

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

In the Matter of:	:	
	:	
GARY SNYDER,	:	HUDBCA No. 87-2407-D21
	:	Docket No. 87-1114-DB (TDP)
Respondent	:	
	:	

Mr. Gary Snyder



Respondent, Pro se

Emmett Roden, Esquire
Office of General Counsel
Department of Housing and
Urban Development
Washington, D. C. 20410

For the Government

DETERMINATION AND ORDER

Statement of the Case

A hearing was held in this case on July 6-7, 1987 to determine 1) whether the Temporary Denial of Participation (TDP) imposed against Respondent on November 24, 1986 by the Tucson HUD Office Manager should be terminated, and 2) whether the temporary suspension imposed against Respondent on June 17, 1987 should be upheld or terminated.

The matters were consolidated for hearing on the condition set forth by the undersigned that the suspension action would be judged on the merits of the charges using the standards of proof and tests for necessity applicable to a TDP or proposed debarment because the charges in the notice of suspension were identical to that of the TDP.

A ruling was issued from the bench at the conclusion of the hearing upon the agreement of the parties and in accordance with 24 C.F.R. §26.24 (d).

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Summary of Findings of Fact
and Conclusions of Law

Findings of fact and conclusions of law are found in the transcript of the hearing dated July 7, 1987. Stipulations of fact submitted by the parties were accepted on July 6, 1987.

In summary, both the TDP and the temporary suspension were terminated as of July 7, 1987, because it was found that Respondent is presently a responsible contractor as of that date. The purpose of all of the sanctions provided for in 24 C.F.R., Part 24 is to assure the Government that it need only do business with responsible contractors and grantees. It is not to be used for punitive purposes. 24 C.F.R. §24.0, 24.5. Therefore, it is inappropriate to continue a sanction against a contractor who is presently responsible.

Substantial evidence in mitigation of the irregularities in Respondent's past performance in the Direct Endorsement Program was placed in the record. It was found that these irregularities did not constitute fraud, intentional misconduct, or a lack of honesty or integrity on the part of Respondent. It was further found that Respondent did correct all irregularities that were brought to his attention. Finally, Respondent has fully familiarized himself with HUD's handbook requirements, procedures and regulations applicable to the Direct Endorsement Program, particularly during the period since the TDP was imposed. For these reasons, it was found that Respondent was presently a responsible contractor and that neither sanction was necessary at this time to protect the interest of the Government or the public.

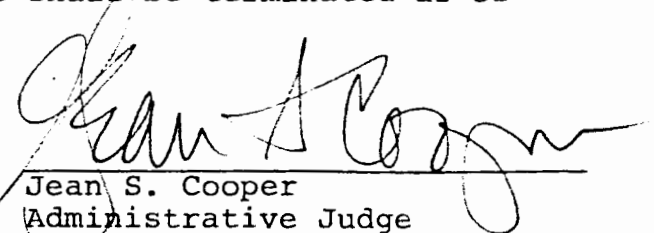
Additional Conclusion of Law

The TDP was made applicable to the Section 203 single family program. All of the irregularities cited in the Government's complaint took place exclusively within the Direct Endorsement Program, a unique and separable program of the Department that was applicable, if appropriate, to the Section 203 program. I therefore find as a matter of law that the scope of the TDP, as applied, should have been limited to the Direct Endorsement Program because there was no citation of irregularities in the Section 203 program that was not specific to the Direct Endorsement Program.

ORDER

The findings and determination contained in the transcript of the hearing, the stipulations of fact, and the summary findings and conclusions of law contained in this written Determination and Order shall constitute the Determination in this case. The Temporary Denial of Participation and the

temporary suspension of Respondent shall be terminated as of July 7, 1987.



Jean S. Cooper
Administrative Judge

Date: July 10, 1987