



requested a hearing. On December 16, 2009, after the hearing, Administrative Judge Joan Caton Anthony denied Applicant's request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether certain of the Judge's findings of fact are supported by substantial record evidence; whether the Judge mis-weighed the record evidence; and whether the Judge's adverse security clearance decision is arbitrary, capricious, or contrary to law. Finding no error, we affirm.

The Judge made the following pertinent findings of fact: Applicant is a program manager for a Government contractor, a position he has held for approximately 1 ½ years. He holds a B.S. degree. He has served in the Reserves and in the National Guard. He was granted a security clearance in 1993 while serving in the Guard. Applicant has been married and divorced twice. He has four daughters and pays \$800 per month on behalf of the younger two.

From 1997 to 2001 Applicant experienced financial problems. As a consequence, he was discharged in Chapter 7 bankruptcy in 2002. In 2007 Applicant purchased a home as an investment. He took out a \$38,000 mortgage on the home, as well as two other loans, for an additional \$27,000. The mortgage went into foreclosure and the debt secured by the mortgage note was unsatisfied as of the close of the record, as is one of the two others, for \$20,000. Applicant has experienced marital problems, divorcing his second wife in 2007. In November of that year, Applicant was advised by his employer that he would be transferred to another unit in the company, which would entail moving to another location. Applicant turned down the transfer and had to leave the company. Applicant does not have a second job.

In the Analysis portion of her decision, the Judge noted Applicant's marital difficulties, as well as the fact that he was not able to sell his investment home due to the downturn in the real estate market, both of which were circumstances outside his control. However, she also noted that Applicant turned down a transfer, resulting in loss of employment, knowing that he had significant financial obligations, which raises questions about his judgement. She stated that he has not had financial counseling for many years, has no plan for systematically paying off debts, and, in fact, has a negative cash flow each month. As a consequence, she concluded that Applicant had failed to mitigate the security concerns arising from his financial problems.

We conclude that the Judge's material findings of security concern are supported by substantial record evidence. *See* Directive ¶ E3.1.32.1. (Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.") Furthermore, we find no basis to conclude that the Judge mis-weighed the record evidence. A party's disagreement with the Judge's weighing of the evidence, or an ability to argue for a different interpretation of the evidence, is not sufficient to demonstrate the Judge weighted the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 08-10238 at 3 (App. Bd. Dec. 18, 2009). We note, for example, that although the Judge considered the fact that Applicant had financial

counseling 10 to 15 years ago, she explained why he had not demonstrated responsible action in regard to his mortgage difficulties, which are more recent.

After reviewing the record, the Board concludes that the Judge examined the relevant data and articulated a satisfactory explanation for the decision, “including a ‘rational connection between the facts found and the choice made.’” *Motor Vehicle Mfrs. Ass’n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)(quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)). The Judge’s adverse decision is sustainable on this record. “The general standard is that a clearance may be granted only when ‘clearly consistent with the interests of the national security.’” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

### **Order**

The Judge’s adverse security clearance decision is AFFIRMED.

Signed: Michael Y. Ra’anan

Michael Y. Ra’anan  
Administrative Judge  
Chairperson, Appeal Board

Signed: William S. Fields

William S. Fields  
Administrative Judge  
Member, Appeal Board

Signed: James E. Moody

James E. Moody  
Administrative Judge  
Member, Appeal Board