

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

In the Matter of:

THOMAS J. GANDOLFO and
THERE'S NO PLACE LIKE HOME
REALTY,

Respondents.

HUDALJ 91-1655-DB

ORDER OF DISMISSA

This proceeding arose as a result of a proposal by the Department of Housing and Urban Development ("the Department," "the government" or "HUD") dated February 4, 1991, to debar Thomas J. Gandolfo ("Respondent") and his affiliate, There's No Place Like Home Realty, from participating in primary covered transactions and lower tier covered transactions as either a participant, principal or contractor at HUD or throughout the executive branch of the federal government for a period of two years from the date of the final determination of this matter. The proposed debarment is based on information indicating irregularities of a serious nature in Respondents' dealings with the Government.

On March 22, 1991, Respondents,' through their attorney, requested a hearing, and on April 9, 1991 I issued a Notice Of Hearing And Order for this proceeding. The government filed its Complaint on May 9, 1991, and Respondents' filed their answer on June 10, 1991. On September 5, 1991, I issued an Order scheduling a hearing in Denver on October 8, 1991. The government's counsel informed this office on September 16, 1991, that HUD and the Respondents had reached an agreement in principal and expected to settle the case. I stayed the proceeding on September 17, 1991.

The government informed this court on December 18, 1991 that it mailed its proposed settlement agreement to Respondents on November 26, 1991, and had not received a response. During the first week of January 1992 the government indicated it received a phone call from Respondents' counsel who expressed concerns over Respondents' financial ability to pay the amount HUD required by certain provisions in the proposed settlement agreement. The government referred Respondent's counsel to the Region VIII program enforcement officer to discuss possible resolution of the problem.

On March 10, 1992 the government reported that Respondents' counsel had not contacted HUD to discuss possible modifications to HUD's proposed settlement agreement. On March 13, 1992, Respondents' counsel informed the Chief Docket Clerk that, while he doubted the matter would ever be tried because Respondents have admitted violating the regulations, they would still like to resolve the matter in a manner similar to what they had agreed, but that the amount was "beyond Mr. Gandolfo's means to pay."

Since by June 2, 1992 this matter had not been resolved and Respondents had not communicated with HUD, the government filed a Motion To Dismiss Respondent's appeal for failure to prosecute. By Order dated June 26, 1992, Respondents were required to respond to the Government's Motion To Dismiss by July 8, 1992. Respondents were advised that failure to respond to that Order would constitute consent to a dismissal of Respondents' appeal and entry of a judgement by default.

To date, Respondents have failed to respond to the government's Motion. Accordingly, and for good cause shown, this proceeding is DISMISSED with prejudice.

So ORDERED.

ROBERT A. ANDRETTA
Administrative Law Judge

Dated: July 23, 1992