

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Washington, D.C.

In the Matter of:	*	
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	*	
DEBRA A. SAVAGE,	*	DOCKET NO. 08-3505-DB
	*	
	*	
Respondent.	*	

DEBARRING OFFICIAL'S DETERMINATION

INTRODUCTION

By Notice dated February 20, 2008 ("Notice"), the Department of Housing and Urban Development ("HUD") notified Respondent DEBRA A. SAVAGE that HUD was proposing her debarment and immediate suspension from future participation in procurement and nonprocurement transactions as a participant or principal with HUD and throughout the Executive Branch of the Federal Government for a three-year period from the date of issuance of the Notice. Respondent also was advised in the February 20, 2008, Notice that her proposed debarment and immediate suspension were in accordance with the procedures set forth in 2 CFR parts 180 and 2424¹. In addition, the Notice informed Respondent that her proposed debarment was based upon her conviction in the United States District Court for the Southern District of Mississippi.

Respondent's conviction followed her guilty plea to two counts in a nine-count indictment that charged her with Making False or Fraudulent Claims and Making False Statements in violation of 18 U.S.C. 287 and 18 U.S.C 1001, respectively. The allegations are set out in the indictment handed down against Respondent on May 11, 2007, and in the plea agreement filed September 4, 2007. In summary, the allegations are that Respondent presented a claim to the Federal Emergency Management Agency (FEMA) for disaster assistance in which she falsely represented that she was occupying her home as her primary residence at the time of Hurricane Katrina to qualify for the assistance. Respondent also was charged with making a false statement in that she filed a homeowner's assistance grant application with the Mississippi Development

¹ HUD published a final rule on December 27, 2007(72 FR 73484) that relocated and recodified 24 CFR part 24 as 2 CFR part 2424. HUD's December 27, 2007, rule stated that the rule "adopts, by reference, the baseline provisions of 2 CFR 180" the government-wide rule published by OMB on August 31, 2005 (70 FR 51863) setting forth guidance for agencies with respect to nonprocurement debarment and suspension. For the convenience of the reader, references herein will be to the regulations at 2 CFR part 180.

Authority (MDA) in which she again falsely represented that she was occupying her home as her primary residence at the time of Hurricane Katrina². In fact, at the time of Hurricane Katrina, Respondent was not occupying her home as her primary residence but had rented it.

For Respondent's conviction on her guilty plea to two counts in the indictment, Respondent was sentenced to probation for a term of five years, six months' home confinement with electronic monitoring, and ordered to make restitution of \$56,797.66.

A telephonic hearing on Respondent's suspension and proposed debarment was held in Washington, D.C. on May 28, 2008, before the Debarring Official's Designee, Mortimer F. Coward. Respondent participated by phone at the hearing, appearing *pro se*. Stanley Field, Esq. appeared on behalf of HUD.

Summary

I have decided, pursuant to 2 CFR part 180, to debar Respondent from future participation in procurement and nonprocurement transactions, as a participant, principal, or contractor with HUD and throughout the Executive Branch of the Federal Government, for a period of three years from the date of issuance of her suspension, February 20, 2008. My decision is based on the administrative record in this matter, which includes the following information:

- (1) The Notice of Proposed Debarment and Suspension dated February 20, 2008.
- (2) An indictment filed in the United States District Court, Southern District of Mississippi, on May 11, 2007, charging Respondent with the commission of several criminal offenses.
- (3) The Plea Agreement entered into by Respondent, filed September 4, 2007.
- (4) The Judgment in a Criminal Case entered against Respondent on November 14, 2007.
- (5) The Department's Pre-Hearing Brief in Support of a Three-Year Debarment of the Respondent filed May 5, 2008 (including all attachments and exhibits thereto).
- (6) A letter from Respondent dated May 11, 2008, addressed to the Debarring Official's Designee, appealing her suspension and proposed debarment.
- (7) The digital recording of the May 28, 2008, hearing.

² Under the Mississippi Development Authority Homeowner Assistance Program Partial Action Plan, the "purpose of the Homeowner Grant Assistance program ("Program") is to provide a one-time grant payment up to a maximum of \$150,000.00, to eligible homeowners who suffered flood damage to their primary residence as of August 29, 2005, from Hurricane Katrina." The program also specified certain eligibility requirements, including that the "[h]omeowner owned and occupied their home as of August 29, 2005" and that the "[h]ome was homeowner's primary residence on August 29, 2005." See Program pp. 2 and 6.

Government Counsel's Arguments

Government's Counsel argues that Respondent is subject to the debarment regulations at 2 CFR part 180 because she is a person who "has been, is, or may reasonably be expected to be, a participant or principal in a covered transaction," based on her recent history of making false claims and statements to receive grant funds from FEMA and HUD. *See* 2 CFR 180.150.

Government Counsel argues that Respondent's wrongdoing is cause for her debarment under 2 CFR 180.800. Specifically, Respondent's conviction of a crime that involved fraud or obtaining or performing a public agreement or transaction, as in her false representations to obtain disaster recovery assistance, is a cause for debarment pursuant to 2 CFR 180.800(a)(1). Similarly, Respondent's conviction for making false statements also provides cause for her debarment under 2 CFR 180.800(a)(3). Government counsel argues further that there is cause for Respondent's debarment under 2 CFR 180.800(a)(4). The crimes Respondent committed, Government counsel pointed out, shows her lack of business integrity or honesty that seriously and directly affects her present responsibility.

Government counsel also contended that Respondent's debarment was in the public interest. The Government protects the public interest, counsel argued, through ensuring the integrity of Federal programs by conducting business only with responsible persons. *See* 2 CFR 180.125(a). In Respondent's case, however, she has shown that she cannot be relied upon to act with candor and probity necessary for HUD to administer effectively its programs. Government counsel argues that Respondent's "convictions demonstrate a continuing course of irresponsibility." Counsel supports his argument by stating that Respondent made her first false claim in September 2005. Then, seven months later, Respondent submitted another false claim and obtained additional funds. Additionally, Respondent still attempts to justify her actions by reiterating a "baseless justification for her crimes [which only] demonstrates she is not trustworthy." Based on these arguments, Government counsel submits that Respondent's conduct warrants a three-year debarment.

Respondent's Arguments

Respondent admitted in her testimony that she committed the acts for which she was convicted. Respondent testified that the house for which she claimed recovery assistance had been her primary residence for over thirty years. Respondent further testified that she was living with her mother because of Respondent's physical condition following an accident. Respondent rented her house while staying with her mother and it was during this time that Hurricane Katrina struck. Respondent stated that she was not living in her house for about fourteen months when Katrina struck. Respondent's house suffered severe damage and she lost most of her personal belongings. Respondent further testified that she applied to FEMA and MDA for recovery assistance to repair her house because there was no program to assist homeowners whose homes suffered storm damage while their homes were being rented. Respondent also testified that she was making

restitution as ordered by the court, having made her first payment of \$100.00 last December.

Findings of Fact

1. Respondent was a recipient of federal disaster assistance funds.
2. Respondent applied for and received federal disaster relief assistance from FEMA and from the MDA, the local agency that administered federal funding.
3. The MDA Partial Action Plan for Katrina Recovery Homeowner Grant Program provided a grant payment to homeowners under certain eligibility rules which required, *inter alia*, that the homeowner owned and occupied the home and that it was the homeowner's primary residence on August 29, 2005.
4. Respondent, by her own admission, did not occupy her home on August 29, 2005, for which she applied and received disaster assistance.
5. Respondent admitted that her home was rented as of August 25, 2005, when Katrina struck.
6. Respondent pleaded guilty and was convicted of two counts of making false or fraudulent claims and false statements.
7. Respondent was sentenced to five years' probation with six months' home confinement with electronic monitoring and ordered to make restitution of \$56,797.
8. Respondent is making restitution payments at the rate of \$100.00 per month.
9. Respondent acknowledges her wrongdoing and expresses remorse for her actions.

Conclusions

Based on the above Findings of Fact, I have made the following conclusions:

1. Respondent was a participant in a covered transaction as defined in 2 CFR part 180.
2. Respondent's criminal conviction serves as the basis for her debarment.
3. Respondent's wrongdoing provides cause for her debarment pursuant to 2 CFR 180.800(a)(1), 3, and (4).
4. HUD has met its burden of proving that cause for debarment exists on the basis of Respondent's conviction. *See* 2 CFR 180.850(b).
5. Respondent's remorse for her wrongdoing is a mitigating factor in determining the appropriate period of debarment to be imposed.
6. Respondent's actions that led to her criminal conviction raise grave doubts with respect to her business integrity and personal honesty.
7. HUD has a responsibility to protect the public interest and take appropriate measures against participants whose actions may affect the integrity of its programs. *See* generally, 2 CFR 180.125.
8. HUD cannot effectively discharge its responsibility and duty to the public if participants in its programs or programs that it funds fail to act with honesty and integrity.

DETERMINATION

Based on the foregoing, including the Findings of Fact, Conclusions, and the administrative record, I have determined, in accordance with 2 CFR 180.870(b)(2)(i) through (b)(2)(iv), to debar Respondent for a period of three years from February 20, 2008, the date of issuance of her suspension. Respondent's "debarment is effective for covered transactions and contracts that are subject to the Federal Acquisition Regulation (48 CFR chapter 1), throughout the executive branch of the Federal Government unless an agency head or an authorized designee grants an exception."

Dated: _____

27 June 2008



Henry S. Czauski
Debarring Official

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of June, 2008, a true copy of the DEBARRING OFFICIAL'S DETERMINATION was served in the manner indicated.

Tammie M. Parshall

Tammie M. Parshall
Debarment Docket Clerk

HAND-CARRIED

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

Geoff Patton, Esq.
Stanley Field, Esq.
Government Counsel

FIRST CLASS MAIL

Debra A. Savage
