

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Washington, D.C.

In the Matter of:

**NICHOLAS KATSOUNAKIS,
MANNY'S PLUMBING AND HEATING, INC., and
STATE REALTY CORP.,**

Respondents.

*
*
*
*
* **DOCKET NO. 07-3409-DB-S**
* **DOCKET NO. 07-3410-DB-S**
* **DOCKET NO. 07-3411-DB-S**
*
*
*

DEBARRING OFFICIAL'S DETERMINATION

Introduction

By Notice dated April 3, 2007 ("Notice"), the Department of Housing and Urban Development ("HUD") notified Respondent **NICHOLAS KATSOUNAKIS** that HUD was proposing his debarment from future participation in procurement and nonprocurement transactions as a participant or principal with HUD and throughout the Executive Branch of the Federal Government for a period of three years from February 13, 2007, the date of his suspension.¹ On the same date, HUD also gave notice by separate letter each to Respondents **MANNY'S PLUMBING AND HEATING, INC. and STATE REALTY CORP.**² that, as affiliates of Respondent Katsounakis, HUD was proposing they too be debarred for a three-year period effective February 13, 2007, from future participation in procurement and nonprocurement transactions as a participant or principal with HUD and throughout the Executive Branch of the Federal Government.

HUD advised each of the Respondents in their respective letters that the proposed debarment action was in accordance with the procedures set forth at 24 CFR part 24. Additionally, the April 3, 2007, Notice informed Respondent Katsounakis that the proposed debarment was based upon his criminal conviction in the United States District Court for the District of Massachusetts for violation of 18 U.S.C. 201(b)(2). The two affiliates were advised in their respective letters of April 3, 2007, that their suspension was based upon information that

¹ Respondent Katsounakis, as well as his two affiliates, Manny's Plumbing and Heating, Inc. and State Realty Corp., was advised by HUD in separate notices dated February 13, 2007, of their immediate suspension from participation in procurement and nonprocurement transactions as a participant or principal with HUD and throughout the Executive Branch of the Federal Government.

² The three cases were consolidated for hearing.

each of them was an “affiliate” of Respondent Katsounakis, as that term is defined in 24 CFR 24.905.³

Respondent Katsounakis’ conviction followed his guilty plea to three counts of Federal Bribery. Katsounakis admitted in his guilty plea that he engaged in a scheme to bribe officials of the Springfield Housing Authority (SHA) who, in return, gave Manny’s Plumbing and Heating, Inc. preferential treatment in the award of contracts. The court sentenced Katsounakis to probation for a term of three years, including, as a condition of his probation, that he reside in a community corrections center for a period of 12 months. Additionally, as part of his sentence, the court ordered Katsounakis to pay restitution in the amount of \$150,000.00 and fined him \$100,000.00.

A telephonic hearing on Respondents’ proposed debarment was held in Washington, DC on July 11, 2007, before the Debarring Official’s Designee, Mortimer F. Coward. Respondent was present at the telephonic hearing and was represented by his attorney, Jack F. St. Clair, Esq. Ana Fabregas, Esq. appeared on behalf of HUD.

Summary

I have decided, pursuant to 24 C.F.R. part 24, to debar Respondent Katsounakis and State Realty Corp. from future participation in procurement and non-procurement transactions, as a participant, principal, or contractor with HUD and throughout the Executive Branch of the Federal Government, for a period of three years from the date of their suspension – February 13, 2007.⁴ My decision is based on the administrative record in this matter, which includes the following information:

- (1) The respective Notices of Suspension dated February 13, 2007, issued by HUD to each of the Respondents.
- (2) Respondents’ Opposition to Notice of Suspension dated March 13, 2007 (including all attachments thereto).
- (3) The respective Notices of Proposed Debarment and Continuation of Existing Suspension dated April 3, 2007, issued by HUD to each of the three respondents.
- (4) The Waiver of Indictment signed by Respondent Katsounakis on March 1, 2006.
- (5) The Information filed by the U.S. Attorney on March 1, 2006.

³ Katsounakis served as president of Manny’s Plumbing and Heating, Inc. until his resignation on May 11, 2007. According to the records of the Massachusetts Corporations Division, Katsounakis serves as president, treasurer, and secretary of State Realty Corp. The record indicates that neither Manny’s Plumbing and Heating, Inc. nor State Realty Corp. was charged with a crime in connection with Katsounakis’ illegal activities.

⁴ HUD entered into a settlement agreement with Manny’s Plumbing and Heating, Inc. and Katsounakis effective August 3, 2007, in which, in consideration of the lifting of the suspension and withdrawal of the proposed debarment of Manny’s Plumbing and Heating, Inc, Respondent Katsounakis and Manny’s Plumbing and Heating, Inc. agreed, inter alia, that in the event Manny’s Plumbing and Heating, Inc. becomes affiliated with Katsounakis at any time while Katsounakis is suspended or debarred, HUD will be entitled to suspend or debar Manny’s Plumbing and Heating, Inc.

- (6) The Judgment in a Criminal Case with respect to Respondent Katsounakis dated January 30, 2007.
- (7) The Presentence Report and the Addendum to the Presentence Report on Respondent Katsounakis dated December 22, 2006.
- (8) The Notice and Motion Under Seal Regarding Substantial Assistance filed January 5, 2007.
- (9) The letters submitted by Respondent Katsounakis' family, friends, and relatives to the sentencing judge, Judge Michael Posnor, on behalf of Respondent Katsounakis.
- (10) The Government's Pre-hearing Brief in Support of Suspension and Three-year Debarment filed June 28, 2007 (including all attachments and exhibits thereto).
- (11) The tape recording of the July 11, 2007, telephonic hearing.

As noted above, HUD proposed Respondents' debarment for a period of three years from the date of their suspension based upon the guilty plea and conviction of Respondent Katsounakis in the U.S. District Court for the District of Massachusetts. The Information recites that Respondent Katsounakis "did knowingly and corruptly aid and abet certain public officials of the Springfield Housing Authority in demanding, seeking, receiving, . . . things of value from Manny's Plumbing & Heating, Inc. . . . all with the intent of being influenced in the performance of an official act; being influenced to commit and aid in committing and to collude in, and allow, a fraud, and to make opportunity for the commission of a fraud; and being influenced to act or omit to do an act in violation of official duties, that is, to fraudulently generate bid proposals, collude in the preparation of bid proposals, award contracts, steer sub-contracts and otherwise provide preferential treatment to Manny's Plumbing & Heating, Inc. . . . in violation of Title 18, United States Code, Sections 201(b)(2)(A), (B) and (C) and Title 18, United States Code, Section 2."

HUD's Arguments

HUD contends that Katsounakis was a participant in HUD's programs in that he submitted proposals and entered into contracts in his capacity as an agent or employee of Manny's Plumbing and Heating, Inc. HUD further contends that the offenses for which Katsounakis was convicted, i.e., aiding and abetting the commission of bribery, not only provide cause for debarment, but indicate his lack of business integrity or business honesty, which reflects on the Respondent's character and present responsibility. HUD argues that Katsounakis' seeking to influence the decisions of public officials in the award of contracts to Manny's Plumbing and Heating, Inc. "compromised the integrity of the bidding process and showed an immoral disdain for the law."

Government counsel argued at the hearing that the remorse Respondent has shown for his actions and the fact that he has made restitution as ordered by the court "do not provide mitigation." According to the government, the restitution paid was "really a condition of the plea agreement" and "part of the plea to get a lesser sentence" because Respondent "could have received 15 years and a fine." Counsel argued that although Respondent may have cooperated with the government before the indictment was issued, Respondent was not the first person to do

so; that the government already had a witness who had disclosed the connection between the payments to the SHA officials and the award of contracts to Manny's Plumbing and Heating, Inc.

Additionally, counsel for the government argued that Respondent Katsounakis' stepping down from the presidency of Manny's Plumbing and Heating, Inc. proved little because "the issue is not whether Katsounakis is an officer but does he have control" of the company. Thus, notwithstanding Katsounakis' father's assuming the presidency as a result of Respondent's resignation, the fact is that Respondent's father physically will not be able to manage the business. Finally, the government argued that State Realty Corp., which is controlled by the Respondent, shares office space with Manny's Plumbing and Heating, Inc.; therefore, the Respondent will continue to have a presence and participate in the management of Manny's Plumbing and Heating, Inc.

Respondent's Arguments

Respondent accepts full responsibility for his actions in the underlying criminal matter and is remorseful for his conduct. Respondent acknowledges that his acceding to the demands of the SHA officials for kickbacks involved him in criminal wrongdoing. However, Respondent's attorney argued that Respondent was not inflating bids for contracts with the SHA and using the inflated amount to pay bribes. Respondent was the only person in the company who was involved in the criminal enterprise with the SHA officials. No other person in Manny's Plumbing and Heating, Inc. knew of the Respondent's criminal behavior, according to Respondent's attorney. Respondent's attorney furthered argued that Respondent's cooperation with the government investigation into the charges of corruption by the SHA officials and his testimony at their trial resulted in several convictions. At the hearing, Respondent's attorney acknowledged that another witness came forward to disclose valuable information to the government before Respondent began cooperating with the government. Counsel for Respondent argued, however, that it was Katsounakis' testimony and the physical evidence he provided the government during the investigation of the corruption allegations that secured the conviction of the corrupt officials.

Counsel for the Respondent contended that the change in the leadership in Manny's Plumbing was real. Counsel emphasized that the functions previously performed by Katsounakis were now being done by other corporate officers whom Katsounakis had educated in the business. Counsel argued that among the factors to be considered in mitigation is that (1) Manny's had no prior history or pattern of wrongdoing, although counsel did acknowledge that Katsounakis' bribery of the SHA officials resulted in an economic benefit to Manny's; (2) Katsounakis had accepted responsibility for the criminal offenses he committed and paid \$250,000 in fines and restitution; (3) Katsounakis was not a shareholder of Manny's when he committed the criminal acts for which he was convicted; (4) a lengthy debarment will cause Manny's, 80 percent of whose business now comes from the government, to cease to exist, thus affecting the livelihood of Manny's Plumbing and Heating, Inc. twenty employees.

Finally, Respondent argued in his submission that his assistance to the government in investigating and prosecuting the wrongdoers in the bribery scheme over a four-and a half-year

period demonstrates he is presently responsible. Moreover, “the existence of a cause for debarment does not necessarily require that the person be disbarred” and mitigating factors must be considered. Also, because debarment should not be used as a punitive measure, “the continued imposition of a Suspension upon Mr. Katsounakis and his affiliates would only impermissibly and unjustifiably serve to punish Mr. Katsounakis, his employees and his family.”

Findings of Fact

1. Respondent Katsounakis was a participant in a covered transaction.
2. Respondent pleaded guilty and was convicted of federal bribery charges involving a scheme to bribe SHA officials.
3. Respondent was sentenced to probation for a term of three years, fined \$100,000 and ordered to pay restitution of \$150,000.
4. Respondent’s conviction provides the basis for his and his affiliates’ debarment under 24 CFR 24.800.
5. Respondent Katsounakis served as president of Manny’s Plumbing and Heating, Inc. during the time he was engaged in the scheme to bribe SHA officials.
6. Respondent was involved in the bribery scheme for several years.
7. Respondent “provided extensive cooperation” to federal authorities regarding the bribery scheme that resulted in the conviction of several public officials and others.
8. Neither Respondent Katsounakis nor his affiliated companies had a prior record of criminal activity.
9. Respondent Katsounakis paid the fine of \$100,000 imposed by the court as part of his sentence along with making restitution to SHA of \$150,000.
10. Respondent is no longer in an executive position with Manny’s Plumbing and Heating, Inc.
11. Respondent remains president of State Realty Corp.
12. Respondent Katsounakis and his affiliates were suspended by HUD from participation in procurement and nonprocurement transactions throughout the federal government for three years from February 13, 2007.

Conclusions

Based on the above Findings of Fact, I have made the following conclusions:

1. Respondent Katsounakis was a participant in a covered transaction as defined in 24 CFR part 24.
2. Respondent Katsounakis’ conviction on bribery charges provides the legal basis for his and his affiliates’ debarment.
3. Respondent Katsounakis’ cooperation with federal authorities investigating the corruption scheme was instrumental in securing the conviction of several officials.
4. Respondent Katsounakis’ involvement in the bribery of public officials raises grave doubt with respect to his business integrity and personal honesty.
5. HUD has a responsibility to protect the public interest and take appropriate measures against participants whose actions may affect the integrity of its programs.

6. HUD has a duty to ensure that recipients of its assistance enjoy the full protection of all applicable federal laws.
7. HUD cannot effectively discharge its responsibility and duty to the public if participants in its programs fail to act with honesty and integrity.
8. Respondent Katsounakis has paid the fine imposed as part of his sentence and has also made full restitution as ordered by the court.
9. Respondents had no prior record with HUD involving wrongdoing or violation of laws covering HUD's programs.
10. Respondent Katsounakis no longer serves as president or holds any other executive position with Manny's Plumbing and Heating, Inc.
11. Respondent Katsounakis is still president of State Realty Corp.
12. State Realty Corp. and Manny's Plumbing and Heating, Inc. were, at the time of Respondent Katsounakis' illegal actions, affiliates of Respondent Katsounakis within the contemplation of 24 CFR 24.905.
13. The majority of the staff of Manny's Plumbing and Heating, Inc. is comprised of individuals who are not blood relatives of Katsounakis'.
14. Approximately 80 percent of the business of Manny's Plumbing and Heating, Inc. is government related.
15. The debarment of Manny's Plumbing and Heating, Inc. would have serious financial consequences for the livelihood of its employees.
16. There is no evidence that any employees or executives of Manny's Plumbing and Heating, Inc. other than Respondent Katsounakis was involved in the corruption scheme.

DETERMINATION

Based on the foregoing, including the Findings of Fact, Conclusions, the administrative record, and the Settlement Agreement styled "AGREEMENT TO LIFT SUSPENSION AND WITHDRAW PROPOSED DEBARMENT OF MANNY'S PLUMBING & HEATING, INC.," dated August 3, 2007, I have determined to debar Respondents Katsounakis and State Realty Corp. for three years commencing on the date of their suspension – February 13, 2007. In accordance with 24 CFR 24.870(b)(iv), Respondents' "debarment is effective for covered transactions and contracts that are subject to the Federal Acquisition Regulation (48 CFR chapter 1), throughout the executive branch of the Federal Government unless an agency head or an authorized designee grants an exception."

Dated: August 16, 2007

Rebecca Holz Shank
for Henry S. Czauski
Debarring Official
Departmental Enforcement Center