



## **Judge's Findings and Analysis**

Applicant is in his mid-thirties and has served in the military since 2010. Married and divorced twice, he has three children. His first wife is deceased, and their two children receive \$800 per month in survivor benefits. His second wife has custody of all three children, and Applicant is current on his \$1,000 per month child support obligations.

Applicant and his second wife married in 2015 and accumulated debt while she was in graduate school. After their separation in October 2018, Applicant could not afford the payments on their debts, and multiple debts became delinquent.

Applicant's SOR reflects eight delinquent accounts totaling about \$53,200. In his February 2021 subject interview, Applicant stated that he was not making payments on those debts on advice of counsel, in anticipation that some of them would be assigned to his wife in their pending divorce. In the November 2021 divorce, all but one of the marital debts were assigned to Applicant. From February 2021 to the present, Applicant made no payments to the SOR creditors.

In his February 2022 response to the SOR, Applicant said that he planned to resolve the debts through bankruptcy, and he filed for Chapter 13 bankruptcy in November 2022. Applicant delayed filing for bankruptcy because he could not get clear answers on how filing would affect his career and his security clearance. In February 2023, the bankruptcy court confirmed a payment plan that includes all of the alleged debts. His bankruptcy records indicate about \$160,000 in debt, and his monthly payment to the trustee will be \$3,000.

In August 2021, Applicant borrowed \$9,000 from a non-SOR creditor, but stopped making payments in March 2022. A \$10,000 debt to this creditor is included in his bankruptcy. Applicant deployed to Iraq from October 2021 to May 2022 and saved about \$8,000. Applicant has an outstanding service record, strong support from military officers, and numerous individual and campaign awards.

In the past two years, Applicant did not make any payments on the eight delinquent debts alleged on the SOR. Although he borrowed \$9,000 from a non-SOR creditor in August 2021 and saved \$8,000 during his recent deployment to Iraq, he failed to show how he used these funds to address his SOR debt.

Based on his track record of debt payments, I am not confident that Applicant will make the required payments under his bankruptcy plan. He did not act responsibly under the circumstances, and he did not make a good-faith effort to pay his debts. His delinquent debts occurred under such circumstances that they are unlikely to be resolved under his bankruptcy plan. His delinquent debts continue to "cast doubt on [his] current reliability, trustworthiness, or good judgment," and ability to protect classified information. No mitigating conditions fully apply. [Decision at 10.]

## Discussion

Applicant has not challenged any of the Judge’s specific findings of fact. Rather, he contends the Judge erred in failing to comply with the provisions in Executive Order 10865 and the Directive by not considering all of the evidence, by mis-weighting the evidence, and by not properly applying the mitigating conditions and whole-person concept. For example, Applicant argues that his Chapter 13 bankruptcy plan is a “good faith effort” to repay his creditors and that the Judge failed to consider the plan or to give it an appropriate weight in mitigation. Appeal Brief at 11, 13–14.

Contrary to Applicant’s argument, the Judge’s decision thoroughly details Applicant’s obligations under the bankruptcy plan in light of his overall financial situation and his history with regard to the alleged debts. Decision at 4–6. As the Judge highlights, Applicant’s first payment under his bankruptcy plan was not due until after his security clearance hearing. *Id.* at 11. The Judge’s ultimate conclusion that Applicant’s plan is not yet “firmly established” and that Applicant has failed to demonstrate a “meaningful track record of debt resolution” is well-grounded in Appeal Board precedent. *Id.* None of Applicant’s arguments are sufficient either to rebut the presumption that the Judge considered all of the record evidence or to demonstrate the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 19-01400 at 2 (App. Bd. Jun. 3, 2020).

Applicant failed to establish that the Judge committed any harmful error or that he should be granted any relief on appeal. The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on the record. “The general standard is that a clearance may be granted only when ‘clearly consistent with national security.’” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). *See also*, Directive, Encl. 2, App. A ¶ 2(b): “Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.”

**Order**

The Judge's decision is **AFFIRMED**.

Signed: James F. Duffy

James F. Duffy  
Administrative Judge  
Chairperson, Appeal Board

Signed: Moira Modzelewski

Moira Modzelewski  
Administrative Judge  
Member, Appeal Board

Signed: Allison Marie

Allison Marie  
Administrative Judge  
Member, Appeal Board