

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

In the Matter of:

**Carolyn R. Potter,**

Petitioner

HUDOA No. 12-H-NY-PP13  
Claim No. 7-643289410A

Date: April 27, 2012

**ORDER OF DISMISSAL**

In 24 C.F.R. § 17.69(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 "31 years ago, my husband, John W. Potter secured this loan on his own. And also filed bankruptcy on this loan. I was not a part of this loan. I do not believe this is my debt. I also do not understand why collection of this debt that was discharged is my responsibility." (Petitioner's Request for Hearing, filed December 5, 2011). Petitioner also states "Please provide me a copy of all records from [sic] HUD concerning this determination of why I'am [sic] being pursued for my husbands [sic] actions { debt } 31 years ago." (Id.)

Petitioner was issued a Notice of Docketing, Order, and Stay of Referral on December , 2011 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 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 February 9, 2012; and Order to Show Cause, dated March 13, 2012.) As previously held by this Court, "[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.

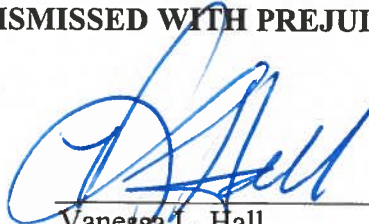
Furthermore, Rule 26.4(c) of Title 24 of the Code of Federal Regulations provides:

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).

Accordingly, because Petitioner has failed to comply with any of the Orders issued by this Court, 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 26.4(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(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**.



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Vanessa L. Hall  
Administrative Judge