

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

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In the Matter of:	:	
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PAUL GREVIN,	:	HUDBCA No. 85-930-D16
	:	(Docket No. 85-996-DB)
Respondent	:	
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For the Government

DETERMINATION

Statement of the Case

By letter dated December 18, 1984, Paul L. Grevin ("Grevin" or "Respondent") was notified that the U.S. Department of Housing and Urban Development ("HUD") proposed to debar him from participation in departmental programs for a period of two years from the date of the notice, based on Grevin's conviction of violation of 18 U.S.C. §1012. Grevin was temporarily suspended pending determination of debarment.

Grevin made a timely request for an opportunity to submit documentary evidence and a brief on the proposed debarment, pursuant to 24 C.F.R. §24.5(c)(2). This Determination is based on the briefs and documentary evidence submitted by the parties.

Findings of Fact

1. Paul L. Grevin, a licensed minister and experienced housing rehabilitator, is the president of two non-profit

corporations, Family Christian Enterprises ("FCE") and Community Christian Endeavors ("CCE") (Resp. Exh. A).

2. In 1976, the City of Chicago offered a number of properties for sale under the Property Release Option Program ("PROP"). PROP was a program sponsored by HUD that encouraged municipalities to sell severely rundown residential properties to non-profit organizations for rehabilitation and subsequent resale. The properties sold by the municipalities were HUD-owned properties that were turned over to the municipalities for \$1 each plus \$13 costs. Ninety-two of those PROP properties were sold to FCE by the City of Chicago. One of the requirements of PROP was that proceeds from the sale of PROP properties were to be retained by the non-profit organization for use in accordance with its non-profit purposes. (Resp. Exh. A; A-5.)

3. Grevin was the custodian of the records of FCE's business transactions. He kept all receipts, checks, invoices and explanations of cash transactions. (Resp. Exh. A.)

4. Until 1983, the funds for FCE, CCE, and Grevin's family were all commingled in one bank account, including income from the properties purchased by FCE through the PROP program. From time to time, Grevin used income attributable to FCE from the PROP program for his personal use. Grevin did not keep complete and formal books for either FCE or CCE. In 1984, Grevin opened separate accounts, one for his personal finances, one for FCE and one for CCE. Grevin also changed accounting firms in 1984. Separate books are now kept for each entity. (Resp. Exh. B; C-4.)

5. In late 1983, the United States Attorney for the Northern District of Illinois charged Grevin in a Bill of Information with violation of 18 U.S.C. §1012. Specifically, Grevin was charged with willfully failing to disclose to the City of Chicago and HUD "special benefits which he expected to receive as a result of the property acquisition" from April 1976 until June 12, 1981. (Govt. Exh. C.) The Bill of Information was directed at Grevin's commingling of the funds from FCE with his personal funds and unspecified personal use of those funds by Grevin, rather than by FCE (Resp. Exh. C-4).

6. On February 4, 1984, Grevin entered a plea of nolo contendere to the Bill of Information (Govt. Exh. 3). Prior to accepting the plea, the sentencing judge examined both counsel for Grevin and the Assistant United States Attorney on the nature of the charged offense and the reason for the plea. The transcript of the hearing on the plea indicates that nolo contendere plea arrangements were extremely unusual in that court and that they were only negotiated and accepted in unusual situations where the criminal offense was characterized by the court as essentially "technical." (Resp. Exh. C-4.) The sentencing judge accepted Grevin's plea and, after finding him

guilty based on it, sentenced Grevin to three years' probation, fined him \$1,000, and ordered him to perform 450 hours of community service during the probation period. (Govt. Exh. B.)

### Discussion

The purpose of debarment is to assure the Government that it only does business with responsible contractors and grantees. 24 C.F.R. §24.0. Debarment is not to be used for punitive purposes, but to protect the public. 24 C.F.R. §24.5. "Responsibility" is a term of art in Government contract law, connoting not only the ability to perform a contract satisfactorily, but the honesty and integrity of the contractor or grantee. 48 Comp. Gen. 769 (1969). Although the test for the need for debarment is present responsibility, a finding of lack of present responsibility may be based on past acts. Schlesinger v. Gates, 249 F. 2d 111 (D.C. Cir. 1957).

Grevin admits that he is a "contractor or grantee" within the scope of the pertinent HUD regulations. A plea of nolo contendere, because it results in a conviction, can be a ground for debarment under HUD's regulations. See 24 C.F.R. §§24.6(a)(1), (2), (9). However, the unique plea of nolo contendere admits none of the underlying facts outside of the specific criminal proceeding in which it is offered. In this case, Grevin admitted the facts that were the basis for the Bill of Information to which he entered the plea of nolo contendere. The facts found in this decision are derived almost wholly from Grevin's own exhibits and admissions submitted in mitigation of the proposed debarment.

Grevin commingled personal and project funds in a single bank account for a period of years. Furthermore, Grevin apparently used some of the proceeds from sale of the PROP homes for personal expenditures, although there is no indication that he embezzled those funds. The commingling of the funds was the heart of the crime and it was this commingling in the absence of fraud or intent to steal that caused the sentencing court to characterize Grevin's offense as essentially "technical" in nature. In 1984, Grevin opened separate bank accounts, as required by HUD, and hired a new accounting firm to reorganize the books so that they would be kept in accordance with proper accounting procedures. There is no evidence that he has used any of the proceeds from the sale of any PROP homes for his personal use since June, 1981.

The Government has established cause for debarment in this case pursuant to 24 C.F.R. §24.6(a)(9) because Grevin's conviction for commingling of project and personal funds shows a lack of responsibility. It also shows a lack of sound business judgment, if not a lack of honesty, to handle project funds in such a cavalier manner. HUD has every right to expect careful separation of and accounting for such funds because they are


derived from a public program designed to provide a public benefit of improved low-cost housing stock. Furthermore, the temporary suspension based on Grevin's conviction was appropriate under the applicable regulations. 24 C.F.R. §24.13(c).

I find that an 18-20 month debarment was necessary when a debarment was proposed in 1984. That period of time under a sanction was necessary to protect the Department and the public while Grevin corrected the problem with the bank accounts, books and project funds, and developed an understanding of the problems caused by his inappropriate handling of those accounts. Grevin may have been convicted of a "technical" misdemeanor, as defined in criminal law, but his acts take on a more serious and compelling aspect when considered as indicators of lack of responsibility as a Government contractor.

Debarment is a prospective sanction and I cannot "backdate" a debarment to December, 1984. Grevin's suspension has afforded HUD and the public full protection during the intervening time that Grevin has been temporarily suspended since December 18, 1984. I consider it appropriate to credit Grevin with the time he has been suspended. At this time, I find that the Department needs no further sanction that would keep Grevin from participating in HUD programs. Therefore, a prospective period of debarment at this date is not warranted.

#### Conclusion

Paul Grevin shall be credited with the time he has been temporarily suspended since December 18, 1984. Although his debarment was warranted and necessary in 1984, imposition of a debarment at this time is no longer necessary. The temporary suspension shall be terminated immediately.

  
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JEAN S. COOPER  
Administrative Judge

July 10, 1986