

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

In the Matter of:

Amy Davis,

Petitioner

22-VH-0002-AG-002

780819428

April 13, 2023

ORDER OF DISMISSAL

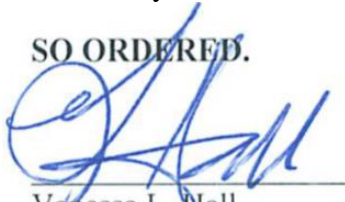
24 C.F.R. § 26.4 (c) provides that “If a party refuses or fails to comply with an order of the hearing officer, including an order compelling discovery, the hearing officer may enter any appropriate order necessary to the disposition of the hearing *including a determination against the noncomplying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

On October 6, 2021, Petitioner filed a *Request for Hearing* to review HUD’s determination that Petitioner owed the subject debt. There is no record of evidence in support of Petitioner’s claim that the subject debt does not exist or that Petitioner was released from the contractual obligation to pay the subject debt. To date, Petitioner has failed to comply with any of the Court’s *Orders* on October 20, 2021, March 2, 2022, and March 13, 2023 to produce sufficient evidence to prove HUD issued Petitioner a written release from the subject debt. The *Order to Show Cause* issued by the Court to Petitioner on March 13, 2023 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 added). Petitioner again failed to comply as ordered. The lapse of time since October 2021 has provided Petitioner with a number of opportunities to comply with the Court’s *Orders* but without response. As a result, the Court is unable to determine the credibility of Petitioner’s argument in the absence of such evidence.

Consistent with the provisions of 24 C.F.R. §§ 17.69 (b) and 26.4 (c) and (d), Petitioner’s appeal is hereby **DISMISSED WITH PREJUDICE** *sua sponte* due to Petitioner’s non-compliance with the Court’s *Orders* to produce the necessary evidence for the Court’s review.

The stay of proceeding issued on October 20, 2021 is hereby **VACATED**.

SO ORDERED.


Vanessa L. Hall
Administrative Judge