



**Board of Contract Appeals**  
U.S. Department of Housing and Urban Development  
Washington, D.C. 20410-0001

In the Matter of:

CARROLL R. DUNTON AND  
DUNTON CONTRACTING, INC.,

Respondents

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: HUDBCA No. 92-7392-D10  
: Docket No. 92-1767-DB  
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Carroll R. Dunton



For the Respondents

Bryan Parks Saddler, Esq.  
Office of General Counsel  
U.S. Department of Housing  
and Urban Development  
Washington, D.C. 20410

For the Government

ORDER ON ERRATA

The final two paragraphs of the Determination issued in the above-captioned matter on May 19, 1992, contained erroneous dates, necessitating corrections and further comment. Therefore, it is hereby ORDERED that the final two paragraphs in that Determination shall be deleted and the following three paragraphs substituted therefor:

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Dunton's final argument is that, assuming a debarment is imposed upon him, he should receive credit for the time during which he was subject to a Limited Denial of Participation ("LDP"). Before the notice of suspension and proposed debarment was issued by the Assistant Secretary on September 23, 1991, an LDP was issued on August 21, 1989 by St. George I.B. Cross, Manager, HUD Baltimore Office. The LDP was based upon initial information received by the Department concerning Dunton's activities with Strissel. Dunton apparently did not contest the LDP, which excluded Dunton and DC from participating in programs located in the State of Maryland

(excepting Montgomery and Prince George's Counties), within the jurisdiction of the Assistant Secretary for Public and Indian Housing of HUD. <sup>1</sup> The Government notes that the LDP was not based on Dunton's conviction for either offense.

The selection of the LDP as a sanction which apparently expired on August 20, 1990, and the Government's reticence to seek a suspension and proposed debarment until after Dunton's conviction on May 16, 1991, is well within the discretion of Departmental officials. In any event, the LDP was based upon elements of the criminal conduct which led to Dunton's conviction, i.e., after information was provided to HUD regarding Dunton's "activities [which] were among the several activities included under an indictment issued to [redacted] Strissel ...." (Resp. Exh. B). While the Government correctly argues that HUD regulations do not require LDP's to be considered when determining the length of a debarment, LDP's can be "superseded" by a subsequent suspension, and these two sanctions can then be reviewed solely as an appeal of the suspension. 24 C.F.R. Sec. 24.713. The fact that an earlier sanction was imposed should not be ignored, if relevant. Without evidence that the HUD programs were not placed at additional risk during the length of the LDP, and between August 21, 1990 and September 23, 1991, when Respondents were subject to no HUD sanction, I must conclude that the public has been afforded adequate protection from Respondent's conduct by the imposition of the LDP. See Lou Dominick, HUDBCA No. 87-2420-D31 (September 28, 1987) (where voluntary debarment at request of HUD credited against period of debarment). Respondents should be credited with the period prior to the suspension during which Dunton was prohibited from participating in a limited group of HUD programs.

#### Conclusion

For the foregoing reasons, I find that a three-year debarment of Dunton and DC is warranted by the record in this case. It is therefore ORDERED that Carroll R. Dunton and Dunton Contracting, Inc. shall be debarred through September 22, 1993, credit being given for the time during which Respondents were suspended, and for the year during which Respondents were precluded from participating in certain HUD programs.

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David T. Anderson  
Administrative Judge

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<sup>1</sup>Contrary to the Department's assertion, DC appears to have been subject to the terms of the LDP. Dunton was told in the LDP notice that "[i]ssuance of this sanction excludes you and your company immediately from any direct or indirect participation" in the programs specified. (emphasis added) (Resp. Exh. B)