



UNITED STATES DEPARTMENT OF EDUCATION
THE SECRETARY

In the Matter of

Docket No. 91-7-ST
Student Financial Assistance

**ELECTRONIC COLLEGE AND
COMPUTER PROGRAMMING,
Respondent**

Decision of the Secretary on Second Remand

This matter was returned again to me on appeal by the Office of Student Financial Assistance (OSFA) from a decision on the second remand of Administrative Law Judge Daniel R. Shell (ALJ), dated February 16, 1993. Without repeating what has become an unnecessarily belabored procedural history, the ALJ's second decision on remand represents a seemingly intentional disregard of Secretary Alexander's decision on remand. Accordingly, I make the following findings:

A. Alleged Misuse of Pell Grant Funds

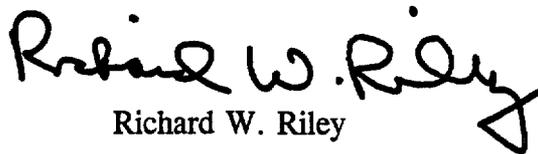
There is no question that ECCP obtained Pell Grant funds to which it was not entitled for award years 1983-1984, 1984-1985, 1988-1989, and 1989-1990. It is equally clear that neither the agreement to enter into "good faith" negotiations, nor subsequent circumstances surrounding such agreement support a finding that OSFA agreed with ECCP to resolve all outstanding issues, including a finding that ECCP misused Pell Grant funds. Accordingly, I reverse the ALJ's finding that ECCP did not misuse or misappropriate Pell Grant funds, and specifically find that for award years 1983-1984, 1984-1985, 1988-1989, and 1988-1990, that ECCP obtained Pell Grant funds to which it was not entitled.

B. Propriety of a Fine and/or Termination

The question that remains regards the propriety of a fine and/or termination. Because of its repeated requests for excess Pell Grants, ECCP had to be placed on a system of

cash reimbursement on at least two occasions for a total period of almost four years -- over one-half the total period ECCP has been exposed to scrutiny of its program. The span of time over which this conduct continued, and the repeated nature of certain circumstances, strains the credulity of ECCP's fiscal management explanations. Nor do ECCP's explanations of its conduct convince this tribunal that sufficient retribution has already been made. Therefore, and in accordance with 34 C.F.R. §608.84(a), I hereby impose a fine in the amount of \$250,000, in addition to the previously imposed limitations.

So ordered this 2nd day of December, 1993.


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