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

In the Matter of Docket No. 97-103-DA

CAROL SAPP, **Proposed Debarment**

Respondent.

Appearances:

Carol Sapp, pro se.

Russell B. Wolff, Esq. of the Office of the General Counsel, Washington, D.C., for the Notice Debarment and Suspension Official, U.S. Department of Education.

Before:

Judge Ernest C. Canellos

DECISION

This DECISION is issued by the United States Department of Education (Department) pursuant to 34 CFR § 85.314. I have jurisdiction to act in this matter by virtue of a Delegation of Authority to me to act as the Department's Designated Deciding Debarment and Suspension Official. The regulations, 34 CFR Part 85, and the Nonprocurement Debarment and Suspension Procedures mailed to the Respondent with the notice of proposed debarment govern this proceeding.

On July 23, 1997, Ms. Carol Sapp, of South Berwick, Maine, was issued a Notice of Proposed Governmentwide Debarment from Federal Nonprocurement Transactions pursuant to 34 CFR § 85.312. The proposed debarment was based on her conviction, consistent with her plea of guilty, by the U.S. District Court for the Eastern District of Virginia., of one count of mail fraud, in violation of 18 U.S.C. § 1341. The offenses involved her participation in a scheme of failing to refund Pell Grant funds to the Department for students who withdrew from classes before completion of their course of study.

Ms. Sapp was also given notice of his right to submit any information and argument in opposition to the proposed debarment. She filed a timely opposition to the debarment claiming that she is in poor health, doesn't believe that debarment is justified, and is worried that debarment would adversely affect her ability to continue in her current job as an entry-level secretary in a counseling service which receives some federal funding. The Department's Notice Debarment and Suspension official responded by pointing out that Ms. Sapp was convicted of a very serious crime mail fraud, and that Ms. Sapp's concern regarding the effects of the debarment are unfounded since it would not adversely affect her employment.

I find that Ms. Carol Sapp was convicted of an offense of fraud and that conviction constitutes a cause for debarment under the provisions of 34 C.F.R. § 85.305(a). As stated in 34 CFR § 85.115, the policy of the Federal Government is to conduct business only with responsible persons. My review of the facts and circumstances in this case reveals the seriousness of the violations and the degree of personal wrongdoing envisioned by the debarment process has been

established. This adversely affects whether Ms. Sapp is a responsible person so as to be eligible to participate in federal programs.

In light of the foregoing, I find that the Department has met its burden of proof and persuasion that the debarment of Ms. Carol Sapp is warranted. The period of debarment is to be commensurate with the seriousness of the cause(s) of debarment, generally not to exceed three years. 34 C.F.R. § 85.320. Based upon the circumstances here, I have determined that the period of debarment shall be three years from the date of this decision.

I order that Ms. Carol Sapp be <u>DEBARRED</u> from initiating, conducting, or otherwise participating in any covered transaction under the nonprocurement programs and activities of any Federal agency, and is ineligible to receive Federal financial and nonfinancial assistance or benefits from any Federal agency under nonprocurement programs and activities. She may not act as a principle, as defined in 34 C.F.R. § 85.105(p), on behalf of any person in connection with a 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 34 C.F.R. § 85.215.

SO ORDERED:

Judge Ernest C. Canellos, Deciding Debarment and Suspension Official

Dated: August 19, 1997

SERVICE

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

Carol J. Sapp 13 Pleasant Street South Berwick, Maine 03908

Russell B. Wolff, Esq. Office of the General Counsel U.S. Department of Education 600 Independence Ave. Washington, D.C. 20202-2110