

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

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In the Matter of: .
 ELAINE A. HICKS, et al, . HUDALJ 89-1355-DB
 Respondents .
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Elaine A. Hicks, pro se
For the Respondents

Marylea W. Byrd, Esq.,
For the Department

Before: Robert A. Andretta
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 ("the Department" or "HUD") to debar Elaine A. Hicks and her affiliates, Sierra General Partners, Inc., Baltic, Inc., A.J. Brown, Inc., and Best Equity Development, Inc., ("Respondents") from participation in HUD programs for a period of three years. HUD's action was based upon Respondent Hicks's indictment by a federal grand jury convened in the Western District of Washington at Seattle for violation of Title 18, Sections 1341, 371, and 2, and Title 12, Section 1709-2 of the U.S. Code. On May 2, 1989, Respondent Hicks timely appealed the proposed debarment.

The indictment charged that Hicks and one Byron Owen Daily formed the Respondent corporations which purchased homes from homeowners in financial difficulty. A total of 60 homes, including 38 which had either VA or HUD-insured mortgages, was acquired during the period October, 1983, through September, 1987. The indictment charges that Daily and Hicks rented these properties, but failed to make the mortgage payments. As a result of foreclosure of the properties, HUD sustained losses of \$539,810, and VA sustained losses of \$270,153. On April 6, 1989, Hicks plead guilty to one count of violating 18 U.S.C. Sec. 1012 and 2 as part of a plea agreement with the government. On June 2, 1989, Hicks was convicted of the offenses to which she had plead guilty, and was sentenced.

Because the proposed action by HUD is based upon a conviction, this proceeding is limited under the Department's regulations codified at 24 CFR 24.13(b)(3) to submission of documentary evidence and written briefs. Accordingly, I issued an Order on June 27, 1989, setting forth dates for filing briefs and documentary evidence. I amended this Order by further Order dated July 26, 1989. The Department was required to file its brief and evidence by August 7, 1989, and did so on that date.

Respondents' reply brief was due on September 7, 1989. Since by September 12, 1989, Respondents had failed to file a brief or evidence, they were on that date ordered to show cause by September 22, 1989, why a summary decision should not be issued in favor of the government. The Order To Show

Cause also stated that failure to respond to the Order in a timely manner would constitute consent to a summary decision.

The Respondents have failed to respond to the Order To Show Cause and have, therefore, consented to the entry of the following:

Conclusion and Order

The Department has shown a compelling inference in this case that Respondents are lacking in the requisite responsibility to do business with HUD by showing that the principal Respondent, Elaine A. Hicks, has been indicted and convicted in federal court for her previous dealings in HUD programs. Accordingly, Respondents are ORDERED debarred from participating in primary covered transactions and lower tier covered transactions as either participants or principals at HUD and throughout the Executive Branch of the federal government and from participating in procurement contracts with HUD for a period of three years from the date of notice of this proposed action, April 6, 1989. See, 24 CFR 24.110(a)(1).

Robert A. Andretta
Administrative Law Judge
U.S. Department of Housing
and Urban Development
451 7th Street, S.W., Suite 2156
Washington, D.C. 20410

Date: October 3, 1989