

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF HEARINGS AND APPEALS

In the Matter of:

Elaine Kevgas,

Petitioner

20-VH-0119-AG-067

721014476

September 27, 2021

ORDER OF DISMISSAL

24 C.F.R. § 26.4 (c) provides that “If a party refuses or fails to comply with an order of the hearing officer, including an order compelling discovery, the hearing officer may enter any appropriate order necessary to the disposition of the hearing *including a determination against the noncomplying party...*” Further, under 24 C.F.R. § 26.4 (d), it provides, “If a party fails to prosecute or defend an action brought under subpart A of this part, the hearing officer may dismiss the action or may issue an initial decision against the non-prosecuting or defending party. (Emphasis added).

Petitioner herein has failed to offer sufficient evidence to prove that the amount of the subject debt claimed by the Secretary does not exist, or is unenforceable or not past due, or that the proposed garnishment amount would create a financial hardship. The lapse of time since March 2020 has provided Petitioner with a number of opportunities to comply with the Court’s *Orders* to produce such evidence but Petitioner has failed to do so. As a result, the Court is unable to determine the credibility of Petitioner’s argument claiming hardship or the non-existence of the subject debt due to Petitioner’s non-compliance. Further, while Petitioner may wish to negotiate repayment terms with the Department, this Court is not authorized to extend, recommend, or accept any payment plan or settlement offer on behalf of the Department. Petitioner may want to discuss this matter with Counsel for the Secretary or the Director of HUD Financial Operations Center, 52 Corporate Circle, Albany, NY 12203-5121, who may be reached at 1-800-669-5152, extension 2859. Petitioner may also request a review of her financial status by submitting to the HUD Office a Title I Financial Statement (HUD Form 56142).

The *Order to Show Cause* and subsequent *Order Granting Extension*, issued on June 23, 2021 and July 22, 2021 respectively by the Court, specifically stated “**Failure to comply with this Order shall result in sanctions being imposed by the Court pursuant to 24 C.F.R. § 26.4 (c) and (d), including judgment being entered on behalf of the opposing party or dismissal of this action.**” (Emphasis in original). Consistent with the provisions of 24 C.F.R. §§ 26.4 (c) and (d), Petitioner’s appeal is **DISMISSED** *sua sponte*. Therefore, it is hereby

ORDERED that this matter be **DISMISSED WITH PREJUDICE** and the stay of proceeding issued on March 11, 2020 is VACATED.

SO ORDERED.



Vanessa L. Hall
Administrative Judge