

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Washington, D.C.

In the Matter of:	*	
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SCOTT BETT,	*	DOCKET NO.: 10-3636-DB
	*	
Respondent.	*	
	*	

**ORDER GRANTING GOVERNMENT’S MOTION FOR THE IMPOSITION OF A
FIVE-YEAR DEBARMENT OF RESPONDENT SCOTT BETT**

Introduction and Background

By Notice of Proposed Debarment (“Notice”) dated February 22, 2010, the Department of Housing and Urban Development (HUD) notified Respondent SCOTT BETT 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 five years from the date of the final determination of the proposed action. The proposed debarment, the Notice recited, was based upon “evidence indicating alleged irregularities of a serious nature in [Respondent’s] dealings with the Department.” The Notice continued that Respondent’s irregularities involved his “acts and omissions as an employee and Direct Endorsement underwriter [of twenty-three FHA-insured mortgage transactions] for Premium Capital Funding LLC, d/b/a Topdot Mortgage (PCF) . . . a HUD/FHA-approved Direct Endorsement mortgage.” The Notice specifically alleged that Respondent “failed to question and/or resolve discrepancies and/or inconsistencies in documentation used to qualify borrowers” in the twenty-three loans.

In a letter dated March 22, 2010, responding to HUD’s Notice, Respondent asserted that after “initial review of the virtual documentation of twenty-two of the twenty-three loans, it seems that eight out of the twenty-three loans in question are loans that[he] did not clear to close. Someone else had signed [his] name to the final MCAW and Conditional Commitment of Appraised Value without [his] knowledge or consent.” In a companion submission of even date, Respondent offered an explanation and justification for approving fifteen of the loans while denying that the signature on the other loans was his. Based on his response, Respondent

requested that “HUD withdraw [his] proposed debarment . . . and fully dismiss any and all claims.” In the alternative, Respondent requested a hearing on his proposed debarment.

Procedural History

Subsequent to the receipt of Respondent’s submission, the Government filed on April 30, 2010 and on May 6, 2010, respectively, Government’s Motion to Refer to a Hearing Officer and Supplement to Government’s Motion to Refer to a Hearing Officer. On May 14, 2010, the Debarring Official’s Designee issued an Order granting the two motions. On May 21, 2010, the Debarring Official signed the Order referring the matter to the Office of Hearings and Appeals. On June 10, 2010, Administrative Judge H. Alexander Manuel issued a Notice of Docketing and Order.

The record of the proceedings in OHA indicates that Respondent failed to comply with the Administrative Judge’s Orders resulting, as the Judge noted, in “unacceptable delay in bringing this case to a hearing.” *See* Recommended Default Decision, Ruling, and Order (Recommended Order) issued July 14, 2011.¹ Specifically, the Recommended Order granted the Government’s Motion for Sanctions Against Respondent and for the Issuance of Findings of Fact Consistent with the Allegations Set Forth in the Government’s Complaint, dismissed the matter with prejudice and also denied Respondent’s Motion to Dismiss. Thereafter, the Government filed on August 29, 2011, the Government’s Motion for the Imposition of a Five-Year Debarment of Respondent Scott Bett. Respondent filed in response an Answer to Government’s Motion for the Imposition of a Five-Year Debarment of Respondent Scott Bett on September 12, 2011.

Discussion

As indicated *supra*, this matter was referred to an administrative judge pursuant to 2 C.F.R. § 180.845(c) for findings of fact. The cited regulation provides, in pertinent part, that the “debaring official may reject any resultant findings, in whole or in part, only after specifically determining them to be arbitrary, capricious, or clearly erroneous.” I find that the Administrative Judge acted properly and in accordance with relevant regulations and settled law in reaching his decision. The Administrative Judge exhibited exemplary patience and forbearance in the face of Respondent’s missed deadlines and failure to comply with his Orders. Respondent pointedly was warned in one of the Orders issued by the Administrative Judge that “failure to comply with [his January 26, 2011 Ruling and Order Imposing Stay] may result in a dismissal of Respondent’s request for hearing in this case or a judgment in favor of the Government.” *See* Recommended Order at 4. (Emphasis added) *See also* Ruling and Order on Respondent’s Motion for Extension of Time issued June 24, 2011, cited at p. 7 of the Recommended Order, which, in part, advised Respondent that his “failure to comply with the Order may result in sanctions, including entering judgment in favor of the opposing party or a ruling based upon the documents in the record of this proceeding.” (Emphasis added)

¹ The Recommended Order sets forth, *inter alia*, a detailed history of the filings and Orders issued in this matter and Respondent’s responses, if any, thereto.

Respondent was clearly on notice that his contumacy could result, in terms of his interest, in an undesirable outcome. Respondent just as clearly was given “an opportunity to contest the proposed debarment,” as provided in 2 C.F.R. § 180.810, but chose to fritter away the opportunity as is plain from a reading of the Recommended Order.

The Recommended Order, as noted above, granted the Government’s motion for the Issuance of Facts Consistent with the Allegations Set Forth in the Government’s Complaint. The Government’s allegations and its arguments in support thereof, as set forth in its Memorandum in Support of its Motion for the Imposition of a Five-year Debarment of Respondent Scott Bett, make a compelling case for the imposition of a five-year period of debarment. Respondent has offered no mitigating factors that could persuade me that a lesser term of debarment should be considered. Additionally, Respondent’s assertion that the Government has failed to carry its burden of proof in this matter is without merit. *See* 2 C.F.R. §§ 180.850 and 855. The Government, based on the facts found in this case, has established cause for Respondent’s debarment by a preponderance of the evidence. On the other hand, Respondent’s conduct that led to his proposed debarment, including his conduct in the proceedings before Judge Manuel, shows that he is not presently responsible. Further, I find Respondent’s arguments, even if the Recommended Order were to be ignored, unavailing. In any event, Respondent’s Answer to Government’s Motion for the Imposition of a Five-Year Debarment of Respondent Scott Bett filed September 12, 2011, which is essentially a reprise of his arguments in the proceeding before Judge Manuel, comes too late in light of Judge Manuel’s ruling.²

Conclusion

Accordingly, for the reasons stated in the Notice and the facts which establish that Respondent’s actions are evidence of serious irresponsibility and thus cause for debarment under 2 C.F.R. §§ 180.800(b) and (d) and the absence of mitigating factors in this matter, I have determined to AFFIRM the five-year debarment proposed in HUD’s Notice dated February 22, 2010, effective from the date of this Order.

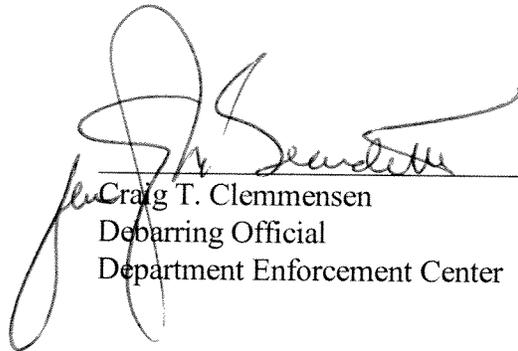
WHEREFORE, the premises considered, it is ORDERED that the Government’s Motion for the Imposition of a Five-Year Debarment of Respondent Scott Bett be, and it is hereby, GRANTED; and

² Arguably, Judge Manuel’s June 14, 2011, Recommended Decision foreclosed Respondent’s ability to contest his debarment as long as Judge Manuel’s decision was not rejected, as provided in 2 C.F.R. § 180.845(c). Judge Manuel’s ruling effectively established the allegations in the Government’s complaint as his findings of fact, and the matter was dismissed with prejudice. The Debarring Official, as previously noted, accepted the Judge’s decision. Consequently, although the Government filed its Motion for Imposition of a Five-Year Debarment subsequent to the issuance of the Recommended Order, this was not an opportunity for Respondent to relitigate the matter in an informal hearing under 2 C.F.R. § 180.835 as he apparently attempted to do in his Answer filed September 12, 2011. In the posture in which this matter was referred back to me from Judge Manuel, and my decision to accept the Recommended Order, Respondent was limited in the actions he then could pursue.

It is further ORDERED that the proposed debarment be, and it is hereby, AFFIRMED in accordance with 2 C.F.R. §§ 180.870(b)(2)(i) through (b)(2)(iv). Specifically, as provided in 2 C.F.R. § 180.870(b)(2)(iv), Respondent's "debarment is effective for covered transactions and contracts that are subject to the Federal Acquisition Regulations (48 CFR chapter 1), throughout the executive branch of the Federal Government unless an agency head or an authorized designee grants an exception."

SO ORDERED.

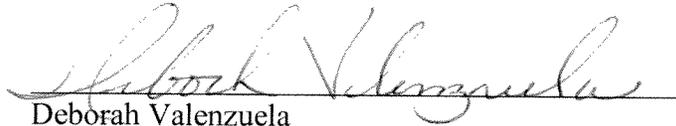
Dated: 10-6-11



Craig T. Clemmensen
Debarring Official
Department Enforcement Center

CERTIFICATE OF SERVICE

I hereby certify that on this 6TH day of October 2011, a true copy of the ORDER GRANTING GOVERNMENT'S MOTION FOR THE IMPOSITION OF A FIVE-YEAR DEBARMENT OF RESPONDENT SCOTT BETT was served in the manner indicated.



Deborah Valenzuela
Debarment Docket Clerk
Departmental Enforcement Center-Operations

HAND-CARRIED

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FIRST CLASS MAIL

Scott Bett

