter indicates Applicant has been a tenant in an apartment complex since October 2010. (FORM response at 3) She fell behind on her rent because of unemployment, but she kept her landlord informed about her financial problems. (FORM response at 3) At one point, she owed her landlord \$8,000; however, she paid this debt, and her \$1,700 monthly rent is current. (FORM response at 3)

Federal Income Tax Debts

SOR ¶¶ 1.a (\$15,660), 1.b (\$22,480), and 1.c (\$4,889) allege a total of \$43,029 for federal income taxes based on tax liens in 2011 and 2013. (Item 1) Applicant’s October 9, 2013 SF 86 disclosed she failed to timely pay in full her federal income taxes for the following tax years and reasons: (1) 2005 “didn’t meet deadline” unpaid taxes amounted to \$2,000; (2) 2007 “I don’t have a valid reason” unpaid taxes amounted to \$7,000; (3) 2008 “error with my turbo tax submission” unpaid taxes amounted to \$3,000; (4) 2009 “didn’t have funds/no excuse” unpaid taxes amounted to \$5,000; (5) 2010 “didn’t pay the hardship penalty on the 401k, according to the IRS, the tax was paid but not the penalty” unpaid taxes amounted to \$3,000; and (6) 2011 “lost my employment; made some payments but not in full” unpaid taxes amounted to \$2,000. (Item 4)⁴ However, in each instance she said she had “worked out an installment agreement,” “worked out a combined installment agreement,” or “worked out a total combined payment agreement on the years that were not paid in full.” (Item 4)

Applicant said the IRS assessed her with a \$3,000 penalty for withdrawing funds from her 401(k) to pay for her son’s college. (FORM at 5) Applicant said the IRS

⁴Applicant said she paid her 2011 and 2012 taxes in full and on time. (SOR response) She said the IRS incorrectly keyed \$3,193 as interest, when the correct amount was \$31.93, and the amount plus penalties were removed from her tax bill. (SOR response)

subsequently withdrew the \$3,000 penalty. (FORM at 5) She said she paid the \$2,000 owed for tax year 2011. (FORM at 5)

Applicant paid the IRS \$900 in 2011 (\$300 in October, November, December) and \$1,800 in 2012 (\$300 in January, February, March, April, May, June) to address her 2005 and 2007 delinquent taxes. (FORM response at 6-14)⁵ On November 10, 2013, she paid \$1,248, and she resolved her state tax debt for tax year 2010. (Item 4, FORM response at 5; non-SOR debt)

On January 1, 2013, Applicant was hired as a provider data analyst after being unemployed from February 2011 to January 2013. (Item 4) On September 30, 2013, she was hired by her current employer. (FORM response at 1) In February 2014, she said she hired a company to negotiate with the IRS concerning resumption of her payment plan, which was terminated in 2012. (SOR response) This company was unable to establish an adequate payment plan, and she is “now in the final phase of submitting the appropriate paperwork such as financial statements and moving forward with the monthly installations agreement. Per the agreement, after three consecutive months of payments, the federal liens will be released.” (FORM response at 1)

There is no evidence that Applicant paid the IRS anything in the past 18 months to address the delinquent tax allegations in SOR ¶¶ 1.a to 1.c, even though she was employed during this period.

Bankruptcies

Applicant filed for bankruptcy under Chapter 13 of the Bankruptcy Code in August 2001 and the bankruptcy was dismissed with prejudice in December 2003. (SOR ¶ 1.n) Applicant said she paid her creditors, and bankruptcy was no longer required. (SOR response) Applicant received some financial counseling in connection with her bankruptcy.

Applicant filed for bankruptcy under Chapter 13 of the Bankruptcy Code in December 2007, and the bankruptcy was voluntarily dismissed in January 2008. (SOR ¶ 1.o) She said the bankruptcy was filed by mistake, and when she learned of the error, the bankruptcy was dismissed. (SOR response)

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 security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). The Government’s authority to restrict access to classified information applies similarly in the protection of sensitive, unclassified information. As Commander in Chief, the President has the authority to control access

⁵She noted on the front of her checks in 2011 and 2012 that her payments to the IRS were to address debts for tax years 2005 and 2007. (FORM response at 6-14)

to information bearing on national security or other sensitive information and to determine whether an individual is sufficiently trustworthy to have access to such information. See *Id.* at 527.

Positions designated as ADP I and ADP II are classified as “sensitive positions.” Regulation ¶¶ C3.1.2.1.1.7 and C3.1.2.1.2.3. “The standard that must be met for . . . assignment to sensitive duties is that, based on all available information, the person’s loyalty, reliability, and trustworthiness are such that . . . assigning the person to sensitive duties is clearly consistent with the interests of national security.” Regulation ¶ C6.1.1.1. Department of Defense contractor personnel are afforded the right to the procedures contained in the Directive before any final unfavorable access determination may be made. See Regulation ¶ C8.2.1.

When evaluating an applicant’s suitability for a public trust position, an administrative judge must consider the disqualifying and mitigating conditions in the AG. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

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 sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or 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.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant which may disqualify the applicant from being eligible for access to sensitive information. See *Egan*, 484 U.S. at 531. “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 guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security and trustworthiness suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his or her security clearance [or access to sensitive information].” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). 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). “[S]ecurity

clearance [or trustworthiness] determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

The protection of the national security and sensitive records is of paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to [sensitive] information will be resolved in favor of national security.” Section 7 of Executive Order (EO) 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.”

Analysis

Financial Considerations

AG ¶ 18 articulates the trustworthiness concern relating to financial problems:

Failure or inability 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 [sensitive] information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

AG ¶ 19 provides two disqualifying conditions that could raise a trustworthiness concern and may be disqualifying in this case: “(a) inability or unwillingness to satisfy debts;” and “(c) a history of not meeting financial obligations.” In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained:

It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government’s obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

(internal citation omitted). Applicant’s history of delinquent debt is documented in her credit reports, her October 29, 2013 SF 86, her SOR response, and her FORM response. Applicant’s SOR alleges 13 delinquent debts, totaling \$64,109 and two bankruptcy filings. The Government established the disqualifying conditions in AG ¶¶ 19(a) and 19(c) requiring additional inquiry about the possible applicability of mitigating conditions.

Five mitigating conditions under AG ¶ 20 are potentially applicable:

(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, or a death, divorce or separation), and the individual acted responsibly under the circumstances;

(c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts;⁶ 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.

The Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013).

⁶The 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." Accordingly, an applicant must do more than merely show that he or she relied on a legally available option (such as bankruptcy) in order to claim the benefit of [the "good faith" mitigating condition].

(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. June 4, 2001)).

Applicant's conduct in resolving her delinquent debt does not warrant full application of any mitigating conditions to all of her SOR debts; however, she provided some mitigating information. AG ¶ 20(b) has some applicability. She described three circumstances beyond her control: (1) she was unemployed from February 2011 to January 2013; (2) her town increased her real estate taxes, and she could not afford her residence; and (3) her underpayments of her taxes were largely due to errors using TurboTax software from 2007 to 2010. Her problems with TurboTax software do not fully explain the magnitude of her delinquent tax bill. She did not provide enough details about her income and tax returns and what she did after becoming employed in January 2013 to address her delinquent debts to establish that she "acted responsibly under the circumstances."

Applicant is credited with mitigating several SOR debts. She stated she paid the debt to her father in SOR ¶ 1.d. Her assertion is accepted as accurate, even though she did not provide any corroborating evidence of payment. She provided proof that she paid the debts in SOR ¶¶ 1.g, 1.h, 1.k, 1.l, and 1.m. Her reasons for filing her bankruptcies in 2003 and 2007 and for dismissing those bankruptcies in 2003 and 2008 are reasonable. She made payments to the creditor in SOR ¶ 1.f, and she stated she paid the debt in SOR ¶ 1.i. The debts and bankruptcies alleged in SOR ¶¶ 1.e to 1.i, and 1.k to 1.o are mitigated.

Applicant has been employed since January 1, 2013, and she has not made any payments after becoming employed to address the debts in SOR ¶¶ 1.a (\$15,660), 1.b (\$22,480), and 1.c (\$4,889), which total \$43,029 for federal income taxes based on tax liens in 2011 and 2013. She did not provide any evidence of progress addressing the debt in SOR ¶ 1.d (\$253). In 2014, she paid \$540 to address her student loan collection debt in SOR ¶ 1.j (\$13,465) after denying responsibility for it in her SOR response. Her student loan payments over the last 18 months are insufficient to fully mitigate this debt.

Applicant did not act responsibly under the circumstances. She did not provide sufficient information about her finances to establish her inability to make greater progress on the debts in SOR ¶¶ 1.a-1.d, and 1.j after becoming employed on January 1, 2013. Applicant received some financial counseling in connection with her bankruptcy; however, she did not establish that there are clear indications that her financial problems are being resolved or are under control, and will not occur in the future.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an Applicant's eligibility for a public trust position 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) 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 public trust position must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

There is some evidence supporting approval of Applicant's clearance. Applicant is a 54-year-old provider data analyst employed by a defense contractor since September 30, 2013. She received an Associate's diploma in June 1984. In 1992, Applicant married, and she has three children ages 21, 34, and 35, and two stepchildren ages 23 and 26. There is no evidence that Applicant abused alcohol or used illegal drugs. She contributes to her company and the Department of Defense. There is no evidence of criminal offenses, disloyalty, or that she would intentionally violate national security. She paid or established payment plans, and she has mitigated 10 SOR debts. Her bankruptcies were reasonable approaches to address her financial problems. She paid her landlord for back rent of about \$8,000. Some circumstances beyond her control, especially unemployment, adversely affected her finances.

The financial evidence against approval of Applicant's clearance is more substantial at this time. Applicant has a history of financial problems. She has been employed since January 1, 2013, and she has not made any payments after becoming employed to address the debts in SOR ¶¶ 1.a (\$15,660), 1.b (\$22,480), and 1.c (\$4,889), which total \$43,029 for federal income taxes based on tax liens in 2011 and 2013. She did not provide any evidence of progress addressing the debt in SOR ¶ 1.d (\$253). In 2014, she paid \$540 to address her student loan collection debt in SOR ¶ 1.j (\$13,465) after denying responsibility for it in her SOR response. She has made a good start addressing her student loan debt; however, in light of her financial history consistent monthly payments for more than three months are necessary to fully mitigate her student loan debt.

Applicant received notice in the SOR that her financial problems raised trustworthiness concerns. She could have made greater progress resolving or attempting to resolve her federal income tax liens. Her failure to show greater progress by establishing a payment plan with the IRS shows lack of financial responsibility and judgment and raises unmitigated questions about Applicant's reliability, trustworthiness, and ability to protect sensitive information. See AG ¶ 18. More financial progress is necessary to fully mitigate trustworthiness concerns.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. Financial considerations concerns are

not mitigated. For the reasons stated, I conclude Applicant is not eligible for a public trust position at this time.

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 to 1.d:	Against Applicant
Subparagraphs 1.e to 1.i:	For Applicant
Subparagraph 1.j:	Against Applicant
Subparagraphs 1.k to 1.o:	For Applicant

Conclusion

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

Mark Harvey
Administrative Judge