

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

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In the Matter of:	*	
	*	
COREY NEWTON,	*	DOCKET NO. 07-3412-DB
	*	
	*	
Respondent.	*	

DEBARRING OFFICIAL'S DETERMINATION

INTRODUCTION

By an undated Notice ("Notice"), the Department of Housing and Urban Development ("HUD") notified Respondent COREY NEWTON that HUD was proposing his debarment 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 final determination of the proposed action. HUD advised Respondent in the undated Notice that the proposed debarment action was in accordance with the procedures set forth in 24 CFR part 24. Further, the Notice informed Respondent that the proposed debarment was based upon his criminal conviction in the United States District Court for the District of Connecticut.

Respondent's conviction followed his guilty plea to the offense of Making False Statements in a Matter Within the Jurisdiction of the Department of Housing and Urban Development and Misapplying Money Belonging to a Local Government Entity Receiving Federal Funds. The allegations are set out in a five-count indictment handed down against Respondent and his codefendant. In summary and in pertinent part, the indictment alleges that Respondent and his codefendant along with other unnamed coconspirators conspired to defraud the United States by obstructing and defeating through deceitful and dishonest means the lawful government functions of HUD and the Housing Authority of New Haven ("HANH") in the administration of federal housing programs.

The indictment also alleges that, as part of the conspiracy, Respondent and his coconspirators willfully made false and fraudulent statements and knowingly used false documents in HUD-related matters and intentionally misapplied property and money belonging to HANH. Some of the relevant facts related to Respondent's wrongdoing are

that, while working at HANH with his codefendant, his superior at HANH, Respondent established a company that entered into contracts to perform work for HANH. Respondent and his codefendant, who had authority to approve procurement contracts, covered up Respondent's connection to the company. Respondent's codefendant recommended that Respondent's company be selected to perform work for HANH and later approved payment to Respondent's company. The funds used to pay Respondent's company for the work done for HANH came primarily from a budget controlled by Respondent's codefendant and consisted of federal funds provided under the Annual Contributions Contract ("ACC") that HANH entered into with HUD.

The ACC prohibits a housing authority such as HANH from entering into any contract in connection with a project under the ACC in which any employee of the housing authority has a direct or indirect interest. Additionally, HANH's procurement policy prohibited its employees from participating in the selection or award of a contract if a conflict would be involved. Respondent and his codefendant signed forms agreeing to comply with HANH's conflict of interest policy. Further, when questioned about their role in the scheme both Respondent and his codefendant provided materially false information to the investigators.

For his conviction on his guilty plea to one count of the indictment, Respondent was sentenced to six months in prison and placed on supervised release for a term of two years.

A hearing on Respondent's proposed debarment was held in Washington, D.C. on January 16, 2008, before the Debarring Official's Designee, Mortimer F. Coward. Respondent was present at the hearing, appearing *pro se*. Elissa O'Leary, Esq. appeared on behalf of HUD.

SUMMARY

I have decided, pursuant to 24 CFR part 24, 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 this Determination. My decision is based on the administrative record in this matter, which includes the following information:

- (1) The undated Notice of Proposed Debarment.
- (2) A letter from Respondent to the Debarring Official dated March 11, 2007.
- (3) A letter from Respondent dated December 13, 2007, addressed to the Debarment Docket Clerk seeking "a hearing to reconsider not debarment" him.
- (4) A five-count indictment filed March 30, 2006, in the United States District Court, District of Connecticut, charging Respondent and his codefendant with the commission of several crimes.
- (5) The plea agreement dated August 17, 2006, in which Respondent agreed to plead guilty to one count of the indictment.

- (6) The Judgment in a Criminal Case entered against Respondent.
- (7) The Government's Pre-Hearing Brief filed November 23, 2007 (including all attachments and exhibits thereto).
- (8) The tape recording of the January 16, 2008, hearing.

HUD'S ARGUMENTS

HUD argues that Respondent, as an employee of a housing authority that received federal funds and as a contractor of a housing authority that administered federal housing programs for HUD, was a participant in covered transactions pursuant to 24 CFR 24.105. The government also argues that Respondent's conviction provides the basis for his debarment in accordance with 24 CFR 24.800. Further, the government has met its burden of showing cause exists for Respondent's debarment because, as provided in 24 CFR 24.800(a)(1) and (3), Respondent's conviction provides cause for debarment. Additionally, the government argues that Respondent's fraudulent acts indicate a lack of business integrity or business honesty that seriously affects his present responsibility, thus his debarment would be in the public interest. *See* 24 CFR 24.800(a)(4) and 24 CFR 24.110(c).

In support of its action to debar Respondent, the government argues that a three-year term of debarment is warranted because "Respondent's actions were part of a carefully planned, organized and orchestrated scheme [and] Respondent has shown [no] remorse for his actions, . . . instead attempting to hinder the investigation." In conclusion, the government states that "Respondent's appeal has not offered justification for a reduced period of debarment, or even substantive grounds of mitigation."

RESPONDENT'S ARGUMENTS

Respondent testified that he takes responsibility for his actions. Respondent further stated that he thought the "procedure was normal" that allowed him, though an employee of the housing authority, to perform contract work for HANH. According to Respondent, he was advised by another employee of HANH, who, together with his two sons, also performed contract work for HANH that it was permissible to do contract work for HANH in spite of his being an employee of HANH's. Respondent stated that employee was not charged with a crime, notwithstanding that his actions were similar to those for which Respondent was indicted. Respondent also testified that his codefendant, his superior at HANH, though convicted along with him, was not given any prison time. Respondent concluded his testimony by stressing that he regrets his mistake and that he wants to continue working hard as he always has and move forward with his life. Respondent made a strong plea that he not be debarred.

FINDINGS OF FACT

1. Respondent was an employee of HANH, a housing authority that received funding from HUD.

2. During Respondent's employ with HANH, Respondent used his company to submit bids to perform contract repair work for HANH.
3. The bids were approved by Respondent's superior, his coconspirator, in violation of the conflict of interest provisions of the ACC (the instrument through which HANH received HUD funds) and of Respondent's employer.
4. Respondent had signed HANH's conflict of interest forms that prohibited HANH's employees from participating in the award or administration of any contract if a conflict of interest could result.
5. Respondent used nominees as principals in his company to disguise his connection to the company.
6. HANH paid Respondent's company for the work it performed.
7. Checks were written to Respondent from his company account into which the HANH payments were deposited.
8. Respondent was indicted and pleaded guilty to one count charging him with Making False Statements in a Matter Within the Jurisdiction of the Department of Housing and Urban Development and Misapplying Money Belonging to a Local Government Entity Receiving Federal Funds.
9. Respondent was convicted and sentenced to a six-month term of imprisonment and two years of supervised release.
10. Respondent acknowledges his wrongdoing and expresses his deep regret for his 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 24 CFR part 24.
2. Respondent's criminal conviction serves as the basis for his debarment.
3. Pursuant to 24 CFR 24.800, a conviction for making false statements, *inter alia*, is a cause for debarment.
4. Respondent's remorse for his wrongdoing is a mitigating factor in determining the appropriate period of debarment to be imposed.
5. Respondent's actions that led to his criminal conviction raise grave doubts with respect to his business integrity and personal honesty.
6. HUD has a responsibility to protect the public interest and take appropriate measures against participants whose actions may affect the integrity of its programs.
7. 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.
8. Pursuant to 24 CFR 24.875, a "debarred person . . . may ask the debarring official to reconsider the debarment decision or to reduce the time period or scope of the debarment. However, [the debarred person] must put [his] request in writing and support it with documentation."

DETERMINATION

Based on the foregoing, including the Findings of Fact, Conclusions, and the administrative record, I have determined to debar Respondent for a period of three years from the date of this Determination. In accordance with 24 CFR 24.870(b)(iv), 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: _____

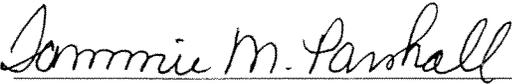
8 Feb '08

Henry S. Czauski

Henry S. Czauski
Debarring Official

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of February 2008, a true copy of the DEBARRING OFFICIAL'S DETERMINATION was served in the manner indicated.



Tammie M. Parshall
Debarment Docket Clerk

HAND-CARRIED

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

Maura Malone, Esq.
Elissa O'Leary, Esq.
Government Counsel

FIRST CLASS MAIL

Corey A. Newton
