

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF HEARINGS AND APPEALS

In the Matter of:

Thomas Lumpkins,

Petitioner.

Case No. 12-H-CH-PP34

Claim No. 7-807405660A

July 30, 2012

ORDER OF DISMISSAL

In 24 C.F.R. § 17.69(b) it provides that failure by Petitioner to submit evidence within 60 calendar days from the date of the Department's Notice of Intent to Offset will result in a dismissal of Petitioner's request for review by the HUD Office of Appeals. Petitioner requested "a review of HUD's initial determination that I owe a debt in reference to claim number 7-807405660A." (Petitioner's Request for Hearing, filed March 14, 2012). Petitioner also stated a separate claim "suggesting that Vanderbilt Mortgage has made a false claim of a foreclosure on a federally backed FHA loan," and submitted a copy of his settlement statement and a newspaper article that neither supported nor substantiated that the alleged debt was not past due or unenforceable against Petitioner. (*Id.*, and Attachments.) The settlement statement provided by Petitioner, upon review, did not reflect a pay off amount for the debt owed to HUD, and the newspaper article submitted by Petitioner from The Huffington Post is not considered to be reliable and credible documentary evidence upon which a Court can rely to determine Petitioner's responsibility for the alleged debt.

Petitioner was ordered on three occasions to submit sufficient documentary evidence to support his position regarding his responsibility for the alleged debt. But, Petitioner failed to comply with any of the Orders issued by the Court. (Notice of Docketing, Order, and Stay of Referral, March 14, 2012; Order, dated May 3, 2012; and Order to Show Cause, dated June 12, 2012.) Without such evidence, the Court is unable to proceed with this hearing based upon the record of this proceeding. 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)). As such, Petitioner's claim fails for lack of proof.

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

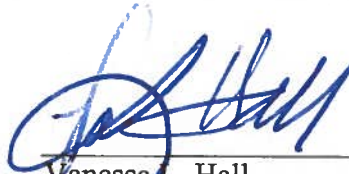
If a party refuses or fails to comply with an Order of the hearing officer, the hearing officer may enter any appropriate order necessary to the disposition of the hearing

including *a determination against a noncomplying party*.
(emphasis added).

Because Petitioner has failed to comply with any of the Orders issued by this Court to submit sufficient documentary evidence, I find that Petitioner's non-compliance with the Orders issued also 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 pursuant to Rule 26.4 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