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IN THE MATTER OF PHILADELPHIA  
TRAINING CENTER CORPORATION  
AND AFFILIATES,  
Respondent.

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Docket No. 94-22-ST

Student Financial  
Assistance Proceeding

ORDER CONFIRMING WITHDRAWAL OF APPEAL AND RETURN OF NOTICE  
OF INTENT TO TERMINATE

On January 27, 1994, the Director of the Compliance and Enforcement Division, Office of Student Financial Assistance Programs (SFAP), U.S. Department of Education, issued a Notice of Intent to Terminate against Respondent. Respondent, represented by attorney Joel Sweet, filed a Request for Hearing on February 15, 1994. Mr. Sweet subsequently informed the tribunal that the Respondent was involved in bankruptcy proceedings and that a bankruptcy trustee had been appointed to represent the Respondent. On May 17, 1994, Arthur P. Liebersohn filed an appearance with the tribunal, which was amended by a filing on June 13, 1994. In the June 13, 1994 letter, Mr. Liebersohn stated that he is the Chapter 7 bankruptcy trustee for Respondent in case number 90-10184, which is currently pending before the U.S. Bankruptcy Court for the Eastern District of Pennsylvania. Mr. Liebersohn further stated that "I hereby withdraw the appeal of termination by the department of the debtor's eligibility to participate in programs authorized under Title 4 of the Higher Education Act of 1965 as amended."

Mr. Liebersohn's letter is accepted, and will be treated as Respondent's withdrawal of its request for a hearing to demonstrate why the termination of eligibility to participate in the federal student financial assistance programs should not take place.

SFAP, in its response to Respondent's withdrawal of the request for a hearing submitted on June 23, 1994, requests that this withdrawal be interpreted as a decision by Respondent to present no evidence on its behalf and that this tribunal should conclude the hearing by ordering a termination of Respondent's eligibility. To do otherwise, they argue, would be to leave the case in a limbo status which would provide no final resolution of the case.

I share this concern for finality, however, I have no authority to render such a decision. I do not view this withdrawal of the request for a hearing as the equivalent of an election to not submit evidence to rebut the proposed termination action. Rather, I interpret the withdrawal as an affirmative request which, when granted, removes the jurisdiction of this tribunal to make any further substantive determinations as to the issue originally presented to this tribunal by the transmittal correspondence from SFAP. Once a withdrawal of a request for a hearing has been accepted, the tribunal has no further authority to act on the merits, and the case should be

processed as though no request for a hearing had been submitted. This requires the case to be returned to SFAP which is reinstated with its original jurisdiction to proceed with the termination action if that office so desires.

Accordingly, this case is returned to Ronald Lipton, Director of the Compliance and Enforcement Division, SFAP, for further action in accordance with the Notice of Intent to Terminate dated January 27, 1994.

SO ORDERED.

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Judge Richard F. O'Hair

Issued: June 24, 1994  
Washington, D.C.

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S E R V I C E

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

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