



United States Department of Education
Office of Hearings and Appeals

In the Matter of
Karen Lynn HARRIS
a/k/a Karen Warren
Respondent

Docket No. 23-15-DA
Debarment Action

Decided: August 28, 2023

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 July 5, 2023, 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-

In the Matter of Harris, Docket No. 23-15-DA
Decision of Debarring Official

Procurement Transactions (Notice) pursuant to 2 C.F.R. § 180.805. The Notice informed Respondent that the proposed debarment was based upon Respondent's criminal conviction in *United States v. Harris*,¹ No. 22-CR-00011 (W.D. Va. May 30, 2023) for student loan fraud, in violation of 20 U.S.C. § 1097(a), and unlawful transfer, possession, or use of a means of identification, in violation of 18 U.S.C. §§ 1028(a)(7) and 1028(b).

The Notice included a copy of the Information, dated October 25, 2022; the Plea Agreement, signed by the Respondent on October 20, 2022; the written Guilty Plea, dated October 31, 2022; the Factual Basis for the plea signed on behalf of Respondent by her attorney of record on October 31, 2022; the United States Magistrate Judge's Report and Recommendation, dated November 1, 2022; the Preliminary Order of Forfeiture, dated November 3, 2022; the Order accepting Respondent's Guilty Plea, dated March 8, 2023; and the Judgment in a Criminal Case, dated May 30, 2023, reflecting the court's findings and sentence.

Based on the same conduct, Respondent has been suspended from procurement and nonprocurement transactions since July 5, 2023.

The Department mailed the Notice to Respondent's last known home address on July 5, 2023, and the Notice was delivered and left with an individual on July 11, 2023. The Administrative Actions and Appeals Service Group of the Department's Federal Student Aid forwarded the Notice to the Office of Hearings and Appeals on July 12, 2023. Respondent has not responded to the Notice. The 30 days from receipt provided for in 2 C.F.R. § 180.820 to respond to the Notice having expired, the official record is closed as of August 21, 2023.

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:

¹ The federal district court case various listed Respondent as Karen Harris, Karen Warren, Karen Lynn Warren. Whereas the Information was styled *United State v. Karen Warren*, the Judgment was styled *United States v. Karen Harris, a/k/a Karen Warren, a/k/a Karen Lynn Warren*. Court documents indicate that Respondent informed the Court that she had married and, as a result, her current name is Karen Lynn Harris.

In the Matter of Harris, Docket No. 23-15-DA
Decision of Debarring Official

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).

In the Matter of Harris, Docket No. 23-15-DA
Decision of Debarring Official

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,

In the Matter of Harris, Docket No. 23-15-DA
Decision of Debarring Official

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,

In the Matter of Harris, Docket No. 23-15-DA
Decision of Debarring Official

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

In the Matter of Harris, Docket No. 23-15-DA
Decision of Debarring Official

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

2 C.F.R. § 180.830(a).

III. FINDINGS OF FACT

On October 31, 2022, Respondent pleaded guilty before a Federal District Court in the Western District of Virginia to one count of student loan fraud, in violation of 20 U.S.C. § 1097(a), and one count of unlawful transfer, possession, or use of a means of identification, in violation of 18 U.S.C. §§ 1028(a)(7) and 1028(b).

On March 8, 2023, the Court adjudicated Respondent guilty in accordance with her plea. On May 30, 2023, the Court sentenced her to probation for 3 years on each Count, such terms to run concurrently; restitution of \$246,730 to the Department, and \$200 assessment. The Court also ordered the forfeiture of certain computer equipment tied to Respondent's conviction.

The Department is responsible for administering various educational financial assistance programs throughout the United States. These include federally sponsored grants and loans, such as Pell Grants and Subsidized and Unsubsidized Stafford Loans (individually and collectively, "federal financial aid").

Department regulations specify eligibility requirements for students applying for federal financial aid. In order for a student to be eligible for federal financial aid, students are required to meet federal eligibility requirements. These include, in part, that the student: is a regular student enrolled, or accepted for enrollment, in an eligible institution; is a regular student enrolled in an eligible program seeking a degree or certificate; is not incarcerated in a federal or state penal institution; has a high school diploma or its recognized equivalent; federal student aid funds will only be used for educational purposes; and maintains satisfactory academic progress in his or her course of study according to the institution's published standards of satisfactory progress.

Students apply for federal financial aid by completing a Free Application for Federal Student Aid ("FAFSA") in electronic or paper format and are required within the FAFSA to provide personal information including the applicant's name, date of birth, social security number, address, email address, telephone number, education history, and asset and income information. In addition, the applicant must certify that federal financial aid funds will be used solely for authorized educational expenses; to include tuition, fees, supplies, and related housing. If an applicant wants to apply for federal student loans,

In the Matter of Harris, Docket No. 23-15-DA
Decision of Debarring Official

he or she must also complete a Master Promissory Note (“MPN”) which in part certifies that the applicant will use the funds for educational purposes and agrees to the repayment of the loans.

Applicants completing the FAFSA acknowledge that any false statement or misrepresentation on the FAFSA may be punished as a criminal offense.

Prior to completing a FAFSA, an application is first required to request a user ID and password, called a Federal Student Aid Identification (“FSAID”), through a website sponsored by the Department. The FSAID is unique and assigned solely to the applicant and is used to identify such applicant in online transactions pertaining to federal financial aid. Each applicant uses the FSAID to, among other things, access his or her federal student aid information online and to sign the FAFSA and other financial aid documents electronically. The FAFSA includes an explicit warning that use of an assigned FSAID for electronic signature, or any other purpose constitutes a certification that (1) the user of the FSAID is the person actually assigned to it; and (2) that the user has not disclosed the FSAID to any other person or authorized its use by any other person.

The Department uses the FAFSA to determine whether applicants qualify for federal financial aid and then disburses federal financial aid funds via interstate wire transfer to the school in which, according to the FAFSA, each qualified applicant is enrolled. After applying those funds to the student’s account to pay tuition and fees, the institution then disburses any overage of federal financial aid directly to the student via either check, direct deposit or through a third-party servicer (who use prepaid debit cards which are mailed to the address provided by the student during time of enrollment). These overages are referred to as financial aid refunds.

Only institutions approved by the Department are permitted to participate in federal financial aid programs, and to disburse federal financial aid to students. American Public University System (“APUS”) and Capella University (“Capella”) are approved by the Department to participate in federal financial aid programs.

Beginning in or about June 2013 and continuing through on or about May 2018, Respondent, along with others devised a plan to defraud the Department, APUS, CAPELLA, and others by preparing and submitting materially false and fraudulent FAFSAs and MPNs to obtain federal financial aid funds to which she was not entitled and to use these funds for personal, noneducational purposes.

Respondent recruited individuals to provide her with their personal identifying information (“PII”), which she used to prepare and submit false and fraudulent enrollment and financial aid applications to the Department,

In the Matter of Harris, Docket No. 23-15-DA
Decision of Debarring Official

APUS, Capella, and other institutions. Respondent used the PII of these other individuals to obtain FSAIDs and to prepare, submit, and sign FAFSAs and MPNs in their names, which she sent electronically by interstate wire transmission to the Department.

Respondent falsely and fraudulently represented that she was the person named in each of these FSAID requests, FAFSAs and MPNs.

Respondent submitted such FSAIDs, FAFSAs and MPNs for the purpose of obtaining federal financial aid funds to which she was not entitled, for her personal benefit and the benefit of unauthorized third parties.

Respondent enrolled the individuals in whose names she submitted false and fraudulent FAFSAs and MPNs in online educational institutions, enrolled such individuals in one or more academic courses, and submitted federal financial aid application information to the educational institutions. Most of the individuals enrolled in this manner did not attend or participate in these educational programs and either failed or were withdrawn from academic courses.

Respondent obtained approval of a number of the false and fraudulent federal financial aid applications and obtained federal financial aid funds by electronic transfer, check, and prepaid debit card sent either to an address or to a bank account designated by her.

Respondent converted such federal financial aid funds to personal use and failed to use these funds solely for education-related expenses as required by the Department.

Respondent used PII she obtained from individuals to falsely and fraudulently obtain federal financial aid funds without the knowledge or consent of certain victims. Between on or about June 2013 through the on or about May 2018, Respondent used the PII of five persons to obtain federal financial aid funds without obtaining authorization to use their PII for her unlawful purpose.

Schools use a third-party servicer to handle the financial aid payments. Bank Mobile is one of those servicers. The student at time of application to the school would be directed to set up an account with Bank Mobile providing their personal information to include (name, date of birth, social security number, address, email, telephone number, and password). The mailing address provided is where Bank Mobile mails the bank card. Once financial aid is disbursed for a student, any refunds are handled by Bank Mobile and sent to the account.

Respondent obtained a student loan from APUS by completing a FAFSA application in the name of S.W. Respondent used S.W.'s personal information in the process including; name, date of birth, and social security number.

In the Matter of Harris, Docket No. 23-15-DA
Decision of Debarring Official

Respondent caused a Bank Mobile account to be opened in the name of S.W. Respondent registered her home address in Danville with S.W.'s associated Bank Mobile account. Bank Mobile mailed S.W.'s bank card to Respondent. As a result, on March 19, 2018, a deposit to S.W.'s Bank Mobile account was made in the amount of \$2,981.00. S.W. did not give Respondent permission to use her personal information and did not know she was signed up for school.

On December 19, 2017, Respondent used the personal information of L.L. including name, date of birth, and social security number to complete and submit a FAFSA application to the Department by wire over the internet. L.L. did not know she was signed up for school and did not give Respondent permission to use her personal information. Respondent caused and attempted to cause the loss to APUS, Capella and to the Department of at least \$264,730.00.

IV. ANALYSIS

The basis for this debarment action is a conviction of embezzlement, theft, purloining, and conversion of United States government funds. 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). Respondent has not replied to the Notice and has thus failed to meet her burden that she is presently responsible and that debarment is not necessary. To her credit, Respondent pleaded guilty in a Federal criminal trial. As part of her sentence, she has been ordered to pay restitution of \$246,730 to the Department.

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 fraudulent activities, and the large amount of federal financial aid funds she fraudulently obtained, 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 with the date of this decision.

In the Matter of Harris, Docket No. 23-15-DA
Decision of Debarring Official

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.



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