



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

In the Matter of:

Harold Weisz,

Petitioner

HUDOA No. 11-H-CH-LL26
Claim No. 7-210068420A

Harold Weisz
2104 Kingfisher Court
League City, TX 77573

Pro se

Amy Jo Conroy, Esq.
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For the Secretary

ORDER OF DISMISSAL

Section 17.152(b) of Title 24 of the Code of Federal Regulations 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. On April 4, 2011, this Office received a Hearing Request from Petitioner in which Petitioner states "I am requesting a review of HUD's determination that I owe this debt, as all issues, monies owed, outstanding loans, etc. were cleared upon closing on the sale of said house."

Petitioner was issued a Notice of Docketing, Order, and Stay of Referral ("Notice of Docketing") on April 6, 2011, in which Petitioner was informed that he had 65 calendar days from February 28, 2011 — the date of the Department's Notice of Intent — to file evidence proving that the alleged debt was unenforceable or not past due.

This Office has maintained consistently that "[a]ssertions without evidence are not sufficient to show that the debt claimed by the Secretary is not past due or enforceable." *Bonnie Walker*, HUDBCA No. 95-G-NY-T300 (July 3, 1996). While Petitioner refers to the closing date on the sale of the property as the date that the alleged debt was paid in full, Petitioner has not submitted documentary evidence showing that funds distributed at closing were actually applied to the debt that is the subject of this proceeding, despite being ordered three times to do

so. (*See* Notice of Docketing; Order to Petitioner, dated May 20, 2011; Order to Show Cause to Petitioner, dated June 13, 2011.)

The Order to Show Cause stated that: **Failure to submit evidence in compliance with this Order will result in a DISMISSAL of the request for review by the Office of Appeals, pursuant to 24 C.F.R. § 17.152(b).** (emphasis in original). 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).

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 WITH PREJUDICE**.



Vanessa L. Hall
Administrative Judge

September 8, 2011