



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



In the matter of:

Applicant for Public Trust Position

ADP Case No. 15-03988

Appearances

For Government: Adrienne Driskill, Esq., Department Counsel
For Applicant: Susanna K. Farber, Esq.

04/10/2017

Decision

HARVEY, Mark, Administrative Judge:

Applicant did not present sufficient evidence of her efforts to resolve her delinquent debts. Financial considerations trustworthiness concerns are not mitigated, and eligibility to occupy a public trust position is denied.

Statement of the Case

On June 27, 2013, Applicant signed her Questionnaire for National Security Positions (SF 86) or security clearance application (SCA). (Government Exhibit (GE) 1) On December 15, 2015, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a statement of reasons (SOR) to Applicant, pursuant to DOD 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 January 1987, as amended (Regulation); and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), which became effective on September 1, 2006.

The SOR alleges trustworthiness concerns under Guideline F (financial considerations). (Hearing Exhibit (HE) 2) The SOR detailed reasons why the DOD CAF was unable to find that it is clearly consistent with the interests of national security to grant or continue Applicant's eligibility to occupy a public trust position, which entails access to sensitive information. (HE 2) The DOD CAF recommended referral to an

administrative judge to determine whether her access to sensitive information should be granted, continued, denied, or revoked. (HE 2)

On January 16, 2016, Applicant responded to the SOR allegations, and she requested a hearing. (HE 3) On July 25, 2016, Department Counsel was ready to proceed. On October 13, 2016, the case was assigned to me. On December 22, 2016, the Defense Office of Hearings and Appeals issued a hearing notice setting the hearing for January 19, 2017. (HE 1) The hearing was held as scheduled. At the hearing, the Government provided four exhibits; Applicant offered two exhibits; and all exhibits were admitted into evidence without objection, except Applicant objected to admissibility of two credit reports. (Tr. 13-17; GE 1-4; Applicant Exhibits (AE) 1-2)

Applicant contended that only the most recent credit report should be admitted. (Tr. 14) Her objection to admissibility was overruled as the two older credit reports show a history of Applicant's finances. Each credit report is a snap shot of the Applicant's finances when the credit report is generated. The credit reports tend to corroborate each other as they often show the same debts. Different credit reports may show: progress paying down the balance owed on a debt; an increase in delinquent amounts owed on debts; transfers of debts; and resolution of debts. More recent credit reports are more relevant than older credit reports because the more recent the report the more current the financial information will be.

On January 26, 2017, I received a transcript of the hearing (Tr.). On January 31, 2017, Department Counsel provided documentation from Applicant's Chapter 13 bankruptcy, which was admitted into evidence without objection. (GE 5) On April 4, 2017, Applicant provided one exhibit, which was admitted into evidence, and the record closed that same day. (Tr. 55; AE 3)

Findings of Fact¹

Applicant admitted the allegations in SOR ¶¶ 1.a through 1.f, 1.h, and 1.i. She also provided explanations and mitigating information. (HE 2) Her admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence of record, I make the following additional findings of fact.

Applicant is a 59-year-old employee of a contractor, and she has been employed by the same contractor in health-care services for 17 years. (Tr. 18; GE 1) Three years ago she moved into a federal-health program. (Tr. 18, 39) In 1976, she received a high school diploma. (GE 1) In 1977, she married, and in 1999, she divorced. (GE 1) Her two children from her first marriage are ages 32 and 36. (Tr. 38) In 2001, she married. (GE 1) She has not served in the U.S. armed forces. (GE 1) There is no evidence that she violated trustworthiness rules, committed any crimes, abused alcohol, or used illegal drugs.

¹The facts in this decision do not specifically describe employment, names of witnesses, names of other groups, or locations in order to protect Applicant and her family's privacy. The cited sources contain more specific information.

Financial Considerations

Applicant had financial problems because her mother had a stroke and was in a coma for a time; her husband became unemployed in 2010 or 2011; the decline in real estate values caused them to be “underwater” on their residence; and her renters left her rental property. (Tr. 18-19, 27-29) Her mother passed away in 2012. (Tr. 47; SOR response) Applicant said, “I went through a time where I couldn’t work. I was depressed. I wanted to die. I didn’t care.” (Tr. 36) She was off from work for three months, and she received therapy and medication. (Tr. 36, 48) Her depression was primarily due to grief. (Tr. 51) She did not trust anybody because her Chapter 13 bankruptcy was dismissed. (Tr. 36) She found her finances difficult to understand and overwhelming. (Tr. 36) She is feeling better now, and her husband has found employment. (Tr. 39, 47)

Applicant’s delinquent debts are documented in her credit reports, SCA, SOR response, hearing transcript, and bankruptcy filings. The status of the eight delinquent debts alleged in the SOR and Chapter 13 bankruptcy is as follows.

SOR ¶ 1.a alleges Applicant filed Chapter 13 bankruptcy in September 2011, and this bankruptcy was dismissed in March 2013. Applicant paid her bankruptcy attorney; she and her husband filed for Chapter 13 bankruptcy; they were 18 months into the plan; and then she was surprised to learn the bankruptcy was dismissed. (Tr. 20) She paid \$1,400 monthly for a total of \$29,881 into her payment plan. (Tr. 34; GE 5) Applicant’s Chapter 13 bankruptcy filed in 2011 lists 22 creditors, including 9 debts over \$5,000 and 3 mortgage debts. (GE 5) She has six debts listed for over \$10,000 each. (GE 5) Applicant also had a second mortgage for about \$82,000; however, Applicant was unsuccessful in her attempt to merge the first and second mortgage into a single modified loan. (Tr. 32) For her second mortgage, her March 2013 bankruptcy trustee report indicated: claim scheduled \$89,331; claim asserted and allowed: \$82,257; principal paid: \$0; and interest paid: \$0. (GE 5 at 8) She noted the second mortgage was on her credit report. (Tr. 33) She is not making payments on the second mortgage. (Tr. 34) She provided a September 4, 2016 letter from an attorney indicating the second mortgage was not “stripped off” of her home which was a possibility under her Chapter 13 bankruptcy. (AE 2)² Accordingly this non-SOR debt is still considered delinquent and unresolved.

All of her Chapter 13 bankruptcy payments were applied to two accounts: \$25,748 was paid to her first mortgage loan of \$467,350; and \$2,894 was paid to her vehicle loan of \$11,887. (GE 5 at 8) She hired a specialist to determine why her

²See Nolo Website, Baran Bulkat, Getting Rid of Second Mortgages in Chapter 13 (stating “Bankruptcy Lien stripping is a Chapter 13 bankruptcy tool that allows people who are upside down (meaning your mortgage exceeds the value of your house) on their house to get rid of their junior liens such as second or third mortgages. Through a lien strip, the bankruptcy court essentially takes your second mortgage (which is a secured debt where the lender can foreclose on your property if you miss your payments) and converts it to an unsecured debt (just like a credit card debt) by ordering the lender to remove its lien from the property. . . . In most districts, you can only use lien stripping in Chapter 13 bankruptcy. However, if you live in Alabama, Florida, or Georgia, you might be able to remove junior liens in Chapter 7 bankruptcy.”), <http://www.nolo.com/legal-encyclopedia/rid-second-mortgage-chapter-13-bankruptcy.html#>.

bankruptcy was dismissed, and she learned her bankruptcy attorney made about 20 errors. (Tr. 20) She believed her bankruptcy was dismissed because her attorney made mistakes. (Tr. 35) She paid another consultant \$175 for advice on her bankruptcy. (Tr. 20) The bankruptcy documentation shows that Applicant's counsel made a motion to confirm bankruptcy plan, which was denied on December 18, 2012, and Applicant's counsel was supposed to file an amended plan or refile to confirm the plan, which was not timely filed with the trustee. The trustee then filed a motion to dismiss the bankruptcy, which the judge granted in March 2013. (GE 5) There is no evidence that Applicant was made timely aware of the need to file an amended plan. Applicant was aware of and disclosed the dismissal of her Chapter 13 bankruptcy on her June 27, 2013 SCA. (GE 1)

SOR ¶ 1.b alleges a delinquent mortgage debt for \$208,203. Applicant's March 16, 2016 credit report shows a \$465,000 mortgage with an actual payment of \$1,429 and a past due amount of \$34,641. (Tr. 44; GE 4 at Item 14) Her March 16, 2016 credit report also shows a \$202,693 mortgage account with comments, "Loan modified under a federal government plan" with a past due amount of \$0. (GE 4 at Item 6) Her mortgage was delinquent for a time, and then she received a loan modification and brought her mortgage to current status. (Tr. 21, 24, 31, 44-45) She said the \$208,000 indicated in SOR ¶ 1.b was a balloon payment scheduled for the end of the loan in 20 years. (Tr. 21) She presented documentation from the creditor showing she was current on her mortgage. (Tr. 22-23)

SOR ¶ 1.c alleges a mortgage account that went to foreclosure. Applicant paid her mortgage for 15 years. Then the renters stopped making payments for about six months and eventually moved around 2010 or 2011. (Tr. 19, 29-31, 43) She was unable to pay the mortgage, and the mortgage company foreclosed on her rental property in 2010 or 2011. (Tr. 19, 43) Applicant had not heard anything about owing the creditor, and she believed she did not have a deficiency balance on the foreclosure. (Tr. 27, 45)

Applicant acknowledged that she had four delinquent SOR debts, and she did not want to contact the creditors because they were mean, and they can "see how ignorant or weak or whatever you want to call it" the debtors are, and "if you're already ill and depressed and want to die, are you going to call them again to get beat up again?" (Tr. 37; SOR response) The four SOR creditors she did not want to contact are as follows: SOR ¶ 1.d alleges a charged-off bank debt for \$1,684; SOR ¶ 1.e alleges a bank debt placed for collection for \$534; SOR ¶ 1.f alleges a bank debt placed for collection for \$512; and SOR ¶ 1.i alleges a charged-off bank debt for an unspecified amount. (Tr. 37)

SOR ¶ 1.g alleges a telecommunications debt placed for collection for \$9,804. Applicant was the victim of identity theft. (Tr. 24) She received a phone bill including numerous overseas calls costing thousands of dollars. (Tr. 24) She disputed her responsibility for the bill; however, the creditor refused to remove it from her credit report. (Tr. 25) Her most recent contact with the creditor was in 2012. (Tr.

SOR ¶ 1.h alleges a charged-off bank debt for \$13,310. The debt resulted from a time-share contract. (Tr. 25) She asked the creditor to sell their time share. (Tr. 25-26)

Applicant's annual income is \$54,000, and her husband's annual income is \$76,000 if he is employed for 12 months. (Tr. 42; AE 3) Sometimes he is only employed for three or four months of the year. (Tr. 42)

At her hearing, Applicant said she intended to file a Chapter 7 or 13 bankruptcy. (Tr. 26, 40) She is looking for a trustworthy attorney to help with the bankruptcy. (Tr. 27, 40) She wanted to file her taxes and use her tax refund to hire an attorney. (Tr. 45) She is not sure of the difference between a Chapter 7 and a Chapter 13 bankruptcy. (Tr. 41) She said she did not have any other delinquent debt. (Tr. 49) After her hearing, she provided an unsigned Chapter 7 bankruptcy filing. (AE 3) Applicant's attorney indicated the Chapter 7 bankruptcy was filed on March 21, 2017. (AE 3) For unsecured nonpriority debts, she listed 16 creditors and debts totaling \$53,601. (AE 3) She listed secured debts of \$484,165, including four vehicles. (AE 3) She did not list the second mortgage on her residence on her bankruptcy.

Applicant loves her work. (Tr. 48) She received compliments for her hard work. (Tr. 48) She wants to continue her employment. (Tr. 48-49) Her human resources director indicated she "has always been an employee in good standing. She has not had any performance or attendance issues during her employment with the company. [She] has demonstrated she is a trustworthy employee." (AE 1)

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 [public trust position]." *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 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, C3.1.2.2, 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 suitability for a public trust position. 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 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).

The protection of national security and sensitive records is paramount. 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."

Analysis

Financial Considerations

AG ¶ 18 articulates the trustworthiness concern for 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.

The Appeal Board explained the scope and rationale for the financial considerations trustworthiness concern as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant's financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant's self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant's [eligibility for a public trust position].

ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted).

AG ¶ 19 provides two disqualifying conditions that 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." Applicant's SOR response, SCA, credit reports, and hearing record establish 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; 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 eligibility [for a public trust position], there is a strong presumption against the grant or maintenance of a [public trust position]. 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 [trustworthiness] concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in [public trust position] decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to [sensitive] 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).

No mitigating conditions fully apply; however, Applicant presented some positive financial information. Applicant had financial problems because her mother had a stroke, she was in a coma for a time, and then she passed away in 2012; her husband became unemployed in 2010 or 2011; the decline in real estate values caused them to be "underwater" on their residence; her renters left her rental property, and she was unable to pay the mortgage on the rental property. Applicant was unable to work for three months due to depression and grief. Her bankruptcy attorney failed to file necessary documentation, and her Chapter 13 bankruptcy was dismissed in March 2013. These are circumstances beyond her control that adversely affected her finances.

I have credited Applicant with mitigating the allegations in SOR ¶¶ 1.a, 1.b, 1.c, and 1.g. Applicant did not negligently cause her Chapter 13 bankruptcy to be dismissed. She was making her required monthly payments into her Chapter 13 bankruptcy plan. Even though her mortgage was delinquent more than \$30,000, her mortgage was modified and is now current. Her rental property was foreclosed more than five years ago, and there is no evidence the creditor is seeking additional funds from Applicant. She disputed the telecommunications debt, and due to the magnitude of the debt, I find the debt to be unsubstantiated. She received financial counseling and presented a budget as part of her draft bankruptcy petition. (AE 3)

Applicant did not establish her good faith in the resolution of her other SOR five debts.³ There is insufficient evidence that her \$82,000 second mortgage is resolved.⁴

³The 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

There is no documentary evidence that Applicant paid, arranged to pay, settled, compromised, or otherwise resolved several delinquent SOR accounts. While Applicant filed for bankruptcy on March 21, 2017, the bankruptcy court might not approve the bankruptcy, and the bankruptcy will not discharge her secured debts, including her delinquent second mortgage. The record lacks corroborating or substantiating documentation and detailed explanations of the causes for her financial problems and other mitigating information. Applicant has been considering filing for bankruptcy for more than three years. At her hearing, she indicated she intended to file for bankruptcy, and on March 21, 2017, she filed for bankruptcy. She did not make a sufficient timely effort to settle, investigate, or resolve five SOR debts and her second mortgage. There is not enough assurance that her financial problems are being resolved, are under control, and will not recur in the future. Under all the circumstances, she failed to establish that financial considerations trustworthiness concerns are mitigated.

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

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)).

4 Applicant's SOR does not list the delinquent \$82,000 second mortgage on her home. In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006), the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered stating:

(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 Section 6.3.

Id. (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)). This non-SOR allegation will not be considered except for the five purposes listed above.

for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

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. AG ¶ 2(c). I have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under Guideline F, but some warrant additional comment.

Applicant is a 59-year-old employee of a contractor, and she has been employed by the same contractor in health-care services for 17 years. Three years ago she moved into a federal-health program. In 2001, she married. There is no evidence that she violated trustworthiness rules, committed any crimes, abused alcohol, or used illegal drugs.

Applicant presented some positive financial information. She presented evidence of circumstances beyond her control that adversely affected her finances. She mitigated the allegations in SOR ¶¶ 1.a, 1.b, 1.c, and 1.g.

The negative financial information is more significant. Applicant owes five delinquent SOR debts. In addition, her \$82,000 second mortgage is delinquent or unresolved. She received notice of the trustworthiness concerns when she received the SOR and should have contacted the creditors to obtain a definitive status of the debts and possibly take action to resolve them. She knew her Chapter 13 mortgage was dismissed in March 2013, and she did not provide any evidence that she contacted these SOR creditors. She did not provide enough evidence of timely efforts to clarify the status, resolve, settle, or mitigate five SOR debts.

It is well settled that once a concern arises regarding an applicant's eligibility for a public trust position, there is a strong presumption against the grant or renewal of access to sensitive information. See *Dorfmont*, 913 F. 2d at 1401. Financial considerations trustworthiness concerns are not mitigated at this time. This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a public trust position in the future. With a track record of behavior consistent with her obligations, she may well be able to demonstrate persuasive evidence of her worthiness for a public trust position.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. Financial considerations trustworthiness concerns are not mitigated 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 through 1.c:	For Applicant
Subparagraphs 1.d through 1.f:	Against Applicant
Subparagraph 1.g:	For Applicant
Subparagraphs 1.h and 1.i:	Against Applicant

Conclusion

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

Mark Harvey
Administrative Judge