

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

In the Matter of:

David and Monique DeLaCruz,

Petitioners

22-VH-0119-AG-083

721018382

February 10, 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).

Petitioners herein have failed to offer sufficient evidence to prove that the subject debt does not exist, is unenforceable or not past due, or that the proposed garnishment amount would create a financial hardship. The lapse of time since March 2022 has provided Petitioners with a number of opportunities to comply with the Court’s *Orders* to produce such evidence but Petitioners have failed to do so. As a result, the Court is unable to determine the credibility of Petitioners’ argument challenging the existence of the subject debt due to Petitioners’ non-compliance.

The *Order to Show Cause* issued on December 6, 2022, after Petitioners’ failure to comply with the two previous Orders on March 23, 2022 and September 23, 2022 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), Petitioners’ appeal is **DISMISSED** *sua sponte*. Therefore, it is hereby

ORDERED that this matter be **DISMISSED WITH PREJUDICE** and the stay of proceeding issued on March 23, 2022 is VACATED.

SO ORDERED.



Vanessa L. Hall
Administrative Judge