

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Washington, D.C.

In the Matter of:	*	
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CATHERINE DENWOOD,	*	DOCKET NO.: 12-3801-DB(S)
	*	
Respondent.	*	
	*	

**ORDER GRANTING GOVERNMENT’S MOTION TO DISMISS
RESPONDENT’S APPEAL OF HER SUSPENSION AND REQUEST FOR A
HEARING AND AFFIRMING RESPONDENT’S SUSPENSION**

Introduction

By Notice of Suspension dated September 30, 2011 (Notice), the Department of Housing and Urban Development (HUD) advised Respondent CATHERINE DENWOOD of her immediate suspension from participation in procurement and nonprocurement transactions as a participant or principal with HUD and throughout the Executive Branch of the Federal Government. Respondent was advised that her suspension was in accordance with the regulations at 2 C.F.R. parts 180 and 2424. Further, Respondent was advised that her suspension was based on an indictment filed in Cook County, Illinois.

The indictment charged Respondent, as set forth in the Notice, with violation of 720 ILCS 5/16-1(a)(2) (Theft), 720 ILCS 5/16H-25(1) (Financial Institution Fraud), and 720 ILCS 5/16H-45 (Conspiracy to Commit a Financial Crime). The Notice stated that “[s]pecifically [Respondent is] accused of participating in mortgage schemes to defraud financial institutions by submitting fraudulent loan origination documents, and acting as a strawbuyer for the single family real estate property.” The Notice continued that the “indictment constitutes adequate evidence on which to base [Respondent’s] suspension under 2 C.F.R §§ 180.700 and 2424. The Notice further advised Respondent of my determination that Respondent’s “immediate suspension is necessary to protect the public interest.” Additionally, the Notice informed Respondent that the “Indictment’s allegations evidence the Government faces a serious and immediate risk of harm if [Respondent is] permitted to continue doing business with it.” In this connection, the Notice stated that, because Respondent was a participant in fraudulent mortgage schemes

and acted as a strawbuyer, she was involved in, or reasonably may be expected to be involved in, covered transactions, thus she was subject to the debarment regulations.

Procedural History

In a letter dated October 27, 2011, addressed to the Docket Clerk, Respondent, through her attorney, requested a hearing on her suspension. In an Order issued December 13, 2011, the Suspending Official's Designee set a hearing date of February 14, 2012, and also set a deadline of February 10, 2012 for Respondent's submission. On February 9, 2011, via an e-mail attachment, Respondent, through her attorney, filed a Motion for Continuance requesting a continuance of the hearing and an extension of the deadline for Respondent's submission, which was granted in an Order issued February 10, 2012. (The original Motion from Respondent's counsel was unsigned and undated. Counsel later submitted a signed copy dated February 17, 2012.)

On March 6, 2012, a Second Scheduling Order was issued setting a new hearing date of April 10, 2012, and a new deadline of April 3, 2012 for Respondent's submission. In an e-mail dated April 3, 2012, attaching an unsigned Motion for Continuance, Respondent's attorney requested a continuance and extension similar to the previous February 9, 2012, Motion for Continuance. In an Order issued April 6, 2012, the Debarring Official's Designee granted Respondent's Motion for Continuance and set a new hearing date of May 8, 2012, with a deadline for Respondent's submission to the Notice no later than April 25, 2012. Respondent was advised in the April 6, 2012, Order that no further extensions would be granted.

When the matter was called on May 8, 2012, Respondent's attorney, through an associate, advised the hearing that Respondent's attorney would withdraw from the case and that Respondent had hired a new attorney. Whereupon, after a colloquy between the parties, the Government attorney moved to have the matter dismissed. The Debarring Official's Designee denied the motion, subject, however, to its later renewal and its being granted if Respondent's new attorney did not file his/her appearance within a week of the hearing's adjournment or no submission was received on behalf of Respondent within 21 days thereof. To date, no attorney has entered an appearance on behalf of Respondent and no submission has been received from Respondent. Respondent's attorney filed a motion to withdraw which was granted in an Order entered June 5, 2012.

Discussion

As indicated in the previous section, Respondent has failed to submit a response to the Notice, notwithstanding that Respondent has been given more than ample time to do so. The Debarring Official's Designee exercised great leniency and patience in extending deadlines in response to Respondent's assertion that her criminal matter made demands on her time that competed with her ability to prepare for the instant matter. Respondent, however, not only did not file any submission in this matter but did not

appear, either in person or by phone, when this matter was called. Respondent's apparent indifference to prosecuting the appeal of her suspension convinces me that Respondent no longer has an interest in this matter.

Pursuant to 2 C.F.R. 180.750(a), the "suspending official bases the decision on all information contained in the official record. The record includes – (1) All information in support of the suspending official's initial decision to suspend you; [and] (2) Any further information and argument in support of, or opposition to, the suspension." As already stated, Respondent submitted no information, so there is no "information and argument in . . . opposition to the suspension" for my consideration. *See also*, 2 C.F.R. 180.730(a)(1). On the other hand, the Government's brief argues persuasively in support of Respondent's suspension as do the unrefuted allegations in the Indictment. See Ex. 3 (Indictment) in Government's Brief in Support of Suspension. Moreover, 2 C.F.R. 180.700 authorizes a suspension when the suspending official determines that "(a) [t]here exists an indictment for, or other adequate evidence to support an offense listed under § 180.800(a)." Among the offenses listed is theft, for which, as the Notice states, Respondent was indicted.

Accordingly, a decision in this matter has to be based on the record as it exists before me today. *See* 2 C.F.R. § 180.750(a)(1). As indicated *supra*, the Notice charged that Respondent was indicted for violation of certain state criminal statutes. In this regard, 2 C.F.R. § 180.735(a)(1) provides that a respondent will not have an additional opportunity to challenge the facts if the suspending official determines that the respondent's "suspension is based upon an indictment." I have determined, as indicated, that Respondent's suspension was based on an indictment.

Conclusion

WHEREFORE, it is ORDERED that, because of Respondent's failure to prosecute her appeal and to appear at her scheduled hearing, and based on the discussion herein, the Government's motion to dismiss is GRANTED and Respondent's appeal of her suspension by HUD in the Notice of Suspension of September 30, 2011, is DISMISSED.

It is further ORDERED that Respondent's suspension be, and it is hereby, AFFIRMED;

It is further ORDERED that Respondent's suspension continue "pending the completion of an investigation or resulting legal or debarment proceedings." *See* 2 C.F.R. § 180.71(e); and

It is further ORDERED that Respondent's suspension "is effective for covered transactions and contracts that are subject to the Federal Acquisition Regulation (48 C.F.R. chapter 1), throughout the executive branch of the Federal Government unless an agency head or an authorized designee grants an exception."

Dated: 6/21/12



Craig T. Clemmensen
Suspending Official
Departmental Enforcement Center

CERTIFICATE OF SERVICE

I hereby certify that on this 21ST day of June, 2012, a true copy of the ORDER GRANTING GOVERNMENT'S MOTION TO DISMISS RESPONDENT'S APPEAL OF HER SUSPENSION AND REQUEST FOR A HEARING AND AFFIRMING RESPONDENT'S SUSPENSION was served in the manner indicated.



Deborah Valenzuela
Debarment Docket Clerk
Departmental Enforcement Center-Operations

HAND-CARRIED

Mortimer F. Coward, Esq.
Suspending Official's Designee

Brendan Power, Esq.
Melissa B. Silverman, Esq.
Ana I. Fabregas, Esq.
Government Counsel

CERTIFIED MAIL

Ms. Catherine Denwood

