



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

In the Matter of:

Phyllis R. Copemann,

Petitioner

HUDOA No. 11-H-CH-LL02
Claim No. 7-806204460A

Phyllis R. Copemann
7823 Means Avenue
New Orleans, LA 70127-1331

Pro se

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For the Secretary

ORDER OF DISMISSAL

In 24 C.F.R. § 17.152(b) it 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 alleged "I asked for FHA assistance in combining and restructuring my two mortgages. I was told that HUD-FHA was in no way involved in my mortgage affairs, had no record of me and I was on my own." (Petitioner's Request for Hearing, filed November 29, 2010). Petitioner also states "I already have a Treasury Dept offset by IRS on my social security benefit[s]." (Id.)

Petitioner was issued a Notice of Docketing, Order, and Stay of Referral on December 7, 2010 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 by writing to: Kim McManus, U.S. Department of Housing and Urban Development, Financial Operations Center, 52 Corporate Circle, Albany, NY 12203.

Petitioner was also ordered in the Notice of Docketing to submit documentary evidence in support of her position.

Petitioner thereafter was ordered twice to submit documentary evidence in support of her claim, but again failed to comply with the subsequent Orders. (Order, dated January 20, 2011; and Order to Show Cause, dated February 17, 2011.) As previously held by this Office, “[a]ssertions without evidence are not sufficient to show that the debt claimed by the Secretary is not past due or enforceable.” *Troy Williams*, HUDOA No. 09-M-CH-AWG52, (June 23, 2009) (citing, *Bonnie Walker*, HUDBCA No. 95-G-NY-T300, (July 3, 1996)). As such, Petitioner’s claim fails for lack of proof.

Furthermore, Rule 26.3 of Title 24 of the Code of Federal Regulations provides:

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).

Accordingly, because 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 pursuant to 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 WITHOUT PREJUDICE**.



Vanessa L. Hall
Administrative Judge

March 10, 2011