

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

U.S. DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT,

Petitioner,

v.

CHRISTOPHER L. HALEY and
JEREMIAH D. GREER

Respondents.

HUDALJ 10-M-006-PF-2

January 25, 2010

Office of Administrative Law Judges
Deborah Black

I HEREBY CERTIFY THIS TO BE
A TRUE AND ACCURATE COPY

DEFAULT JUDGMENT AND ORDER

The above-entitled matter is before this Court on a Motion for Default Judgment as to Respondent Christopher L. Haley. The motion was filed on January 12, 2010 by the United States Department of Housing and Urban Development ("HUD" or "the Government"). Respondent Christopher L. Haley ("Respondent Haley") has not answered the motion within the time allowed.¹ Accordingly, the motion for Default Judgment will be **GRANTED**.

On October 23, 2009, HUD filed a Complaint against Respondents, seeking the imposition of a civil penalty and assessment totaling \$118,518.22, jointly and severally, pursuant to the Program Fraud Civil Remedies Act of 1986 ("PFCRA"), 31 U.S.C. §§ 3801-3812, and the applicable regulations at 24 Code of Federal Regulations (C.F.R.) Part 28. The Complaint charges that Respondents caused to be made a claim for mortgage insurance benefits to HUD under the Single Family Mortgage Insurance Program that they knew or had reason to know was supported by written statements asserting material facts which were false and fraudulent, and that omitted material facts, making such statements false and fraudulent as a result of such omissions. The Complaint notified Respondents of their rights to appeal the imposition of the civil penalty and assessment by filing a written response within 30 days of the receipt of the Complaint, and that failure to file a response would cause HUD to file a Motion for Default Judgment with regard to the allegations in the Complaint.

HUD served each Respondent by certified mail.² Records establish that Respondent Haley received a copy of the Complaint on November 10, 2009. His response to the Complaint,

¹ Respondent is allowed ten (10) days to respond to a default motion. 24 C.F.R. § 26.41(a).

² Respondent Jeremiah D. Greer timely submitted a timely response requesting a hearing, and thus no issue of default is present as to him. The findings and conclusions contained in this Order apply only to Respondent Haley.

requesting a hearing, would have been due to HUD on or before December 10, 2009. No such response has been received.

The applicable regulations provide that a respondent “may file a written response to the complaint, in accordance with § 26.30 of this title, within 30 days of service of the complaint,” and that “[t]he response shall be deemed to be a request for a hearing.” 24 C.F.R. § 28.30(a); see 31 U.S.C. § 31 U.S.C. § 3803(d); see also 24 C.F.R. § 26.38 (“The respondent’s response to the complaint shall be timely filed with the Docket Clerk and served upon the Government in accordance with the procedures set forth in the complaint.”). In addition, the regulations state that if the respondent fails to submit a response, HUD may file a motion for default judgment in accordance with 24 C.F.R. § 26.41. See 24 C.F.R. §§ 26.28 and 28.30(b).

Title 24, C.F.R., § 26.41 provides:

(a) General. The respondent may be found in default, upon motion, for failure to file a timely response to the Government’s complaint. The motion shall include a copy of the complaint and a proposed default order, and shall be served upon all parties. The respondent shall have 10 days from such service to respond to the motion.

(b) Default order. The ALJ shall issue a decision on the motion within 15 days after the expiration of the time for filing a response to the default motion. If a default order is issued, it shall constitute the final agency action.

(c) Effect of default. A default shall constitute an admission of all facts alleged in the Government’s complaint and a waiver of respondent’s right to a hearing on such allegations. The penalty proposed in the complaint shall be set forth in the default order and shall be immediately due and payable by respondent without further proceedings.

FINDINGS OF FACT

1. Respondent Haley is in default;
2. Respondent Haley has failed to defend this action;
3. All facts alleged in HUD’s Complaint dated October 23, 2009, have been admitted by Respondent Haley; and
4. The penalty proposed in the Complaint must be imposed.³

³ 24 C.F.R. § 2641(c). HUD prepared and attached to the Motion for Default Judgment an analysis of the factors listed in 24 C.F.R. § 28.40(b) for the purpose of demonstrating that the civil penalty and assessment in this matter, as sought in the Complaint, was appropriate. Based on this analysis, the maximum civil penalty and assessment in this matter was deemed appropriate and—less amounts recouped by resale and indemnification—sought in the Complaint. Respondent Haley’s liability in this matter is joint and several.

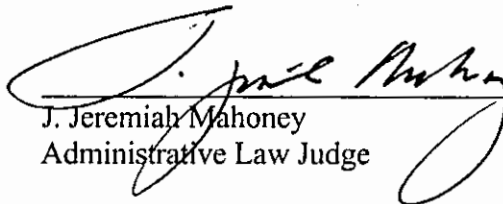
CONCLUSIONS OF LAW

By reason of the facts admitted by Respondent Haley as set forth in the Complaint, Respondent Haley caused to be made a claim for mortgage insurance benefits to HUD/FHA under the Single Family Mortgage Insurance Program that he knew or had reason to know was supported by written statements asserting material facts which were false, fictitious, or fraudulent, and that such statements omitted material facts, making them false, fictitious, or fraudulent as a result of such omissions. The allegations of facts set forth in the Complaint and admitted by the Respondent Haley's default are legally sufficient to establish his liability for the asserted civil penalty and assessment, totaling \$118,518.22, pursuant to 31 U.S.C. § 3802(a)(1) and 24 C.F.R. § 28.10(a)(1).

ORDER

Accordingly, it is **ORDERED**:

1. The Motion for Default Judgment is **GRANTED**; and
2. Respondent Haley shall pay a civil penalty and assessment of \$118,518.22 to HUD, which is due and payable immediately without further proceedings.



J. Jeremiah Mahoney
Administrative Law Judge

Notice of Appeal Rights. This Order constitutes the final agency action. 24 C.F.R. § 26.41(b). Respondent Haley may seek judicial review of this Order as provided in 31 U.S.C. § 3805.