

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
BOARD OF CONTRACT APPEALS
WASHINGTON, D. C.

In the Matter of :
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 LEWIS WEINSTEIN, : HUDBCA No. 80-531-D57
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 Petitioner :
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Lewis Weinstein, Esquire
609 Texas Street
Shreveport, Louisiana 71101

Appellant, pro se

John Kosloske, Esquire
Steven Horowitz, Esquire
Office of General Counsel
U.S. Department of Housing and
Urban Development
Washington, D. C. 20410

For the Government

RECOMMENDED DECISION

Statement of the Case

On April 20, 1979, Lewis Weinstein, petitioner herein, was debarred from participation in programs of the Department of Housing and Urban Development for a period of three years, up to and including April 20, 1982, for conviction of violation of 18 U.S.C. §§ 1012 and 2. By a letter dated July 17, 1980, Appellant requested reinstatement from debarment pursuant to 24 C.F.R. § 24.11. Thereafter, he filed a petition in support of his reinstatement request and the Government responded, arguing against reinstatement prior to expiration of the debarment period, as ordered on April 20, 1979.

APPLICABLE REGULATION

The Departmental regulation applicable to reinstatement, 24 C.F.R. § 24.11, provides in pertinent part as follows:

§ 24.11 Recision and reinstatement.

* * *

(b) Reinstatement procedures. ... 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. * * *

(c) Grounds. Except as otherwise provided by statute, a party may be reinstated subject to this § 24.11 upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief such as newly discovered material evidence, reversal of a conviction, bona fide change of ownership or management, or the elimination of the causes for which the debarment was imposed.

* * *

DISCUSSION

Petitioner was debarred for conviction of violation of 18 U.S.C. § 1012 and 2. He is an attorney who acted as the secretary and registered agent of Graves Construction Company. Graves Construction Company filled out receipts for downpayments "received" on the sale of four houses purchased with FHA mortgage assistance payments and mortgages insured by HUD-FHA when, in fact, no downpayments had been made. Petitioner was the closing attorney in each of the four transactions. He transmitted the false receipts of downpayment to HUD, knowing they were false. He claimed that the District Director of FHA told him the downpayment requirement could be ignored. (In the Matter of Lewis Weinsten, HUDBCA No. 76-124-D19; April 20, 1979).

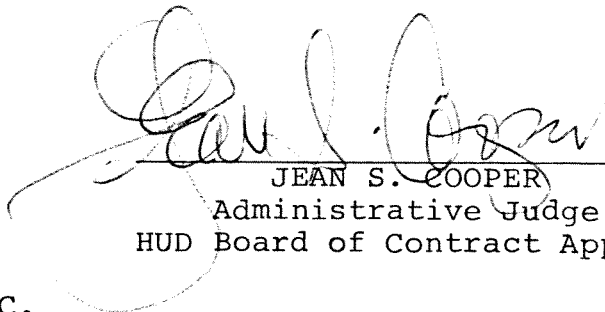
The reinstatement provision of 24 C.F.R., Part 24, limits consideration of an application for reinstatement to "appropriate grounds for the granting of relief such as newly discovered material evidence, reversal of a conviction, bona fide change of ownership or management, or the elimination of the causes for which the debarment was imposed." 24 C.F.R. § 24.11(c).

In the original debarment action, petitioner raised each of the grounds he now asserts on behalf of his petition for reinstatement. Then, as now, his primary ground rested on a specious allegation that he has been singled out for punishment by HUD and that the HUD District Director was totally responsible for petitioner's actions. Then, as now, petitioner argued that his period of debarment should run concurrently with the order of the trial judge who sentenced him to, among other restrictions, non-participation in Departmental programs for the period of the three years of his probation. Furthermore, the fact that petitioner has been suspended from Departmental programs since April 26, 1976, was taken into consideration in setting the original period of debarment.

Petitioner has failed to raise any ground for reinstatement that would be appropriate, as outlined in 24 C.F.R. § 24.11(c). Furthermore, each ground was previously raised by petitioner and either rejected or taken into consideration in the original debarment determination. I find that petitioner has failed to set forth reasons why his reinstatement would be in the best interest of the Government or the public.

CONCLUSION

It is therefore recommended that the debarment of Lewis Weinstein not be terminated until April 20, 1982.


JEAN S. COOPER
Administrative Judge
HUD Board of Contract Appeals

Issued at Washington, D. C.
December 29, 1980.