

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

UNITED STATES DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT,

Petitioner,

v.

AVIS BROWN,

Respondent.

18-JM-0243-PF-012

November 13, 2018

DEFAULT JUDGMENT AND ORDER

This case arises from a *Complaint* filed by the United States Department of Housing and Urban Development (“HUD,” “Department”) against Avis Brown (“Respondent”), whereby HUD sought five penalties and assessments under the Program Fraud Civil Remedies Act of 1986 (“PFCRA”), 31 U.S.C. §§ 3801-3812, as implemented by 24 C.F.R. Part 28.

The *Complaint* alleges Respondent caused five actionable false claims to be made to the Homestead (Fla.) Housing Authority (“PHA”) through participation in the Section 8 Housing Choice Voucher Program (“HCVP,” “Voucher Program”).

Legal Framework

Under the PFCRA, liability may be imposed on a person who makes, presents, submits, or causes to be made, presented or submitted, a claim to the Department that the person knows or has reason to know is for payment for the provision of property or services which the person has not provided as claimed. See 31 U.S.C. § 3802(a)(1)(D). A claim includes any request, demand, or submission made to a recipient of property, services, or money from an authority or to a party to a contract with an authority for property or services if the United States provided any portion of the funds for the purchase of such property or services. See 31 U.S.C. § 3801(a)(3)(B)(i)(II).

Under the PFCRA, the maximum civil penalty for false, fictitious, or fraudulent claims is up to \$7,500 for claims made on or after 2007, and up to \$8,500 for claims made on or after February 19, 2013. 72 Fed. Reg. 5586 (Feb. 6, 2007) (adjusting the maximum penalty to \$7,500); 78 Fed. Reg. 4057 (Jan. 18, 2013) (adjusting the maximum penalty to \$8,500).

Also under the PFCRA, in addition to a civil penalty, an assessment of twice the amount of the claim(s) may be imposed on a person if the Department has made any payment or transferred property on the claim. 31 U.S.C. § 3802(a)(1) & (3); 24 C.F.R. § 28.10(a)(6).

Program Background

The program involved in this case was the Section 8 Housing Choice Voucher Program (“HCVP”), through which HUD pays subsidies to public housing agencies (“PHAs”), which in turn pay subsidies to rental housing owners/landlords so that eligible tenants can afford decent, safe and sanitary housing. 24 C.F.R. § 982.1(a).

Process

Pursuant to 24 C.F.R. § 28.30(b), a respondent must submit a written response to a PFCRA complaint, which shall be deemed to be a request for a hearing, to HUD and the Office of Hearings and Appeals no later than thirty days following service of the complaint.

If a respondent does not timely file a request for hearing in response to the Department’s complaint, the Department is authorized to file a motion for default judgment, attaching to it a copy of the complaint, as set forth at 24 C.F.R. §§ 28.30(b) and 26.41(a).

HUD filed the *Complaint* in this matter on September 13, 2018. The *Complaint* was hand delivered to Respondent and signed for by Respondent on September 12, 2018. Respondent requested a hearing on October 4, 2018, resulting in an assignment to this Court pursuant to 31 U.S.C. § 3801, et seq., as implemented by 24 C.F.R. Part 28. This Court ordered that the response be received no later than October 12, 2018. Respondent’s failure to file a response as specified in 24 C.F.R. § 28.30, prompted the Government to file a *Motion for Default Judgment* on October 19, 2018. This Court, on October 22, 2018, ordered Respondent to *Show Cause* on or before November 5, 2018. To date, Respondent has not filed an answer to the *Complaint* or to the *Order to Show Cause*.

Conclusions of Law

By reason of the facts alleged in the *Complaint*, which are deemed admitted by her default, Respondent caused the submission of five false claims to be made to HUD in connection with her participation in the Housing Choice Voucher Program.

Penalty


Respondent’s knowing and material submission of false claims to HUD under the Voucher Program supports HUD’s request for a determination finding Respondent liable for five civil penalties totaling \$38,500 plus an assessment of twice the amount of the five claims, totaling \$14,180 pursuant to the PFCRA, 31 U.S.C. § 3802(a), and 24 C.F.R. § 28.10. Because Respondent did not answer the *Complaint* and has defaulted, no mitigating evidence as to penalty has been presented. In that circumstance, and by regulation, the Court is required to impose the penalty sought in the *Complaint*. 24 C.F.R. §§ 28.30(b) and 26.41(a).

Order

Accordingly, it is hereby **ORDERED**:

1. Pursuant to the foregoing, the Department's *Motion for Default Judgment* is **GRANTED**, and Respondent is hereby found in **DEFAULT**.
2. Based upon the foregoing findings of fact, Respondent is liable for five false claims made between November 2012 and March 2013. 24 C.F.R. § 28.10(e).
3. Respondent shall pay to HUD the sought and authorized civil penalties and assessments totaling \$52,680. Such amount due and payable immediately without further proceedings. 24 C.F.R. § 26.41 (c).
4. This *Order* constitutes the **FINAL AGENCY ACTION**. 24 C.F.R. § 26.41(b).

So **ORDERED**,



J. Jeremiah Mahoney
Chief U.S. Administrative Law Judge