

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

In the Matter of:

**BRENT S. HONORE and
HARVEY HONORE CONSTRUCTION
COMPANY, LLC,**

Respondents.

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**DOCKET NO. 08-3519-DB
08-3520-DB**

DEBARRING OFFICIAL'S DETERMINATION

INTRODUCTION

By separate Notices dated April 17, 2008 and April 17, 2008 ("Notice"), the Department of Housing and Urban Development ("HUD") notified Respondents BRENT S. HONORE and HARVEY HONORE CONSTRUCTION COMPANY, LLC, respectively, that HUD was proposing their 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 three-year period from the date of the final determination of this action.¹ The Notice further advised Respondents that the proposal to debar them was in accordance with the procedures set forth in 2 CFR parts 180 and 2424. In addition, the Notice informed Respondents that their proposed debarment was based upon Respondent Brent S. Honore's conviction in the United States District Court for the Eastern District of Louisiana for violating 18 USC 4 (Misprision of a Felony)². For Respondent Brent Honore's conviction on the one count of the Information to which he pleaded guilty, Respondent was placed on probation for a term of two years and ordered to pay a fine of \$5,000.00.

A hearing on Respondents' proposed debarment was held in Washington, D.C. on July 30, 2008, before the Debarring Official's Designee, Mortimer F. Coward³. Respondent appeared pro se. Todd Maiberger, Esq. appeared on behalf of HUD.

¹ The two cases were heard as a consolidated matter in the July 30, 2008, hearing. However, because the proposed debarments are based on Respondent Brent Honore's misconduct, today's decision will focus almost solely on his actions and defenses. Accordingly, the two Respondents will be treated as one entity for discussion purposes in this decision, except where the context requires that they be identified separately.

² The Notice to Harvey Honore Construction Company (HHCC) advised the company that its proposed debarment was based upon information that HHCC was an affiliate of Brent Honore's pursuant to 2 CFR 180.905.

³ The Debarring Official's Designee was not present in person at the hearing, but participated by phone. Also present at the hearing were the Debarring Official and Corlis Stevenson.

Summary

I have decided, pursuant to 2 CFR part 180, to debar Respondents from future participation in procurement and nonprocurement transactions, as a participant, principal, or contractor with HUD and throughout the Executive Branch of the Federal Government, for a period of 18 months from the date of this determination. My decision is based on the administrative record in this matter, which includes the following information:

- (1) The two Notices of Proposed Debarment dated April 10, 2008 and April 17, 2008, addressed separately to each Respondent.
- (2) An information filed July 10, 2007, in the United States District Court, Eastern District of Louisiana, charging Respondent Brent Honore with violation of 18 U.S.C. 4, misprision of a felony.
- (3) A plea agreement entered into by Respondent, dated July 26, 2007.
- (4) The Judgment and Probation/Commitment Order filed February 19, 2008, finding Respondent guilty as charged in the bill of information.
- (5) A letter dated May 2, 2008, to the Debarment Docket Clerk from Respondent Brent Honore requesting a hearing for both Respondents.
- (6) Respondents' Brief in Support of no Debarment (along with the package of documents submitted therewith, including correspondence between Respondents and various officials and information relating to Respondents' business activities) filed July 17, 2008.
- (7) The Government's Brief in Support of a Three-Year Debarment filed June 18, 2008 (including all attachments and exhibits thereto).

Government Counsel's Arguments

Government counsel first summarizes the facts as detailed in the Factual Basis filed in Respondent's criminal proceeding and agreed to by Respondent. In pertinent part, the Factual Basis recites that Respondent Honore was the owner and operator of Respondent HHCC. HHCC was involved in a project (Fisher Senior Village Housing Project) authorized by the Housing Authority of New Orleans (HANO), which was in receivership with HUD. As a result of a conflict between Respondent and the project architect, Respondent's invoices were not being paid. A consultant contracted by HANO to mediate the disputes between Respondent and the architect and to manage the project indicated to Respondent that in return for a kickback, he could get Respondent's work and his invoices approved. Respondent believed that his failure to cooperate would cost him hundreds of thousands of dollars in a project in which he already had a considerable investment. Accordingly, in November 2002, Respondent, through an employee, delivered a \$5,000.00 check to the consultant. Respondent did not report the kickback to any responsible authority.

Government counsel argues that Respondent is a "participant" because he performed work for HANO, an entity funded by HUD. Additionally, Respondent was involved in a covered transaction because it was HUD funds granted to HANO that were

used to pay Respondent for his work on the project. Thus, counsel argues that Respondent has participated in covered transactions, thereby making the debarment regulations applicable to him. *See* 2 CFR part 180.

Government counsel argues that Respondent's conviction provides cause for his debarment under 2 CFR 180.800(a)(1) and (a)(4). Moreover, the Government has met its burden of demonstrating cause for debarment because of Respondent's conviction. *See* 2 CFR 180.800(a)(1) and 2 CFR 180.850(b).

Counsel also argues that Respondent's acts demonstrate his lack of integrity and business honesty and are cause for debarment under 2 CFR 180.800(a)(4). Further, the seriousness of Respondent's misconduct and the Government's requirement that its programs be administered lawfully are additional reasons that demand Respondents' debarment.

Counsel acknowledges that Respondent's community work is laudable, but argues that it sheds no light on Respondent's honesty and integrity to do business with the Government. Accordingly, counsel asserts that Respondents' debarment will be in the public interest, and that a three-year debarment is appropriate in this case.

Respondent's Arguments

Respondent admits the allegations with respect to his misconduct involving the consultant, Jim Lozano. Respondent recited a history of his involvement in the construction industry in New Orleans. Respondent detailed alleged machinations and difficulties he faced in doing business as a contractor with HANO and on other construction projects in New Orleans. Specifically, Respondent, in his testimony, described the frustrations and delays he encountered in trying to get project plans approved and payment for work completed on various projects. Respondent supports his description of his difficulties in dealing with HANO and other authorities in some of the correspondence included in his submission.

Respondent argues that "debarment would be unjust, cruel and harsh punishment." Respondent raises in mitigation of his conduct, his community service and the recognition he has received therefor. Respondent asserts that he is presently responsible and does not think his debarment would be fair, but takes responsibility for his misconduct.

Findings of Fact

1. Respondent was a contractor who performed construction work on a project for HANO that received HUD funding.
2. The construction work was performed by HHCC, a company owned and operated by Respondent.
3. Respondent was in the construction business for several years and built different projects in New Orleans.

4. Respondent encountered bureaucratic difficulties and frustrations in having his construction work approved and payments remitted to him for his work on the HANO project.
5. HANO retained a consultant to mediate the differences between Respondent and the architect responsible for approving Respondent's work on the HANO-funded project.
6. Respondent agreed to pay the consultant \$5,000.00 based on the consultant's representation that he could bypass the architect's recommendation and get HANO to approve Respondent's work and pay him therefor.
7. In November 2002, Respondent used an employee to deliver a \$5,000.00 check to the consultant.
8. Respondent believed that if he did not cooperate with the consultant, he could lose hundreds of thousands of dollars in a project in which he already had a large investment.
9. Respondent was indicted and pleaded guilty to one count of misprision of a felony and was sentenced to two years of probation and ordered to pay a fine of \$5,000.00.

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 2 CFR part 180.
2. Respondent's criminal conviction serves as the basis for his debarment.
3. Pursuant to 2 CFR 180.800, a conviction for a criminal offense in connection with obtaining or performing a public agreement or transaction, *inter alia*, is a cause for debarment.
4. HHCC was an affiliate of Respondent Brent S. Honore. *See* 2 CFR 180.905 and 180.625.
5. The Government has met its burden of demonstrating cause in this matter by virtue of Respondent's conviction. *See* 2 CFR 180.850(b).
6. Respondent's payment to the consultant was a kickback and casts doubt on his integrity and honesty. *See* 2 CFR 180.800(a)(4).
7. Respondent's acceptance of responsibility for his wrongdoing, the fact that the kickback was an isolated incident, and thus no pattern of wrongdoing is evident, Respondent's payment of the fine imposed, and the lack of evidence of Respondent's exclusion by other agencies to participate in contracts or agreements are mitigating factors that have been considered in determining whether Respondent should be debarred, and, if so, the appropriate period of debarment. *See* 2 CFR 180.865.
8. Specifically also, the business conditions current in New Orleans at the time of Respondent's misconduct and the almost six-year lapse of time since Respondent's commission of his wrongful act are factors that were considered appropriate in determining whether Respondent should be

debarred. *See* the introductory paragraph to 2 CFR 180.865, and *see* especially §180.865(s).

9. The seriousness of Respondent's act is an aggravating factor considered in imposing the period of debarment on Respondent. *See* 2 CFR 180.865.
10. Respondent's actions that led to his criminal conviction implicate his business integrity and personal honesty.
11. HUD has a responsibility to protect the public interest and take appropriate measures against participants whose actions may affect the integrity of its programs.
12. HUD cannot effectively discharge its responsibility and duty to the public if participants in its programs or programs that it funds fail to act with honesty and integrity.

DETERMINATION

Based on the foregoing, including the Findings of Fact, Conclusions, and the administrative record, I have determined, in accordance with 2 CFR 180.870(b)(2)(i) through (b)(2)(iv), to debar Respondents for a period of 18 months from the date of this Determination. Respondents' "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: 19 Sept. '08



Henry S. Czauski
Debarring Official