

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES

In The Matter of:

MONTEREY ARMS,
INCORPORATED,

Respondent.

HUDALJ 01-388-CMP

ORDER OF DISMISSAL

On January 22, 2001, the Secretary of the United States Department of Housing and Urban Development (“Secretary of HUD”) through the Departmental Enforcement Center (“DEC”) filed a Complaint seeking civil money penalties of \$82,500 against Monterey Apartments, Incorporated (“Respondent”). Respondent received a copy of the Complaint on January 25, 2002, but failed to file an answer.

On November 27, 2002, HUD served a Motion for Default Judgment on Monterey Arms, Incorporated. No reason was given in the Motion for the sudden change in the name of the Respondent. The DEC confirmed by telephone that the correct name of the entity should be Monterey Arms, Incorporated. As the complaint and the default motion have been issued in completely different names to an incorporated entity, I find that one or the other must, therefore, be defective. This defect, the same as issuing a complaint against John Smith and then seeking to default John Doe for failure to timely respond, is fatal to this case and precludes any further consideration of this matter. Therefore, it is **ORDERED** that this matter is dismissed, without prejudice.

ARTHUR A. LIBERTY
Chief Administrative Law Judge