

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

In the Matter of:

JORGE HERNANDEZ,

Petitioner.

Docket No. 23-VH-0095-AO-019
(Claim No. 7-210202160A)

August 28, 2024

ORDER OF DISMISSAL

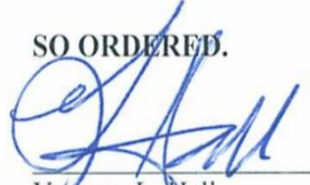
24 C.F.R. § 26.4 (c) provides, “If a party refuses or fails to comply with an order of the hearing officer, including an order compelling discovery, the hearing officer may enter any appropriate order necessary to the disposition of the hearing including a determination against the noncomplying party[.]”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

On May 18, 2023, Petitioner filed a *Request for Hearing* for the Tribunal to review HUD’s determination that Petitioner owed the subject debt. Petitioner failed to comply with the Tribunal’s *Notice of Docketing* issued on May 25, 2023, and subsequent *Show Cause Order* in which the Tribunal specifically stated, “If a party fails to prosecute or defend an action, dismissal of the matter or a decision against that party may also be imposed.”

Petitioner didn’t provide proof of payment or a written release from HUD to prove his position despite being specifically ordered to do so. Petitioner’s wife and co-signer, Annabel Brito-Hernandez, taking responsibility for the debt is also not enough. Co-signers of a Note are jointly and severally liable to the obligation to pay a Note and, as a result, “a creditor may sue the parties to such obligation separately or together.” Mary Jane Lyons Hardy, HUDBCA No. 87-1982-G314, at 3 (July 15, 1987). Hence, HUD as the creditor may proceed against any co-signer for the full amount of the debt since each co-signer is jointly and severally responsible for the debt based on the terms of the Note. Hedieh Rezai, HUDBCA No. 04-A-NYEE016 (May 10, 2004).

The lapse of time since May 2023 has provided Petitioner with opportunities to comply with the Tribunal’s *Orders* but Petitioner has failed to respond. So consistent with the provisions

of 24 C.F.R. § 26.4 (c) and (d), Petitioner's appeal is **DISMISSED WITH PREJUDICE** *sua sponte* for non-compliance with the Tribunal's *Orders*. The stay of proceeding issued on May 25, 2023 is hereby **VACATED**.

SO ORDERED.


Vanessa L. Hall
Administrative Judge