

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

In the Matter of:

David W. Horne,

Petitioner

Docket No. 23-VH-0062-AG-035

Claim No. 721019079

January 16, 2024

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 March 6, 2023, 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 was not owed or was paid off, 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 issued on March 6, 2023, June 15, 2023, and a subsequent *Show Cause Order* issued on August 24, 2023 to produce sufficient evidence as proof of Petitioner’s position.

The *Order to Show Cause* issued by the Court to Petitioner on August 24, 2023 specifically stated “Failure to comply with this Order may result in sanctions being imposed by the Court pursuant to 24 C.F.R. § 26.4(c)-(d), including judgment entered on behalf of the opposing party, dismissal of this action, or a decision based on the documents in the record of this proceeding. Non-compliance, and timeliness of the same, shall be determined based on the Court’s assessment of the record of the proceeding. (Emphasis added). Petitioner again failed to comply as ordered. The lapse of time since March 2023 has provided Petitioner with sufficient opportunities to comply with the Court’s *Orders*. 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. § 26.4 (c) and (d), Petitioner’s appeal is **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 March 6, 2023 is hereby **VACATED**.

SO ORDERED.



Vanessa L. Hall
Administrative Judge