

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

In the Matter of:

Linda S. Emmenegger,

Petitioner

21-VH-0108-AG-065

780811573

April 15, 2022

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...*” Further, under 24 C.F.R. § 26.4 (d), it provides, “If a party fails to prosecute or defend an action brought under subpart A of this part, the hearing officer may dismiss the action or may issue an initial decision against the non-prosecuting or defending party. (Emphasis added).

Petitioner herein has failed to offer sufficient evidence to prove that the amount of the subject debt claimed by the Secretary is unenforceable. The only evidence submitted, a copy of a bill statement that reflects balance due as of the date of the statement, did not alone render unenforceable the debt that is owed in the amount claimed in this case. The lapse of time since April 2021 has provided Petitioner with a number of opportunities to comply with the Court’s *Orders* to produce such evidence but Petitioner has failed to do so. As a result, the Court is unable to determine the credibility of Petitioner’s argument challenging the amount of the subject debt due to Petitioner’s non-compliance.

The *Order to Show Cause* issued on February 3, 2022, after Petitioner’s failure to comply with the two previous Orders on April 1, 2021 and September 30, 2021, specifically stated “**Failure to comply with this Order shall result in sanctions being imposed by the Court pursuant to 24 C.F.R. § 26.4 (c) and (d), 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) and (d), 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 April 1, 2021 is VACATED.

SO ORDERED.



Vanessa L. Hall
Administrative Judge