

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

In the Matter of **Docket No. 96-59-SA**

AERO-SPACE INSTITUTE, Student Financial Assistance Proceeding
Respondent.

ACN: 05-51213

Appearances:

Paul F. Schofield, Esq., Siebel, Whipple & Schofield, Chicago, Illinois, for Respondent.

Edmund J. Trepacz, II, Esq., Office of the General Counsel, United States Department of Education, Washington, D.C., for the Student Financial Assistance Programs.

Before:

Frank K. Krueger, Jr., Administrative Judge

DECISION

The Respondent, Aero-Space Institute, participated in the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended. Respondent closed on September 30, 1992. On March 8, 1996, the Student Financial Assistance Programs (SFAP), U.S. Department of Education (ED), issued a final audit determination dealing with the Respondent's close-out audit, in which it assessed a liability of \$5,235. By letter dated April 26, 1996, the Respondent, through counsel, requested an administrative review of the SFAP audit determination.

In its brief, Respondent does not question the merits of the final audit determination, but argues that Mr. Lawrence W. Schumacher, who signed the Title IV Program Participation Agreement as the Chief Executive Officer of the Aero-Space Institute and otherwise represented himself as the head of Aero-Space Institute (*see* SFAP exhibit 2), is not personally liable for any assessments against the Respondent. In response, SFAP moved to dismiss the appeal and for default judgement on the basis that the Respondent has not met its burden of proof and that any questions concerning Mr. Schumacher's personal liability are beyond the scope of this proceeding.

I have reviewed the audit findings at issue in this case and find that they sufficiently articulate allegations that require the Respondent to demonstrate that the expenditures questioned by SFAP were proper and that the Respondent complied with applicable program requirements. *See* 34 C.F.R. § 668.116(d) (1995); *see also In re Sinclair Community College*, 75 Ed. Law Rep. 1296, 1299 (1991) (dealing with evidentiary value of SFAP audit reports in satisfying SFAP's burden of production). Since Respondent has submitted no evidence or argument concerning the merits of the SFAP determination, I find that the Respondent is liable for the \$5,235 assessed in the final audit determination.

Concerning the issue of Mr. Schumacher's personal liability, I agree with counsel for SFAP that the issue is beyond the scope of this proceeding and jurisdiction. *See Cosmetology College*, Docket No. 94-96-SP, U.S. Dept. of Educ. (Aug. 23, 1995)

ORDER

ORDERED, that Respondent pay ED \$5,235.

Frank K. Krueger, Jr.
Administrative Judge

Dated: August 26, 1996

SERVICE

A copy of the attached initial decision was sent by certified mail, return receipt requested to the following:

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