

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF HEARINGS AND APPEALS
WASHINGTON, D.C. 20410

In the Matter of:

Carl Harmon,

Petitioner

Case No. 12-H-CH-PP24
Claim No. 7-7076284440A

May 10, 2012

ORDER OF DISMISSAL

In 24 C.F.R. § 17.69 (b) it provides that failure by the Petitioner to submit evidence within 60 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 that "I was served divorce papers four years after purchase of [the] mobile home and was informed that I was to turn over possession of [the] property to Angela Harmon, maiden name, White." (Petitioner's Request for Hearing, filed February 6, 2012). Petitioner also stated that "I would like to request copies of all records concerning [sic] any loan agreement that I entered into...." (*Id.*)

Petitioner was issued a Notice of Docketing, Order, and Stay of Referral on February 7, 2012 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: Debra Mele Cox, 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 his position.

Petitioner thereafter was ordered twice to submit documentary evidence in support of his position, but again failed to comply with the Orders subsequently issued by the Court. (Order, dated March 9, 2012; and Order to Show Cause, dated April 9, 2012.) This Court has consistently maintained that "[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)). Because Petitioner has not provided documentary evidence in support of his claim, Petitioner has failed to meet his burden of proof.

Further, Rule 26.4 (c) of Title 24 of the Code of Federal Regulations provides:

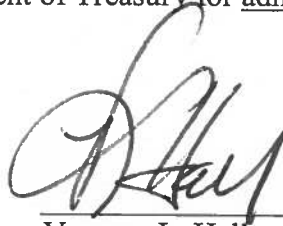
If a party refuses or fails to comply with an Order of the hearing officer, the hearing officer may enter any appropriate order necessary to the disposition of the hearing including *a determination against a noncomplying party*. (emphasis added).

Accordingly, because Petitioner has also failed to comply with any of the Orders issued by this Court, I find that Petitioner's non-compliance to the Orders previously issued provides a basis for rendering a decision against Petitioner pursuant to Rule 26.4 (c) of Title 24 of the Code of Federal Regulations.

Upon due consideration of Petitioner's failure to comply with 24 C.F.R. § 17.69(b) and Rule 26.4 (c) 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**. It is hereby

FURTHER ORDERED that the Order issued on February 7, 2012 imposing the stay of referral of this matter to the U.S. Department of Treasury for administrative offset is **VACATED**.



Vanessa L. Hall
Administrative Judge