



United States Department of Education
Office of Hearings and Appeals

In the Matter of
Janola Massaquoi
Respondent

Docket No. 24-03-DA
Debarment Action

Decided: April 8, 2024

Notice Debarring and Suspending Official:
Susan D. Crim
United States Department of Education

Before
RODGER A. DREW, JR.
Chief Administrative Judge
Debarring and Suspending Official

I. PROCEDURAL HISTORY

On January 19, 2024, the Notice Debarring and Suspending Official for the U.S. Department of Education (“Department”) issued Respondent a Notice of Proposed Government-Wide Debarment from Federal Procurement and Non-Procurement Transactions (“Notice”) pursuant to 2 C.F.R. §§ 180.615 and

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180.805. The Notice informed Respondent that the proposed debarment was based upon Respondent's criminal conviction in *United States v. Massaquoi*, No. 22-CR-00177 (W.D. La. July 10, 2023) for false statements to a federal agency, in violation of 18 U.S.C. § 1001(a)(2). According to the Notice, Respondent has been suspended from procurement and nonprocurement transactions since May 5, 2023, based on the same conduct.

The Notice included a copy of the Information, dated August 8, 2022; the Plea Agreement, signed by the Respondent on August 5, 2022; the Court Minutes Entry, dated September 1, 2022, reflecting acceptance of Respondent's guilty plea; the Factual Basis for the plea signed by Respondent on August 5, 2022; the Elements of the Offense signed by Respondent on August 5, 2022; the Judgment in a Criminal Case, dated July 10, 2023, reflecting the court's findings and sentence; Respondent's Notice of Appeal of the Judgment, dated July 19, 2023; and Respondent's Unopposed Motion to Voluntarily Dismiss Appeal with Prejudice, dated November 16, 2023.

The Department mailed the Notice to Respondent's last known home address on January 19, 2024, and the Notice was delivered and left with an individual on January 22, 2024. The Administrative Actions and Appeals Service Group of the Department's Federal Student Aid forwarded a copy of the Notice to the Office of Hearings and Appeals on January 31, 2024.

On February 23, 2024, Respondent emailed the undersigned Debarring and Suspending Official ("Respondent Email") and attached a "letter requesting leniency" ("Respondent Response"). Respondent did not copy or otherwise serve the Department representatives with her Email and Response. On February 26, 2024, after realizing that the Department had not been served, the undersigned provided the Department with a copy of Respondent's Email and Response. In her Email, Respondent states "[w]hile cause for debarment does exist I ask that you please consider alternatives you may deem appropriate."

On March 29, 2024, the Department filed a Reply to Respondent's Email and Response.

On April 1, 2024, after having received all relevant and timely information, the undersigned closed the official record for this debarment action.

II. GOVERNING PRINCIPLES

A. Basis for Debarment

A Debarring Official has the discretion to exclude or "debar" a person from participating in various nonprocurement transactions directly or indirectly involving the Federal Government for, among other reasons:

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Conviction of or civil judgment for—

(1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;

(2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or

(4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects [Respondent's] present responsibility.

2 C.F.R. § 180.800(a).

Conviction means—

(a) A judgment or any other determination of guilt of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or plea, including a plea of *nolo contendere*; or

(b) Any other resolution that is the functional equivalent of a judgment, including probation before judgment and deferred prosecution. A disposition without the participation of the court is the functional equivalent of a judgment only if it includes an admission of guilt.

2 C.F.R. § 180.920.

Civil judgment means the disposition of a civil action by any court of competent jurisdiction, whether by verdict, decision, settlement, stipulation, other disposition which creates a civil liability for the complained of wrongful acts, or a final determination of liability under the Program Fraud Civil Remedies Act of 1988 [31 U.S.C. §§ 3801–12].

2 C.F.R. § 180.915.

The decision to debar is based on all information contained in the official record. 2 C.F.R. § 180.845(b).

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The debarring official need not debar, even if a cause for debarment exists. The official may consider the seriousness of the Respondent's acts or omissions and any mitigating or aggravating factors. 2 C.F.R. § 180.845(a).

The debarring official may consider following mitigating and aggravating factors, along with other factors if appropriate in light of the circumstances of the case:

(a) The actual or potential harm or impact that results or may result from the wrongdoing.

(b) The frequency of incidents and/or duration of the wrongdoing.

(c) Whether there is a pattern or prior history of wrongdoing. For example, if [Respondent has] been found by another Federal agency or a State agency to have engaged in wrongdoing similar to that found in the debarment action, the existence of this fact may be used by the debarring official in determining that [Respondent has] a pattern or prior history of wrongdoing.

(d) Whether [Respondent is] or [has] been excluded or disqualified by an agency of the Federal Government or [has] not been allowed to participate in State or local contracts or assistance agreements on a basis of conduct similar to one or more of the causes for debarment specified in this part.

(e) Whether [Respondent has] entered into an administrative agreement with a Federal agency or a State or local government that is not governmentwide but is based on conduct similar to one or more of the causes for debarment specified in this part.

(f) Whether and to what extent [Respondent] planned, initiated, or carried out the wrongdoing.

(g) Whether [Respondent has] accepted responsibility for the wrongdoing and recognize[s] the seriousness of the misconduct that led to the cause for debarment.

(h) Whether [Respondent has] paid or agreed to pay all criminal, civil and administrative liabilities for the improper activity, including any investigative or administrative costs incurred by the government, and [has] made or agreed to make full restitution.

(i) Whether [Respondent has] cooperated fully with the government agencies during the investigation and any court or administrative action. In determining the extent of cooperation,

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the debarring official may consider when the cooperation began and whether [Respondent] disclosed all pertinent information known to [Respondent].

(j) Whether the wrongdoing was pervasive within [Respondent's] organization.

(k) The kind of positions held by the individuals involved in the wrongdoing.

(l) Whether [Respondent's] organization took appropriate corrective action or remedial measures, such as establishing ethics training and implementing programs to prevent recurrence.

(m) Whether [Respondent's] principals tolerated the offense.

(n) Whether [Respondent] brought the activity cited as a basis for the debarment to the attention of the appropriate government agency in a timely manner.

(o) Whether [Respondent has] fully investigated the circumstances surrounding the cause for debarment and, if so, made the result of the investigation available to the debarring official.

(p) Whether [Respondent has] effective standards of conduct and internal control systems in place at the time the questioned conduct occurred.

(q) Whether [Respondent has] taken appropriate disciplinary action against the individuals responsible for the activity which constitutes the cause for debarment.

(r) Whether [Respondent has] had adequate time to eliminate the circumstances within your organization that led to the cause for the debarment.

(s) Other factors that are appropriate to the circumstances of a particular case.

2 C.F.R. § 180.860.

B. Effect of Debarment

A person debarred by a Federal agency is excluded from participating in covered transactions with *any* Federal agency during the period of debarment. 2 C.F.R. § 180.130.

Nonprocurement covered transactions subject to debarment (unless excepted by 2 C.F.R. § 180.215) include grants, cooperative agreements, scholarships, fellowships, contracts of assistance, loans, loan guarantees, subsidies,

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insurances, payments for specified uses, and donation agreements. 2 C.F.R. §§ 180.210, 180.970.

A person excluded from participation in nonprocurement transactions is also ineligible to participate in Federal procurement transactions under the Federal Acquisition Regulation. 2 C.F.R. § 180.140.

C. Length of Debarment

The length of debarment is based on the seriousness of the action(s) that formed the basis for the debarment. “Generally, debarment should not exceed three years. However, if circumstances warrant, the debarring official may impose a longer period of debarment.” 2 C.F.R. § 180.865(a).

“In determining the period of debarment, the debarring official may consider the factors in § 180.860. If a suspension has preceded [Respondent’s] debarment, the debarring official must consider the time [Respondent was] suspended.” 2 C.F.R. § 180.865(b).

D. Standard of Proof

The Department has “the burden to prove that a cause for debarment exists.” 2 C.F.R. § 180.855(a). The Department “must establish the cause for debarment by a preponderance of the evidence.” 2 C.F.R. § 180.850(a). “*Preponderance of the evidence* means proof by information that, compared with information opposing it, leads to the conclusion that the fact at issue is more probably true than not.” 2 C.F.R. § 180.990.

“If the proposed debarment is based upon a conviction or civil judgment, the standard of proof is met.” 2 C.F.R. § 180.850(b). “Once a cause for debarment is established, [Respondent has] the burden of demonstrating to the satisfaction of the debarring official that [Respondent is] presently responsible and that debarment is not necessary.” 2 C.F.R. § 180.855(b).

Respondent will not have an opportunity to challenge the facts upon which the proposed debarment is based if—

- (1) [Respondent’s] debarment is based upon a conviction or civil judgment;
- (2) [Respondent’s] presentation in opposition contains only general denials to information contained in the Notice of Proposed Debarment; or
- (3) The issues raised in [Respondent’s] presentation in opposition to the proposed debarment are not factual in nature, or

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are not material to the debarring official’s decision whether to debar.

2 C.F.R. § 180.830(a).

III. FINDINGS OF FACT

1. On September 1, 2022, Respondent pleaded guilty before the Federal District Court for the Western District of Louisiana to one count of a false statement to a federal agency, in violation of 18 U.S.C. § 1001(a)(2). On July 6, 2023, the court adjudicated Respondent guilty in accordance with her plea and sentenced her to imprisonment for 12 months and 1 day, restitution of \$250,000¹ to the Small Business Administration (“SBA”), a \$100 assessment, and 3 years of supervised release upon release from imprisonment.

2. In 2018, Respondent formed the Jane Elizabeth Education Group (“JEEG”). Respondent also served as the president of Company 1, a Lincoln Parish, Louisiana, based company that provides beauty career training. In or around March 2020, Congress enacted the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act. The CARES Act was designed to provide emergency financial assistance to the millions of Americans who were suffering the economic effects caused by the COVID-19 pandemic. As part of the CARES Act, the SBA provided Economic Injury Disaster Loans (“EIDL”), which were low-interest financing to small businesses, renters, and homeowners in regions affected by declared disasters. The CARES Act also provided authorization of up to \$349 billion in forgivable loans to small businesses for job retention and certain other expenses, through a program referred to as the Paycheck Protection Program (“PPP”).

3. In 2020, Respondent, applied to the SBA for an EIDL in the name of JEEG d/b/a Company 1 seeking approximately \$500,000 in EIDL Program funds. At the same time, she applied for a PPP loan in the name of JEEG d/b/a Company 1 seeking \$178,750. On or about April 20, 2020, as part of the EIDL application process, Respondent electronically submitted to the SBA a Loan Authorization and Agreement in which she certified to the SBA that “[JEEG] will not, without the prior written consent of SBA, make any distribution of Borrower’s assets, or give any preferential treatment, make any advance, directly or indirectly, by way of loan, gift, bonus, or otherwise to any owner or

¹ The court credited Respondent with \$150,000 paid towards the \$250,000 restitution, leaving a balance of \$100,100—including the assessment—due immediately.

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partner” Respondent also certified that the loan funds would be used solely as working capital for JEEG.

4. Both loan applications were subsequently approved. Based on Respondent’s material misrepresentations set forth in the false Loan Authorization and Agreement on or about April 22, 2020, the SBA disbursed approximately \$500,000 in EIDL benefits to a bank account held by Company 1. On April 23, 2020, approximately \$178,750 in PPP loan benefits were disbursed to a bank account held by Company 1.

5. In reality and unbeknownst to the SBA, Respondent intended to make a large advance directly to herself and did not intend to use the EIDL funds solely as working capital for JEEG. After obtaining the loan benefits, Respondent transferred funds from Company 1’s bank account to other bank accounts she personally controlled. Respondent then used the funds for a variety of personal expenses including a down payment on the purchase of a personal residence and mortgage payments. Respondent also withdrew over \$30,000 in cash, transferred over \$50,000 to friends and family members, and used approximately \$83,000 to fund her personal investment and retirement accounts. In total, Respondent used \$250,000 of the EIDL proceeds for her personal use.

6. Had Respondent disclosed that she was making a \$250,000 advance to herself and that the EIDL proceeds would not be used solely as working capital, the SBA would not have approved the EIDL loan.

IV. ANALYSIS

The basis for this debarment action is a conviction of a false statement to a federal agency. 2 C.F.R. § 180.920(a). There being a conviction, the Department has met its burden of proof and Respondent does not have an opportunity to challenge the facts upon which the proposed debarment is based. 2 C.F.R. §§ 180.830(a)(1), 180.850(b). Accordingly, Respondent has the burden, based on the official record, of demonstrating that she is presently responsible and that debarment is not necessary. 2 C.F.R. §§ 180.845(a), 180.855(b).

In Respondent’s Response, she concedes that “cause for debarment does exist I ask that you please consider alternatives you may deem appropriate.” To her credit, Respondent pleaded guilty in a federal criminal trial. As part of her sentence, she has been ordered to pay restitution of \$250,000 to the SBA, \$150,000 of which she has been credited as paid.

Respondent has been suspended from procurement and nonprocurement transactions since May 5, 2023, for the same conduct that forms the basis for this debarment action. In determining the appropriate action to take, I have considered the time Respondent has been suspended.

V. CONCLUSION

On the basis of the foregoing, it is hereby **ORDERED** that Respondent be **DEBARRED** from initiating, conducting, or otherwise participating in any covered transactions set forth in 2 C.F.R Subpart B for federal procurement and non-procurement program activities of any federal agency.

Taking into consideration the period of time Respondent has already been suspended, the multiple instances of Respondent's misappropriation of emergency relief funds which were facilitated by her criminally false statement, and the large amount of federal funds involved, she is ineligible to receive federal financial and non-financial assistance or benefits from any federal agency under procurement or non-procurement program activities *for a period of 24 additional months*, effective on the date of this decision.

Further, during the period of debarment, Respondent may not act as a principal on behalf of any person in connection with a covered transaction. A principal is defined in 2 C.F.R. § 180.995 as follows:

- (a) An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or
- (b) A consultant or other person, whether or not employed by the participant or paid with Federal funds, who—
 - (1) Is in a position to handle Federal funds;
 - (2) Is in a position to influence or control the use of those funds; or,
 - (3) Occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the 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 2 C.F.R. § 180.135.

This decision constitutes a **FINAL AGENCY DECISION**. In accordance with 2 C.F.R. § 180.140, this debarment shall be recognized by, and is effective for, executive branch agencies as a debarment under the Federal Acquisition Regulation.

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