

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

In the Matter of:

Brian Appolean,

Petitioner.

Docket No. 23-VH-0138-AO-034

Claim No. 7-210108450A

May 20, 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 August 3, 2023, Petitioner filed a *Request for Hearing* for the Court to review HUD’s determination that Petitioner owed the subject debt. Petitioner failed to comply with the Court’s *Notice of Docketing*, dated August 10, 2023, and the Court’s *Order of Documentary Evidence*, dated January 25, 2024. Petitioner also failed to comply with the subsequent *Show Cause Order* in which the Court 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)-(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 the proceeding.”

The lapse of time since August 2023 has provided Petitioner with opportunities to comply with the Court’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 Court’s *Orders*. The stay of proceeding issued on August 10, 2023 is hereby **VACATED**.

SO ORDERED.

Vanessa L. Hall
Administrative Judge