



UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

In the Matter of

Docket No. 05-75-DA

LEROY EVANS,

Debarment Proceeding

Respondent.

Appearances: Leroy Evans, *pro se*.

Before: Richard I. Slippen, Administrative Judge

DECISION

On November 1, 2005, the United States Department of Education, Office of Federal Student Aid (FSA) issued a Notice of Proposed Government-Wide Debarment from Federal Procurement and Non-Procurement Transactions (Notice) to Mr. Leroy Evans (Respondent). I have jurisdiction over this matter by virtue of a delegation of authority from the Director, Office of Hearings and Appeals, U.S. Department of Education. The November 1, 2005 Notice informed Respondent that the proposed debarment was based upon his August 31, 2004 criminal conviction for offenses which occurred while he was employed at Morris Brown College.

On November 30, 2005, Respondent requested a stay in the above-captioned proceeding pending his appeal of his criminal conviction. On December 20, 2005, I denied Respondent's request for a stay and issued an Order Governing Proceedings directing Respondent to file information in opposition to the proposed debarment by January 13, 2006. Respondent did not file a response. On February 10, 2006, I issued an Order to Show Cause as to why I should not issue a default judgment. Respondent had until March 3, 2006 to comply with my February 10, 2006 Order. To date, Respondent has not filed a response.

According to the Notice, Respondent was charged and convicted of conspiracy to obtain fraudulent student visas and induce aliens to unlawfully reside in the United States, obtaining fraudulent student visas, and inducing aliens to unlawfully reside in the United States. The Notice further states that Respondent and his co-conspirators charged undocumented aliens several thousand dollars for each of the fraudulent student visas issued by them. In support of the

Notice, FSA attached the March 19, 2003 criminal indictment and the August 31, 2004 criminal judgment against Respondent.

To ensure the integrity of its programs, the federal government only conducts business with responsible persons.¹ Debarment is an action to exclude a person not considered responsible from participating in covered transactions under non-procurement programs and activities of any federal agency and transactions covered under the Federal Acquisition regulation (i.e. federal procurement transactions).² Debarment may be imposed upon an individual for a criminal conviction for fraud, embezzlement, falsification of records, making false statements, and making false claims.³ In a debarment proceeding, the Department must demonstrate that a cause for debarment exists by a preponderance of the evidence.⁴ If the Department's proposed debarment is based upon a criminal conviction, the Department's standard of proof is met.⁵ Respondent then must demonstrate that he or she is presently responsible and that debarment is not necessary.⁶

The Department has established to my satisfaction that Respondent was convicted of criminal offenses that constitute a cause for debarment. Respondent did not come forward with any information demonstrating why debarment would not be warranted. Based on my review of the evidence, I find that Respondent's criminal conviction reflects a lack of integrity and honesty that renders him unfit to conduct business with the federal government. Accordingly, I find that Respondent's August 31, 2004 criminal conviction supports the Department's proposed government-wide debarment.

The period of debarment is to be commensurate with the seriousness of the cause(s) of debarment, generally not to exceed three years.⁷ Based upon the circumstances here, I have determined that a period of debarment of three years from the date of this decision is warranted.

¹ See 34 C.F.R. § 85.110.

² A debarment from an agency's non-procurement programs has reciprocal effect in federal procurement transactions. See 34 C.F.R. §§ 85.125 and 85.930. See also, 48 C.F.R. chapter 1.

³ See 34 C.F.R. § 85.800(a)(3).

⁴ See 34 C.F.R. §§ 85.850 and 85.855.

⁵ See 34 C.F.R. § 85.850(b).

⁶ See 34 C.F.R. § 85.855.

⁷ See 34 C.F.R. § 85.320.

ORDER

On the basis of the foregoing, it is hereby ORDERED that Mr. Leroy Evans be debarred from initiating, conducting, or otherwise participating in any covered transaction under the non-procurement programs and activities of any federal agency, and is ineligible to receive federal financial and nonfinancial assistance or benefits from any federal agency or activity for a period of three years. Mr. Leroy Evans may not act as a principal, as defined by 34 C.F.R. § 85.995, on behalf of any person in connection with a covered transaction. This debarment is effective for all covered transactions unless an agency head or authorized designee grants an exception for a particular transaction in accordance with 34 C.F.R. § 85.120.

Judge Richard I. Slippen

Dated: April 17, 2006

SERVICE

A copy of the attached document was sent to the following:

Leroy Evans
H234-019
Unit B-19
Federal Prison Camp
P.O. Box 150160
Atlanta, GA 30315

Mary E. Gust
Notice Debarment and Suspension Official
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U.S. Department of Education
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