



THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

In the matter of

NIGHTINGALE MEDICAL INSTITUTE,

Respondent.

Docket No. 11-09-SA
Federal Student Aid Proceeding

DECISION OF THE SECRETARY

This matter comes before me on appeal by Nightingale Medical Institute (Respondent) of the Initial Decision by Administrative Judge Richard F. O'Hair. On July 18, 2011, Judge O'Hair upheld the findings of the November 22, 2010 Revised Final Audit Determination (FAD) letter and issued his decision ordering Respondent to pay \$1,371,410 to the U.S. Department of Education for its failure to submit satisfactory compliance audits (for award years 2006-2007 and 2007-2008) and a closeout audit for 2008.¹ On appeal, Respondent urges that I set aside the lower decision and nullify the liabilities assessed, or, in the alternative, requests that the close-out and compliance audits be completed through the use of a government auditor.

In the proceedings before Judge O'Hair, Respondent did not dispute the finding that it failed to submit the audits in question but rather proffered several reasons why it could not do so and therefore should be excused from all liabilities. Among these arguments were deception by the auditor who represented herself as properly credentialed, fraud by Respondent's employees who forged signatures and redirected funds, and the criminal destruction of Respondent's property, including its offices, files and computers, which has left Respondent without access to the student files to complete the close-out audit. All of these arguments were presented to Judge O'Hair who determined that Respondent failed to meet his burden of proof.

In this appeal, Respondent reiterates the same arguments that were raised in the proceeding below. Respondent provides no new legal theories or additional analysis. Indeed, no facts or law are in dispute. I find that Judge O'Hair properly heard and reviewed Respondent's arguments and evidence and articulated the rationale for rejecting them. Accordingly, I find no basis on which to set aside the judge's decision or modify the liability determination.

¹ The amount sought for recovery is based on the well-established policy and practice requiring the return of all Title IV funds that were disbursed during the periods in question. The FAD assessed a total liability of \$2,961,424, which consisted of \$1,043,882 in Pell Grants, and \$1,917,542 of Direct Loans. After applying the accepted estimated actual loss formula to the Direct Loans, the Office of Federal Student Aid reassessed the Department's loss for the Direct Loans at \$327,528, thus reducing the overall loss, and correspondingly, its demand here, to \$1,371,410.

ORDER

ACCORDINGLY, the Initial Decision by Administrative Judge Richard F. O'Hair is
HEREBY AFFIRMED as the Final Decision of the Department.

So ordered this 18th day of June 2014.

A handwritten signature in black ink, appearing to read "Arne Duncan", written over a horizontal line.

Arne Duncan

Washington, D.C.

Service List

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