

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

In the Matter of:)	
)	
Michael Tripicchio,)	HUDALJ 10-M-021-CMP-8
)	
Respondent.)	
)	

ORDER GRANTING GOVERNMENT’S MOTION FOR DISMISSAL

The United States Department of Housing and Urban Development (“HUD”) filed a Complaint for Civil Money Penalties on January 27, 2010 (“Complaint”), seeking a penalty for Respondent’s alleged violation of an Housing Assistance Payments contract with the agency, pursuant to 42 U.S.C. § 1437z-1 and 24 C.F.R. Part 30. Respondent requested a hearing to challenge the Complaint on February 10, 2010, and HUD Administrative Law Judge J. Jeremiah Mahoney scheduled the hearing to commence on July 27, 2010.

On March 11, 2010, HUD filed an Amended Complaint for Civil Money Penalties, and subsequently, the Government’s Motion for Default Order or to Compel Answer to Amended Complaint for Civil Money Penalties. In an Order dated July 2, 2010, pursuant to a conference call, Judge Mahoney cancelled the hearing date and ordered the parties to notify the court of the case’s status on or before July 30, 2010. On July 16, 2010, Respondent filed a Response to the Amended Complaint. Both parties filed Status Reports indicating there had been no settlement negotiations between them. On October 12, 2010, Judge Mahoney issued a Notice of Disqualification, and on October 26, 2010, this matter was transferred to the office of the undersigned.

On November 8, 2010, HUD counsel filed the Government’s Motion for Dismissal, wherein HUD informs that “HUD has chosen not to further prosecute its claims against Michael Tripicchio” and “there is no need for further litigation in this matter at this time.” HUD requests that the matter be dismissed without prejudice.

The applicable regulations at 24 C.F.R. Part 26 provides as follows:

If a party fails to prosecute or defend an action brought under subpart B of this part, *the ALJ may dismiss the action* or may issue a decision against the non-prosecuting or defending party. Such decision of the ALJ shall constitute final agency action and shall not be appealable to the Secretary under § 26.52 of this part.

24 C.F.R. § 26.34(d) (emphasis added).

Consistent with Section 26.34(d) and with the general authorities of the presiding Administrative Law Judge in 24 C.F.R. § 26.32, the Government's Motion for Dismissal is hereby **GRANTED** and this matter is **DISMISSED**.



Susan L. Biro
Chief Administrative Law Judge¹

Dated: November 8, 2010
Washington, D.C.

¹ The Administrative Law Judges of the United States Environmental Protection Agency are authorized to hear cases pending before the United States Department of Housing and Urban Development pursuant to an Interagency Agreement in effect beginning March 4, 2010.