

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

In the Matter of:

KRYSTYNA DANILKOWICZ, and
GUNNISON REAL ESTATE, LTD.

Respondents.

HUDALJ No. 07-006-PF
OGC No. 07-3388-PF
& 07-3389-PF

DEFAULT JUDGMENT AND ORDER

The above-entitled matter is before this Court on a Motion for Default Judgment, filed on November 22, 2006 by the Department of Housing and Urban Development (“the Department” or “HUD”). Neither Respondent Krystyna Danilkowicz nor Respondent Gunnison Real Estate, Ltd. has answered the motion. Accordingly, the motion will be *Granted*.

On August 18, 2006, the Department filed a Complaint seeking a civil penalty against Respondents pursuant to the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812 and the applicable regulations at 24 C.F.R. Part 28. The Complaint charges that Respondents submitted false certifications in connection with five HUD Real Estate Owned (“REO”) properties that they knew, or had reason to know, were false. It seeks penalty against Respondent Danilkowicz in the amount of \$27,500 and against Respondent Gunnison, jointly with Respondent Danilkowicz and severally, for \$22,000. The Complaint notified Respondents of their rights to appeal the imposition of the civil penalty by filing an Answer within 30 days of the receipt of the Complaint, and that failure to file an Answer would cause the Department to file a Motion for Default Judgment with regard to the allegations of the Complaint.

The Department served Respondents by both UPS and the U. S. Postal Service. Each Respondent received a copy of the Complaint on or before October 11, 2006. Neither Respondent filed an Answer to the Complaint before the Motion for Default Judgment was filed, and none has been filed to date.

The regulations provide that if a respondent fails to file an Answer within 30 days of receiving a Complaint, the Administrative Law Judge shall issue a Default Judgment. *See* 24 C.F.R. § 26.39(b). Failure to file an Answer to the Complaint constitutes an admission of all facts alleged in the Complaint and a waiver of a respondent’s right to a hearing. *See* 24 C.F.R. § 26.39(c). Further, if a party fails to defend an action, the

Administrative Law Judge may issue an initial decision against the respondent. *See* 24 C.F.R. § 26.39(d).

FINDINGS OF FACT

1. All facts alleged in the Department's Complaint dated August 18, 2006, are hereby found to have been admitted by Respondent Krystyna Danilkowicz; and
2. All facts alleged in the Department's Complaint dated August 18, 2006, are hereby found to have been admitted by Respondent Gunnison Real Estate, Ltd.; and
3. Respondents Krystyna Danilkowicz and Gunnison Real Estate, Ltd. have failed to defend this action.

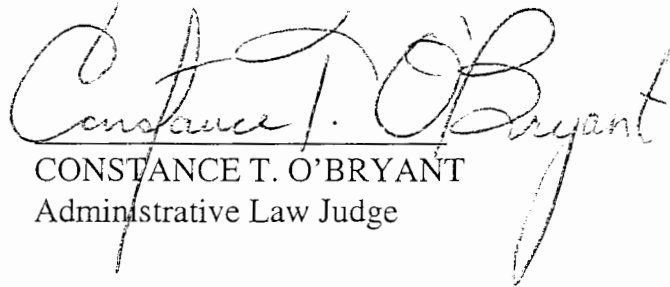
CONCLUSION OF LAW

By reason of the facts admitted by Respondents Krystyna Danilkowicz and Gunnison Real Estate, Ltd., in Counts one through five of the Complaint, they have committed a knowing and material violation of 31 U.S.C. § 3802(a)(2) and 24 C.F.R. § 28.10(b), for which civil money penalties may be imposed. Respondent Daliklowicz is liable for civil penalties of \$27,500 (5 penalties of \$5,500) for four false Broker Certifications identified in Counts one through four and one false Individual Owner-Occupant Certification identified in Count 5. Respondent Gunnison Real Estate, Ltd., is jointly and severally liable with Respondent Danilkowicz for the \$22,000 identified in Counts one through four for its role in the Broker Certification transactions.

ORDER

1. The Motion for Default Judgment is *Granted*;
2. Respondent Krystyna Danilkowicz shall pay a civil money penalty of \$27,500 (5 penalties of \$5,500) and Gunnison Real Estate, Ltd. is jointly and severally liable for a civil penalty of \$22,000, which penalty is due and payable immediately without further proceedings; and
3. This Order shall constitute the final agency action. *See* 24 C.F.R. § 26.39(c).

So ORDERED, this 13th day of December, 2006.



CONSTANCE T. O'BRYANT
Administrative Law Judge