



**Office of Appeals
U.S. Department of Housing and Urban Development
Washington, D.C. 20410-0001**

In the Matter of:

Linda S. Napper,
Petitioner

HUDOA No. 10-M-CH-LL96
Claim No. 7-71034530 OA

Linda S. Napper
P.O. Box 675
Kelso, WA 98626

Pro se

James W. Webster, Esquire
U.S. Department of Housing and
Urban Development
Office of the Assistant General Counsel
for Midwest Field Offices
77 West Jackson Boulevard
Chicago, IL 60604

For the Secretary

ORDER OF DISMISSAL

On March 15, 2010, Petitioner filed a Request for Hearing with this Office. (Pet'r's Hr'g Req., dated March 8, 2010.) In Petitioner's Request for Hearing, Petitioner states that, "I, Linda S. Napper, am disputing the validity of such said claim (#7-710545300A). I would also appreciate a copy of any and all pertinent legitimate [sic] documentation and records related to this alleged debt including a review of HUD's determination of alleged delinquent [sic] account."¹ (*Id.*)

On March 23, 2010, this Office issued a Notice of Docketing, Order, and Stay of Referral ("Notice of Docketing") to Petitioner in which Petitioner was informed that,

"Documents relating to this alleged debt are not in the possession of this Office. Petitioner may request copies of these documents

¹ Petitioner cited the claim number incorrectly. The correct claim number is as captioned above.

by writing to: Kim McManus, U.S. Department of Housing and Urban Development, Financial Operations Center, 52 Corporate Circle, Albany, NY, 12203.”

(Notice of Docketing, p. 2.) The Notice of Docketing also ordered Petitioner to file her documentary evidence to prove that she is not indebted to HUD in the amount alleged, or that the alleged debt is not past due or not legally enforceable. (*Id.*) Pursuant to the Notice of Docketing, Petitioner was to file her evidence, “on or before April 26, 2010, or within 65 days of the Date of Notice found on the Notice of Intent to Collect by Treasury Offset, whichever is LATER.” (emphasis in original) (*Id.*) 24 C.F.R. § 17.152(b) provides that failure by the Petitioner to submit evidence within 65 calendar days from the date of the Department’s Notice of Intent, will result in a dismissal of Petitioner’s request for review by the HUD Office of Appeals. Petitioner did not file her documentary evidence and, as such, has failed to comply with 24 C.F.R. § 17.152(b), and the Order set forth by the Notice of Docketing.

On June 30, 2010, this Office again ordered Petitioner to file, “on or before July 19, 2010, ...documentary evidence in accordance with 24 C.F.R. §17.152(b) proving that all or part of the alleged debt in this case is not past due or not legally enforceable against Petitioner.” (emphasis in original) (Order, issued June 30, 2010.) The Order also stated that, “[f]ailure to comply with this Order shall result in a decision based on the documents in the record of this proceeding.” (emphasis in original) (*Id.*) To date, Petitioner has not filed documentary evidence to support her argument disputing the validity of HUD’s claim against her. This Office has held that, “[a]ssertions without evidence are not sufficient to show that the debt claimed by the Secretary is not past-due or enforceable.” *In re Troy Williams*, HUDOA No. 09-M-CH-AWG52 (June 23, 2009) (quoting, *In re Bonnie Walker*, HUDBCA No. 95-G-NY-T300, (July 3, 1996)). Accordingly, this Office finds that Petitioner’s claim fails for want of proof.

Furthermore, Rule 26.3 of Title 24 of the Code of Federal Regulations provides that, “If a party refuses or fails to comply with an Order of the hearing officer, the hearing officer may enter any appropriate order necessary to the disposition of the hearing including *a determination against a noncomplying party.*” (emphasis added). As Petitioner has failed to comply with any of the Orders issued by this Office, I find that Petitioner’s non-compliance to the Orders issued by this Office provides a basis for rendering a decision against Petitioner pursuant to Rule 26.3 of Title 24 of the Code of Federal Regulations. Upon due consideration of Petitioner’s failure to comply with 24 C.F.R. § 17.152(b) and Rule 26.3 of Title 24 of the Code of Federal Regulations, Petitioner’s appeal is **DISMISSED** *sua sponte*. It is hereby

ORDERED that this matter be **DISMISSED WITH PREJUDICE** and it is

FURTHER ORDERED that the Secretary is authorized to refer this matter to the U.S. Department of the Treasury for administrative offset of any federal payment due Petitioner.

H. Alexander Manuel

H. Alexander Manuel
Administrative Judge

October 5, 2010