

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

In the Matter of:

JOSEPH P. GARAFFA,

Respondent.

HUDALJ 95-5070-DB(S)
Decided: November 29, 1995

Stephen B. Shankman, Esquire
For the Respondent

Michael Noonan, Esquire
For the Department

Before: Robert A. Andretta
Administrative Law Judge

INITIAL DETERMINATION

Statement of the Case

On June 22, 1995, Nicholas P. Retsinas, Assistant Secretary for Housing - Federal Housing Commissioner, informed Respondent Joseph P. Garaffa that this department had been informed that a federal grand jury convened for the U.S. District Court for the District of Tennessee, Western Division, had returned an indictment charging him with violation of Title 18, §§ 371, 201(b)(1), 201(b)(2), and 2 of the United States Code. Respondent was further informed that, because he has participated in a covered transaction, or may reasonably be expected to do so in the future, he is a participant and a principal, as defined in Title 24, Code of Federal Regulations (CFR), §§ 24.105(m) and (p).

Since Respondent's indictment is considered by HUD to be adequate evidence of irresponsibility and cause for suspension under 24 CFR 24.405, the department concluded that his immediate suspension would be necessary to protect the public interest. Therefore, Respondent was given notice that, pending resolution of the matter of the subject indictment and

any legal, debarment or other proceedings which may ensue, he is excluded from primary covered transactions and lower tier covered transactions as either a participant or principal at HUD and throughout the Executive Branch of the Federal Government, and from participating in procurement contracts with HUD.

In accordance with instructions in the Assistant Secretary's notice letter, on August 3, 1995, Respondent's attorney filed his request for a hearing on the imposition of the suspension. The department's regulations that are codified at 24 CFR 24.412 and 24.413 provide that where, as here, the department's action is based upon an indictment, review of the action shall be limited to an opportunity to submit documentary evidence and written briefs.


In accordance with my Notice Of Hearing And Order dated August 21, 1995, the Department filed its Brief In Support Of Suspension on September 20, 1995. Respondent's Reply Brief was due, pursuant to the same Order, by October 23, 1995. Since by November 3, 1995, the Reply Brief had not been received, I issued an Order on that date for Respondent to file his brief or show cause, by November 17, 1995, why a judgment by default should not be entered against him. The Order To Show Cause also stated that failure by the Respondent to timely respond to the Order would constitute Respondent's consent to entry of a default judgment against him.

The Respondent has failed to respond to the Order To Show Cause and has, therefore, consented to the entry of the following Order.

ORDER

Since Respondent has failed to respond to the Order To Show Cause, and has thereby consented to the entry of a default judgment against him, his appeal is dismissed with prejudice.

So **ORDERED**.


ROBERT A. ANDRETTA
Administrative Law Judge

Dated: November 29, 1995.