

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

In the Matter of:

Estate of Raymond McKiernan,

Petitioner.

21-VH-0133-AO-018

7-808184120A

January 13, 2023

ORDER OF DISMISSAL

24 C.F.R. § 26.4 (c) provides that “If a party refuses or fails to comply with an order of the hearing officer, including an order compelling discovery, the hearing officer may enter any appropriate order necessary to the disposition of the hearing *including a determination against the noncomplying party...*” (Emphasis added).

Petitioner herein, through the representative of his estate, has failed to offer any evidence in support of Petitioner’s position that the subject debt was paid in full or is otherwise unenforceable. The lapse of time since May 2021 has provided Petitioner with nearly two years and a number of opportunities to comply with the Court’s *Orders* on May 5, 2021, September 30, 2021, March 2, 2022, and April 27, 2022, to produce documentary evidence in support of his position, but the representative for Petitioner has failed to do so. As a result, the Court is unable to determine the credibility of Petitioner’s position without such evidence.

The *Order on Errata, Withdrawal, and Order* issued on April 27, 2022 by the Court that also extended to Petitioner’s representative additional time specifically stated again that, “**Failure to comply with this Order shall result in sanctions being imposed by the Court pursuant to 24 C.F.R. § 26.4 (c), including judgment being entered on behalf of the opposing party or dismissal of this action.**” (Emphasis in original). Consistent with the provisions of 24 C.F.R. §§ 26.4 (c), Petitioner’s appeal is **DISMISSED** *sua sponte*. Therefore, it is hereby

ORDERED that this matter be **DISMISSED WITH PREJUDICE** and the stay of proceeding issued on May 5, 2021 is **VACATED**.

SO ORDERED.



Vanessa L. Hall

Administrative Judge