

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

In the Matter of:

STUART GLASHOW
SOUTHERN STOUDE, INC.

Respondent

HUDALJ 92-1834-DB(S)

INITIAL DETERMINATION AND ORDER

Statement of the Case

This proceeding arose pursuant to 24 C.F.R. Sec. 24.100 et seq. as a result of action taken by the General Deputy Assistant Secretary for Housing and Urban Development ("the Department" or "HUD" or "the Government") on March 10, 1992, in a letter suspending Respondent and his affiliate from engaging in covered transactions either as participants or principals at HUD and throughout the Executive Branch of the Federal Government and from participating in procurement contracts at HUD. This action was based on information indicating serious irregularities in Respondent's performance as sales agent for a contractor and supplier of certain security grilles purchased with HUD funds by the Ansonia Housing Authority of Ansonia, Connecticut. Respondent and his affiliate were suspended pending the outcome of a criminal investigation by the Office of Inspector General of the Department and any legal, debarment or Program Fraud Civil Remedies Act proceedings which may ensue. Respondent appealed and requested a hearing.

Pursuant to Order, the Government timely filed a Complaint detailing the charges against Respondent. On the due date for Respondent's Answer to the Complaint, April 14, 1992, Respondent requested an extension until April 25, 1992, in which to file the Answer. The request was granted. However, neither an Answer nor a request for a further extension had been filed by 1:45 p.m., May 11, 1992, when the Government filed by telecopier a motion to dismiss Respondent's appeal arguing, in effect, that Respondent has failed to prosecute his case. Slightly more than an hour later, Respondent's Answer arrived in the mail under cover of a letter dated May 6, 1992. However, Respondent did not request permission to file his Answer later than April 25, 1992, or explain why the Answer arrived approximately three weeks after the due date.

At approximately 4 p.m. on May 11, 1992, an Order was transmitted by telecopier to counsel for Respondent directing Respondent to file by telecopier a response to the Government's "Motion to Dismiss Respondent's Appeal" no later than the close of business on May 12, 1992. Respondent was warned in that Order that failure to comply with the

Order would constitute consent to the Government's motion. Respondent has failed to respond to the motion as ordered and has not otherwise contacted this office. Furthermore, Respondent has neither filed his witness and document lists by May 5, 1992, as ordered, nor requested permission to do so at a later date. The Government asserts Respondent likewise has failed to submit these materials to the Government as ordered. Accordingly, I have concluded that Respondent has abandoned prosecution of his case and that Respondent's Answer should not be accepted for filing in the record. Inasmuch as the record therefore contains no Answer denying the allegations in the Government's Complaint, those allegations must be taken as admitted. See 24 C.F.R. Sec. 26.11.

Conclusions and Order

Because Respondent has repeatedly failed to file pleadings and documents as ordered, I conclude that he has abandoned prosecution of his case. Further, in accordance with 24 C.F.R. Secs. 26.13(f) and 26.24, I find that the record contains adequate evidence to support the suspension action by the Government against Respondent and his affiliate on March 10, 1992, and that the suspension was issued in accordance with law. It is hereby ORDERED:

1. Respondent's Answer to the Government's Complaint received in this office on May 11, 1992, is not accepted for filing, and the Chief Docket Clerk shall return it to counsel for Respondent; and
2. Respondent's appeal and request for hearing are dismissed.

THOMAS C. HEINZ
Administrative Law Judge

Dated: May 13, 1992.