

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

In the Matter of:)	
)	HUDALJ No.
SANDRA GARCIA,)	OGC No. 08-3487-PF
)	
Respondent.)	
)	

DEFAULT JUDGMENT AND ORDER

The above-entitled matter is before this Court on a Motion for Default Judgment, filed on March 19, 2008 by the Department of Housing and Urban Development ("the Department" or "HUD") against Respondent Sandra Garcia ("Respondent"). Respondent has not answered the motion. Accordingly, the motion will be *Granted*.

On February 11, 2008, the Department issued a Complaint dated February 8, 2008 seeking a civil penalty against Respondent 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 Respondent submitted or caused to be submitted false certifications in connection with the rental of a property through HUD's Section 8 program that she knew, or had reason to know, were false. Specifically, Respondent certified that she was not a member of the family to which she proposed to rent the apartment she owned. In fact, the tenant was Respondent's sister and was therefore ineligible for Section 8 subsidies. The Complaint seeks a penalty and assessments in the total amount of \$65,861 against Respondent for the funds Respondent claimed or caused to be claimed that were supported by the false certifications. The amount HUD seeks is composed of a \$5500 penalty, plus twice the \$30,623 falsely claimed, minus the \$885 HUD believes Respondent has paid in restitution in a related criminal matter. The Complaint notified Respondent of her right to appeal the imposition of the civil penalty and assessments 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 Complaint was personally served on Respondent on February 15, 2008. Respondent failed to file an Answer to the Complaint before the Department filed its Motion for Default Judgment, and none has been filed to date.

HUD's regulations provide that if a respondent fails to file an Answer within 30 days of receiving a Complaint, the Administrative Law Judge may issue a Default Judgment. 24 C.F.R. § 26.39(a). 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. 24 C.F.R. § 26.39(c).

FINDINGS OF FACT

1. HUD properly served the Complaint on Respondent on February 15, 2008.
2. All facts alleged in the Department's Complaint dated February 8, 2008, are hereby found to have been admitted by Respondent; and
3. Respondent has failed to defend this action.

CONCLUSIONS OF LAW

By reason of the facts admitted through the Respondent's default, which facts are set forth in the Complaint, Sandra Garcia has committed a knowing and material violation pursuant to 31 U.S.C. § 3802(a)(1) and 24 C.F.R. § 28.10(b), for which a civil money penalty and assessments may be imposed. Respondent is liable for a civil penalties of \$5,500 and assessments totaling \$61,246 for falsely claimed funds, which conclusion is supported by Respondent's false certification that she was not a family member of those to whom she rented an apartment she owned through HUD's Section 8 Program. The total civil penalty and assessments shall be reduced by the \$885.00 HUD believes Respondent has paid in an associated criminal matter.

ORDER

1. The Motion for Default Judgment is *Granted*.
2. Respondent shall pay a civil money penalty and assessments totaling \$65,861, such amount being due and payable immediately without further proceedings. 24 C.F.R. § 26.39(c).
3. This Order shall constitute the final agency action. 24 C.F.R. § 26.39(b).

So ORDERED, this 15th day of April, 2008.

William B. Moran
William B. Moran
U.S. Administrative Law Judge