

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGE

.
In the Matter of .
CURTIS W. VENERABLE, SR. . HUDALJ 86-1082-DB
Respondent .
.

Carston C. Johannsen, Esquire
For Respondent

Marylea W. Byrd, Esquire
For the Department

Before: ALAN W. HEIFETZ
Administrative Law Judge

INITIAL DETERMINATION

Statement of the Case

This proceeding arose as a result of a proposal by the Department of Housing and Urban Development, dated July 16, 1986, to debar Curtis W. Venerable, Sr. ("Respondent") from further participation in HUD programs for a period of three years, based on his conviction of violating 18 U.S.C., §§ 371 and 1010. Respondent timely appealed the proposed debarment and, pursuant to a procedural order, the Department filed its brief on September 29, 1986, and Respondent filed his reply on October 31, 1986. No further pleadings have since been filed.

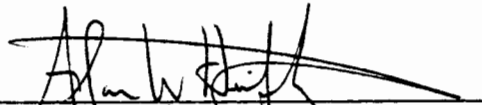
Jurisdiction over this matter is alleged pursuant to 24 C.F.R. Part 24 which pertains to the debarment, suspension and ineligibility of contractors and grantees. Accordingly, the Department must demonstrate that Respondent falls within the category of contractor or grantee and, indeed, the parties agree that the initial issue in this case is "[w]hether Respondent is a contractor or grantee as defined in 24 C.F.R. §24.4(f)."

Discussion and Conclusion

The Department's sole allegation with respect to this issue is that "As the owner of a subcontractor on a project funded with CDBG funds, Respondent is the indirect recipient of HUD funds and is a contractor or grantee within the meaning of 24 C.F.R. Part 24." (emphasis added) However, as Respondent points out, he was convicted under 18 U.S.C., § 1010, for making the false statement that he was the "owner" of B&G Enterprises, a subcontractor on

the Citadel project, and part of the prosecution in that matter was to show that he was not the owner of B&G. The Department is presently in the anomolous situation of now taking the directly contradictory position that Respondent was, in fact, the owner of B&G. If, as the Department now contends, Respondent was the owner of B&G, then, a fortiori, the conviction can neither stand nor form the basis for debarment. Accordingly, I am constrained to find that Respondent has not been shown to be either a contractor or grantee as defined in 24 C.F.R., § 24.4(f), and therefore, it is

ORDERED, that the Complaint in HUDALJ 86-1082-DB is dismissed.



Alan W. Heifetz
Chief Administrative Law Judge
U.S. Department of Housing and
Urban Development
451 7th Street, S.W., Room 2156
Washington, D.C. 20410

Dated: November 18, 1986