



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

In the Matter of:

**JOHN FETKO,**

Petitioner

HUDOA No. 10-M-NY-LL115  
Claim No. 7-802034330A

John Fetko  
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Cocoa Beach, FL 32931

*Pro se*

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For the Secretary

**ORDER OF DISMISSAL**

On March 29, 2010, Petitioner filed a Request for Hearing with this Office. (Pet'r's Hr'g Req., dated March 22, 2010.) In Petitioner's Request for Hearing, Petitioner states that, "I am requesting a review of HUD's determination that I owe a delinquent debt as I am sure that payments were taken out of my Social Security for years until the HUD debt was paid." (*Id.*)

On March 30, 2010, this Office issued a Notice of Docketing, Order, and Stay of Referral ("Notice of Docketing") to Petitioner in which Petitioner was ordered to file documentary evidence to prove that Petitioner is not indebted to HUD in the amount alleged to be due and owing, or that the alleged debt is unenforceable or not past due. (Notice of Docketing, issued March 30, 2010.) Pursuant to the Notice of Docketing, Petitioner was ordered to file such evidence, "on or before April 30, 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) 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 his 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 proving that the alleged debt in this case is not past due or legally unenforceable 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 his argument that the alleged debt has been satisfied. 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 with 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.



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H. Alexander Manuel  
Administrative Judge

October 5, 2010