

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

In the Matter of:

**PF Edmond Estates LLC,  
Chaim Puretz, and  
PF Holdings Management LLC,**

Respondents.

21-JM-0121-CM-005

June 25, 2021

Appearances: Jessica A. Brautigam, Esquire  
Department of Housing and Urban Development

Presiding Judge: J. Jeremiah Mahoney  
Chief U.S. Administrative Law Judge  
United States Department of Housing and Urban Development

**DEFAULT JUDGMENT AND ORDER**

This case arises from a *Complaint* filed on April 12, 2021, by the United States Department of Housing and Urban Development (“HUD” or “the Department”) against PF Edmond Estates LLC, Chaim Puretz, and PF Holdings Management LLC (collectively, “Respondents”), whereby HUD sought civil money penalties pursuant to 12 U.S.C. § 1735f-15 and 24 C.F.R. Part 30. The *Complaint* alleges that Respondents violated 12 U.S.C. § 1735f-15(c)(1)(B)(x) and their Regulatory Agreement with HUD by knowingly and materially failing to timely provide HUD with annual audited financial statements in connection to Edmond Estates (the “Project”), a 120-unit multifamily property insured by the Federal Housing Administration (“FHA”) located in Phenix City, Alabama.

The *Complaint* was served on Respondents via electronic mail on April 12, 2021, and by United Parcel Service on April 13, 2021. The *Complaint* notified Respondents of their right to request a hearing within 15 days of receipt of the *Complaint*, and to file within 30 days of receipt a written answer admitting or denying HUD’s allegations. It also notified Respondents that a failure to respond could result in HUD seeking a default judgment that could result in a finding that they had admitted all the allegations against them, and that the penalties set forth in the *Complaint* would be immediately due and payable without further proceedings in the event of an issuance of a default order. However, to date, none of the Respondents have filed a response to the *Complaint*, requested an extension of time to do so, or otherwise appeared before the Court in this matter.

On June 1, 2021, HUD filed a *Motion for Default Judgment* on account of Respondents’ failure to timely respond to the *Complaint*. On June 2, 2021, the Court issued an *Order to Show Cause* directing Respondents to respond to the *Complaint* and provide a written explanation for their failure to timely file said response. Respondents have not responded to the *Motion* or to the *Order*.

## LEGAL FRAMEWORK

**Civil Money Penalties.** Under 12 U.S.C. § 1735f-15(c)(1)(B)(x), civil money penalties may be imposed on the mortgagor of a property that includes five or more living units and that has a mortgage insured pursuant to the National Housing Act for the knowing and material failure to timely provide HUD a complete annual financial statement in accordance with the requirements prescribed by HUD. See also 24 C.F.R. § 30.45(c) (permitting civil money penalty actions for such violations). Such penalties may also be imposed on any agent employed to manage the property that has an identity of interest with the mortgagor, and/or, where the mortgagor is an LLC, on any member of the LLC. 12 U.S.C. § 1735f-15(c)(1)(A)(iv)-(v).

Before imposing such a penalty, HUD must file a complaint that gives the respondent an opportunity to request a hearing on the record. 12 U.S.C. § 1735f-15(d)(1); 24 C.F.R. § 30.85. Hearings are conducted before an Administrative Law Judge in accordance with the Administrative Procedure Act and HUD's implementing regulations found in 24 C.F.R. Part 26. 24 C.F.R. § 30.95.

**Default.** HUD's regulations provide that if a respondent fails to file a timely response to a complaint, the Administrative Law Judge may, upon motion, issue a default judgment against the non-responding party. 24 C.F.R. § 26.41(a); see also 24 C.F.R. § 30.90(c). A default constitutes an admission of all facts alleged in the complaint and a waiver of the respondent's right to a hearing on such allegations and entitles the Secretary to a judgment in the amount alleged in the complaint. 24 C.F.R. § 26.41(c).

**Mortgage Insurance for Multifamily Housing Properties.** The HUD program involved in this case is the FHA mortgage insurance program for multifamily housing. See generally 24 C.F.R. part 200. As relevant here, under section 223(f) of the National Housing Act, HUD insures mortgage loans to facilitate the purchase or refinance of multifamily housing projects. 12 U.S.C. § 1715n(f). In exchange for insurance coverage, participating mortgagors must follow all statutory, regulatory, and contractual requirements imposed by HUD. See generally 24 C.F.R. parts 200 & 207.

## FACTS RECITED IN COMPLAINT

1. Respondent PF Edmond Estates LLC is owner of record of the insured Project. Respondent PF Holdings Management LLC is managing agent of the Project. Respondent Chaim Puretz is an owner and managing member of PF Edmond Estates LLC and an owner of PF Holdings Management LLC, and is authorized by both companies to execute their respective certifications of the Project's annual audited financial statements.
2. On January 1, 2011, HUD executed a Regulatory Agreement concerning the Project property. On January 3, 2011, the Project refinanced its debt with a mortgage insured by HUD pursuant to Section 223(f) of the National Housing Act and the Regulatory Agreement.
3. On June 14, 2016, PF Edmond Estates LLC entered into a Release and Assumption Agreement, dated May 3, 2016, to assume the Mortgage, Note, and Regulatory Agreement dated January 1, 2011.
4. The Project is currently subject to a mortgage that is insured by FHA.

5. As the owner and management agent of the Project and mortgagor of record of the Project's FHA-insured mortgage, Respondents are responsible for, among other things, providing HUD with annual audited financial statements in connection the Project.

6. The Project's fiscal year is January 1 through December 31.

7. Pursuant to the Regulatory Agreement between PF Edmond Estates LLC and HUD, and pursuant to Sections 3-7 and 3-8 of HUD Handbook 4370.2, Respondents were obligated to submit an annual audited financial statement, a Mortgagor's Certification, and a Management Agent Certification to HUD no later than 90 days after the end of each fiscal year.

8. Each year Respondents failed to timely submit the annual audited financial statement constitutes a separate breach of the Regulatory Agreement between Respondent PF Edmond Estates and HUD.

9. The timely filing of annual audited financial statements is an explicit condition relied on by HUD upon which the Regulatory Agreement is based and functions. A violation of the requirement to timely file the annual audited financial statement is a material breach of the Regulatory Agreement and impacts Respondents' right to receive mortgage insurance.

10. Respondents knew of HUD's requirement to submit annual audited financial statements within 90 days of the end of its fiscal year because, after Respondents failed to timely submit annual audited financial statements in the fiscal year ended December 31, 2016, HUD issued multiple notices to Respondents regarding such failure, including a September 6, 2017, letter emphasizing the importance of timely submitting the required financial statements.

11. Respondents knew or should have known they had not submitted their annual audited financial statements because it was in Respondents' sole control to certify and submit the annual audited financial statements.

12. Respondents did not submit the annual audited financial statement for the fiscal year ended December 31, 2017, until July 30, 2018, 121 days or four months after it was required to be submitted (the deadline was March 31, 2018).

13. Respondents did not submit the annual audited financial statement for the fiscal year ended December 31, 2018, until July 3, 2019, 94 days or three months after it was required to be submitted (the deadline was March 31, 2019).

## CONCLUSIONS AND PENALTY

HUD filed the *Complaint* in this matter on April 12, 2021 and served it on Respondents by electronic mail on April 12, 2021, and by United Parcel Service on April 13, 2021. However, to date, none of the Respondents have filed an answer, nor have any Respondents responded to HUD's *Motion for Default Judgment* or the *Order to Show Cause* issued by the Court.

Due to their failure to timely file an answer in accordance with 24 C.F.R. § 30.90 or otherwise defend themselves in this matter, Respondents are in default under 24 C.F.R. § 26.41. Accordingly, Respondents are deemed to have admitted all facts alleged in the *Complaint* and to have waived their right to a hearing on the penalty proposed in the *Complaint*. See 24 C.F.R. § 26.41(c).

By reason of the facts recited above and deemed admitted in this matter, Respondents have knowingly and materially failed to timely provide HUD with annual audited financial statements in connection to the Project, in violation of the Regulatory Agreement and 12 U.S.C. § 1735f-15(c)(1)(B)(x). Respondents' knowing and material failure to timely provide HUD with annual audited financial statements justifies HUD's request for a determination finding the Respondents jointly and severally liable in the amount of \$15,950 for their failure to timely provide HUD with annual audited financial statements for fiscal year ended December 31, 2017, and in the amount of \$12,644 for their failure to timely provide HUD with annual audited financial statements for fiscal year ended December 31, 2018, for a total civil money penalty of \$28,594, as authorized by 12 U.S.C. § 1735f-15 and 24 C.F.R. § 30.45.

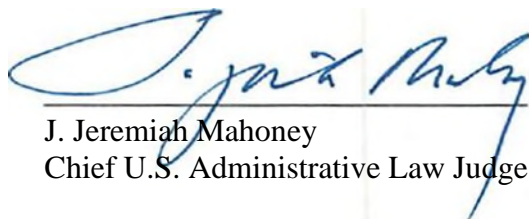
### **ORDER**

Accordingly, it is hereby **ORDERED** that:

1. Pursuant to the foregoing, the Department's *Motion for Default Judgment* is **GRANTED**, and Respondents PF Edmond Estates LLC, Chaim Puretz, and PF Holdings Management LLC are hereby found in **DEFAULT**.
2. Based upon the foregoing findings of fact, Respondents are liable for knowingly and materially failing to timely provide HUD with annual audited financial statements for fiscal years ended December 31, 2017, and December 31, 2018, in violation of 12 U.S.C. § 1735f-15(c)(1)(B)(x) and their Regulatory Agreement with HUD.
3. Respondents shall pay to HUD civil penalties totaling \$28,594. Such amount is due and payable immediately without further proceedings. 24 C.F.R. § 26.41(c).

This Order constitutes the **FINAL AGENCY ACTION**. 24 C.F.R. § 26.41(b).

So **ORDERED**,



J. Jeremiah Mahoney  
Chief U.S. Administrative Law Judge

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**Judicial review of final decision.** Respondents failed to avail themselves of available administrative remedies, including a due process hearing. Any party adversely affected by this final decision may seek judicial review of that decision in the appropriate United States Court of Appeals. A party must file a written petition in that court within 20 days of this decision. See 12 U.S.C. § 1735f-15(e).

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing **DEFAULT JUDGMENT AND ORDER** issued by J. Jeremiah Mahoney, Chief Administrative Law Judge, HUDOHA 21-JM-0121-CM-005, were sent to the following parties on this 25<sup>th</sup> day of June 2021, in the manner indicated:



Cinthia Matos, Docket Clerk  
HUD Office of Hearings and Appeals

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*For the Secretary*