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

In the Matter of:	*	
ELIE PIERRE LOUIS	*	**DOCKET NO. 07-3419-DB**
(aka Elie Louie Pierre),	*	
Respondent.	*	

DEBARRING OFFICIAL'S DETERMINATION

Introduction

By Notice dated March 28, 2007 ("Notice"), the Department of Housing and Urban Development ("HUD") notified Respondent **ELIE PIERRE LOUIS** that HUD was proposing his debarment from future participation in procurement and nonprocurement transactions as a participant or principal with HUD and throughout the Executive Branch of the Federal Government for a period of three years from the date of the final determination of this action. HUD advised Respondent in the March 28, 2007, Notice that the proposed debarment action was in accordance with the procedures set forth at 24 CFR part 24. Additionally, the Notice informed Respondent that the proposed debarment was based upon his criminal conviction in the United States District Court for the Eastern District of New York for violation of 18 U.S.C. 371 (conspiracy to make false statements).

Respondent's conviction followed his guilty plea to one count of a nine-count indictment that charged him with conspiracy to make false statements to obtain mortgage loans. The indictment recited in summary that between March 1997 and June 2001, Respondent, who during this period was employed as a loan officer by a HUD-approved lender, Saxon Mortgage Bank Ltd. ("Saxon"), and his coconspirators conspired to make false statements regarding income and forged and counterfeited federal tax returns and pay stubs for the purpose of obtaining mortgage loans and advances of credit for Saxon and another company with the intent that such loans and advances of credit be offered to and accepted by HUD for insurance, in violation of 18 U. S.C. 1010.

For his part in the scheme, Respondent was placed on probation for five years, fined $1,250.00, and ordered by the court to make restitution to HUD of $92, 015.00.

A telephonic hearing on Respondent's proposed debarment was held in Washington, DC on August 15, 2007, before the Debarring Official's Designee, Mortimer F. Coward. Respondent was present at the hearing and was represented by his attorney, Richard A. Miller, Esq. Ana Fabregas, Esq. appeared on behalf of HUD.

Summary

I have decided, pursuant to 24 C.F.R. part 24, to debar Respondent from future participation in procurement and non-procurement transactions, as a participant, principal, or contractor with HUD and throughout the Executive Branch of the Federal Government, for a period of three years from the date of this Notice. My decision is based on the administrative record in this matter, which includes the following information:

(1) The Notice of Proposed Debarment dated March 28, 2007, issued by HUD.
(2) The letter of April 23, 2007, from Respondent's attorney addressed to the Debarment Docket Clerk (including all exhibits thereto).
(3) The Affidavit in Support of a Search Warrant and Arrest Warrants sworn to by HUD OIG Special Agent Lake on March 15, 2002.
(4) The Indictment against Respondent and his codefendants filed December 18, 2003.
(5) The Cooperation Agreement signed by Respondent on June 10, 2005.
(6) Respondent's counsel's letter to the court dated February 16, 2006, setting forth Respondent's objections to the Presentence Report and the Addendum to Presentence Report dated July 29, 2005, and February 3, 2006, respectively.
(7) The Judgment in a Criminal Case filed April 17, 2006.
(8) The letter of August 7, 2007, from Respondent's attorney along with a copy of the Respondent's sentencing proceeding attached.
(9) A FAX from Respondent's attorney dated August 15, 2007, attaching the court receipt dated May 23, 2007, evidencing Respondent's payoff of the balance of $73,015.00 owed on the original restitution order.
(10) A letter dated August 14, 2007 (attached to the August 15, 2007, FAX), from Dawn Gaeta of Roosevelt Funding attesting to the fact that Respondent is currently employed as a loan officer and trainer under her supervision.
(11) The Government's Pre-hearing Submission filed July 25, 2007 (including all attachments and exhibits thereto).
(12) The tape recording of the August 15, 2007, telephonic hearing.

HUD's Arguments

HUD contends that Respondent as a loan officer who originated FHA-insured loans was involved in covered transactions. Accordingly, under applicable regulations his criminal conviction is cause for debarment. Government counsel rejected Respondent's argument that his inexperience, lack of training, and ignorance that there was an on-going fraudulent scheme when he started his employment at Saxon accounted for his criminal conduct. The government

conceded that Respondent's lack of training may have caused him to make technical errors in preparing a loan, but disagreed that Respondent's lack of training could cause him to submit false documents. According to government counsel, Respondent participated willingly in the conspiracy. Counsel also argued that Respondent's cooperation with federal authorities while useful to the prosecution of the conspirators was of little value to HUD in the instant matter. The government rejected too as irrelevant Respondent's claim of hardship that would befall him and his family from his debarment as irrelevant. Counsel pointed out that the focus of a debarment action is not what it may cost Respondent, but whether the government needs to be protected from future illegal conduct of Respondent. Finally, government counsel argued that Respondent's arguments, including his assertion that he had had a difficult life, "offer little mitigation, if any, to the gravity of his offense."

Respondent's Arguments

Respondent argued that at the time he committed the fraudulent acts, he believed he was helping the applicants secure a mortgage loan. Respondent testified that he knows now that his actions were wrong, that he is remorseful, and that he has paid dearly for his actions. Respondent attributed his criminal actions to his receiving little or no training, direction, or supervision at Saxon. According to Respondent, the fraudulent acts that he committed and for which he was convicted were part of an on-going scheme at Saxon at the time he started working there. As a consequence, Respondent testified he did not recognize the seriousness of his actions.

Respondent detailed his activities in cooperating with federal authorities investigating the scheme. According to Respondent, he is now more aware of his ethical responsibilities as a loan officer. Additionally, in his current employment Respondent trains loan officers, emphasizing to them the value of doing business in an ethical manner. Also, Respondent stated that he has since leaving his employment with Saxon gained familiarity with HUD's regulations and knowledge of HUD's procedures. Respondent argued that, because of the experience of being charged with a crime, his approach to conducting business now is entirely different from his approach during his tenure at Saxon.

Respondent pleaded that he is the primary breadwinner of his family and that debarment would have a dramatic and harmful effect on his family. Respondent asserted that he is now a changed person from the person who committed the offenses alleged in the indictment and that there have been no complaints of his conduct since his indictment.

In his submission, Respondent's attorney disputed the government's position that "there is evidence of serious irresponsibility on the part of Mr. Pierre Louis." Respondent's counsel argued that Respondent's level of participation in the conspiracy, the amount of loss suffered by HUD for which the Respondent was alleged to be responsible, the allegations that Respondent received kickbacks, and the number of improper loans attributed to Respondent were all refuted or proved to be of a lower magnitude than originally contended by the government. Counsel submitted that while "respondent does not dispute the fact of his conviction . . ., [the conviction] does not directly affect his present responsibility."

Findings of Fact

1. Respondent was a participant in a covered transaction.
2. Respondent pleaded guilty and was convicted of conspiracy to make false statements to obtain mortgages.
3. Respondent was sentenced to probation for a term of five years, fined $1,250.00 and ordered to pay restitution of $92,015.00.
4. Respondent's conviction provides the basis for his debarment under 24 CFR 24.800.
5. Respondent was a loan officer during the time he was engaged in the fraudulent scheme to obtain mortgage loans.
6. Respondent was involved in the fraudulent scheme for approximately four years.
7. Respondent provided substantial cooperation to federal authorities regarding his fraudulent conduct and the actions of others in two other investigations.
8. Respondent had no prior record of criminal activity.
9. Respondent has made full restitution to HUD of $92,015.00 as ordered by the court.
10. Respondent, since his conviction, has been employed by another company as a loan officer and trains prospective loan officers.
11. Respondent has made his living for the past 18 years in the mortgage industry.

Conclusions

Based on the above Findings of Fact, I have made the following conclusions:

1. Respondent was a participant in a covered transaction as defined in 24 CFR part 24.
2. Respondent's conviction for conspiracy to make false statements provides the legal basis for his debarment.
3. Respondent's involvement in the conspiracy raises grave doubt with respect to his business integrity and personal honesty.
4. HUD has a responsibility to protect the public interest and take appropriate measures against participants whose actions may affect the integrity of its programs.
5. HUD cannot effectively discharge its responsibility and duty to the public if participants in its programs fail to act with honesty and integrity.
6. Respondent has made full restitution as ordered by the court.
7. Respondent had no prior record with HUD involving wrongdoing or violation of laws covering HUD's programs.
8. Respondent has accepted responsibility for his actions and is remorseful.
9. Respondent has more than a de minimis role in the conspiracy.
10. The facts adduced by Respondent are not sufficiently persuasive to mitigate his conduct or satisfy the requirements of 24 CFR 860.

DETERMINATION

Based on the foregoing, including the Findings of Fact, Conclusions, and the administrative record, I have determined to debar Respondent for three years commencing from the date of this Notice. In accordance with 24 CFR 24.870(b)(iv), Respondent's "debarment is effective for covered transactions and contracts that are subject to the Federal Acquisition Regulation (48 CFR chapter 1), throughout the executive branch of the Federal Government unless an agency head or an authorized designee grants an exception."

Dated: 24 Sept. 2007

Henry S. Czauski

Henry S. Czauski
Debarring Official
Departmental Enforcement Center