

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of:

FIDELITY MORTGAGE &
FUNDING COMPANY,

Respondent.

HUDALJ 01-1415-MR

DEFAULT DECISION AND ORDER

On March 6, 2003, the Departmental Enforcement Center of the U.S. Department of Housing and Urban Development (“Department” or “HUD”) issued a Complaint seeking a civil money penalty of \$217,500 against Fidelity Mortgage and Funding Company pursuant to the National Housing Act, 12 U.S.C. § 1735f-14 and HUD regulations that are found at 24 CFR Part 30 (2000). The Complaint charges that Respondent allowed non-employees to originate FHA loans. The Complaint notified Respondent of its right to appeal the imposition of the civil money penalty by filing an Answer to the Complaint within 15 days of its receipt and that failure to file an Answer would result in a motion by HUD for default judgement *See* 24 CFR 30.90. A copy of the Complaint was issued to Respondent’s counsel of record on August 4, 2003. Respondent’s counsel received a copy of the Complaint on August 5, 2003. No Answer to the Complaint has been filed.

On September 4, 2003, the Department filed a Motion for Default Judgment. The regulations provide that, if Respondent fails to file an Answer within 15 days of receiving the Complaint, the Administrative Law Judge assigned to the case shall issue a Default Judgment. 24 CFR 26.39(b). Such a default constitutes an admission of all the facts alleged in the Department’s Complaint and Respondent’s waiver of its right to a hearing in the matter. 24 CFR 26.39. A Default Judgment shall constitute final agency action. *Id.*

FINDINGS OF FACT

All facts alleged in the Department’s Complaint against Fidelity Mortgage and Funding Company are hereby found to be admitted and true.

CONCLUSION OF LAW AND DECISION

The facts in the Complaint reveal a knowing and material violation of HUD rules and regulations by Respondent. A default judgment against Respondent is warranted and will be so ordered. Accordingly, Respondent, Fidelity Mortgage and Funding Company, shall pay to the Secretary of the United States Department of Housing and Urban Development a Civil Money Penalty of \$217,500 without delay and not later than 45 days from the date of this Decision and Order. This Decision and Order constitutes final agency action.

So **ORDERED**.

ROBERT A. ANDRETTA
Administrative Law Judge

Dated: December 24, 2003

CERTIFICATE OF SERVICE

I hereby certify that copies of this DEFAULT DECISION AND ORDER issued by ROBERT A. ANDRETTA, Administrative Law Judge, HUDALJ 01-1415-MR, were sent to the following parties on this 24th day of December, 2003, in the manner indicated:

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