

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

In the Matter of :
: CLARENCE L. WHITE, : HUDBCA No. 79-382-D32
and C. L. WHITE AND COMPANY, : (Activity No. 79-643-DB)
: Appellant :
:

Appearances:

For the Appellants : Clarence L. White, Pro se
For the Government : HUD Office of General Counsel
by Robert Anderson and
Marylea W. Byrd

PROCEDURAL HISTORY

By letter dated March 27, 1979, Clarence L. White wrote the Assistant Secretary for Housing to request early reinstatement pursuant to 24 C.F.R. Part 24 (1978), the Department's regulation governing debarment, suspension and ineligibility of contractors and grantees. (Documents File, Tab 3). The appeal was docketed on April 19, 1979, and after additional documents were filed, a hearing was held in Los Angeles, California on June 13, 1979.

FINDINGS OF FACT

On August 27, 1977, the Assistant Secretary for Housing notified Mr. White that consideration was being given to debarring him and his affiliates from participating in all HUD programs. The basis for the action was Mr. White's conviction in the United States District Court for the Central District of California of violating 18 U.S.C. §§ 2(b) and 1001 (1970).

Mr. White was notified of his right to request a hearing on the written record within ten days, but he did not do so. Consequently, On October 6, 1977, a final determination was issued debarring Mr. White and C. L. White and Company from participating in Department programs for a period of three years commencing October 27, 1976 and ending October 26, 1979. (Documents File, Tabs 1 and 2).

Mr. White testified that he was indicted on approximately ten counts including filing a false income tax return. In October, 1976 he plead guilty to submitting false information to HUD and subscribing to a false income tax "report." The record suggests that the underlying activity involved was falsifying the income of applicants for FHA mortgage insurance. (Tr. 7-8). Mr. White was sentenced to three years probation and fined \$1,000. (Tr. 9-10). He was granted an "early release" in December 1978 (Documents File, Tab 3).

Since his conviction, Mr. White has volunteered 600 hours of community service at the UCLA Child Trauma Center and the South Central YMCA in Los Angeles. (Tr. 8-9). Mr. White also testified that he was involved in other community activities, had served on the Board of Directors of his neighborhood community organization, and was on a committee for relocation of a camp in Northern California. He testified that he had no other involvement with the law prior or subsequent to his conviction. (Tr. 11-12).

DISCUSSION

Section 24.11 of the debarment regulation authorizes a request for reinstatement six months after imposition of a sanction and provides in pertinent part that

In reaching his determination regarding reinstatement, the presiding official must be satisfied that it is in the best interest of the Government to reinstate and also be persuaded from the assurances of the party concerned that he understands the requirements of the statutes and the administrative rules and regulations and that he will comply with them in the future.

Mr. White has expressed contrition for the incident both in writing and at the hearing. In response to Government counsel's cross-examination he stated his current familiarity

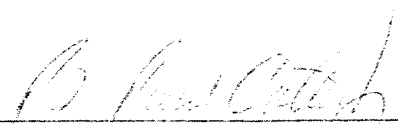
with pertinent rules and regulations and his sincere intent to adhere to them closely. The Department has taken no position on Mr. White's request for reinstatement.

Debarment is a sanction and not a penalty. The purpose of the sanction is to protect the public interest from abuse at the hands of those lacking the integrity and fitness necessary to discharge a public trust. Domco Chemical Corp., 48 Comp. Gen. 769 (1969). The policy underlying the debarment regulation is to insure that Department funds be made available "only to those contractors and grantees which can demonstrate that Government funds will be properly utilized." 24 C.F.R. §24.0 (1978).

It has been approximately three years since the prohibited conduct took place. In that time appellant has sustained a course of conduct demonstrating the level of responsibility required of a contractor or grantee with this Department. He has had no other involvement with the law and has demonstrated the qualities of a good citizen through extensive community involvement. The Court was sufficiently impressed with his rehabilitation to reduce the period of his probation by almost one-third. He, himself, has clearly stated his own contrition for the prohibited conduct and a firm resolve to comply with Departmental rules and regulations. In view of the foregoing, I find that it is in the best interest of the Government that Clarence L. White and C.L. White and Company be reinstated.

DETERMINATION

Upon consideration of the public interest and the entire record in this matter, it is hereby determined that the debarment of Clarence L. White and C. L. White and Company shall be terminated and that they shall be reinstated with full right of participation in Department programs effective July 12, 1979.


B. Paul Cotter, Jr.
Administrative Judge
HUD Board of Contract Appeals

Issued at Washington, D.C.
on July 12, 1979