

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

In the Matter of:

ELI GOBIOFF,

Respondent.

21-JM-0228-DB-007

November 15, 2021

ORDER OF DISMISSAL AND REMAND

The above-captioned matter is before the Court on a *Motion to Dismiss Respondent’s Request for a Hearing* (“Motion”), filed on October 29, 2021, by the U.S. Department of Housing and Urban Development (“Government” or “HUD”) against Respondent Eli Gobioff. Respondent did not file an Answer in compliance with this Court’s *Notice of Hearing and Order* issued on September 13, 2021. Respondent has not filed a response to HUD’s Motion within the period specified by the regulations governing this proceeding, nor has Respondent filed a response to the *Order to Show Cause* issued by the Court on November 5, 2021.

I. Background/Procedural History

On May 13, 2021, the Government served a *Notice of Proposed Debarment* against Respondent via UPS and email. The *Notice of Proposed Debarment* also served as a *Complaint* under 24 C.F.R. § 26.13. The *Notice of Proposed Debarment* proposed the debarment of Respondent for a three-year period pursuant to 2 C.F.R. §§ 180.800(c)(2), (d), and 180.325. The *Notice of Proposed Debarment* charged Respondent with knowingly hiring and conducting business with a debarred individual to manage a multifamily housing property receiving project-based assistance from HUD under Section 8 of the United States Housing Act of 1937, 42 U.S.C. § 1437f, and pursuant to a Housing Assistance Payments contract.

The *Notice of Proposed Debarment* notified Respondent of his right to contest the debarment and request a hearing. The *Notice of Proposed Debarment* stated that if Respondent chose to exercise this right, he must submit his written response within 30 days of receipt of the *Notice of Proposed Debarment*. The *Notice of Proposed Debarment* specified that his written response must contain all the information listed in 2 C.F.R. § 180.825, including specific facts contradicting the statements contained in the notice. See also 24 C.F.R. § 26.14(b) (requiring answer to respond specifically to each factual allegation in complaint and set forth any affirmative defenses, mitigating factors, or extenuating circumstances). The *Notice of Proposed Debarment* further stated that Respondent’s failure to respond within the 30-day period would result in the proposed debarment becoming a final agency action.

Pursuant to the *Notice of Proposed Debarment* and 24 C.F.R. § 26.14(a), Respondent's was required to respond the *Notice of Proposed Debarment* on or before June 13, 2021. On June 11, 2021, Respondent requested an extension to his response deadline. HUD's Departmental Enforcement Center granted a total of three extensions to Respondent, with the final deadline set for August 6, 2021. On August 6, 2021, Respondent submitted the following response: "I would like to contest the debarment and request a hearing."

Thereafter, counsel for the Government referred the *Notice of Proposed Debarment* and Respondent's response to this Court for proceedings under 24 C.F.R. § 24.1, 2 C.F.R. part 2424, and 24 C.F.R. part 26, subpart A, to the extent those provisions are not inconsistent with the hearing procedures required by 2 C.F.R. §§ 180.840 and 180.845. On September 13, 2021, this Court issued a *Notice of Hearing and Order* providing Respondent another opportunity to submit an Answer that included an admission or denial of each allegation in the Government's *Notice of Proposed Debarment* to be filed by September 27, 2021.

On October 29, 2021, the Government filed the Motion to dismiss this proceeding and remand it to the debarring official. On November 5, 2021, this Court issued an *Order to Show Cause* why the Government's Motion should not be granted, setting a date for a response of November 12, 2021.

To date, Respondent has not filed an Answer, responded to the *Order to Show Cause*, or otherwise contested the *Notice of Proposed Debarment*.

II. Legal Principles

These proceedings are conducted under the regulations of 24 C.F.R. subpart A. See 2 C.F.R. § 2424.842. Section 26.14 of title 24 of the Code of Federal Regulations requires that an answer be filed within 30 days of receipt of the *Notice of Proposed Debarment* when it acts as the complaint, and requires that allegations not specifically denied by a respondent be deemed admitted. See also 24 C.F.R. § 26.13(c) (specifying when a notice of administrative action may serve as a complaint). A response to a motion must be filed within 10 days of the motion. See 24 C.F.R. § 26.10(c).

III. Discussion and Findings

This proceeding is before the Court upon Respondent's request for a hearing to contest the *Notice of Proposed Debarment*. The Government filed the *Notice of Proposed Debarment* against Respondent on May 13, 2021. The Government served the *Notice of Proposed Debarment* on Respondent by United Parcel Service and electronic mail on May 13, 2021. Respondent submitted a written response to the *Notice of Proposed Debarment* on August 6, 2021 and requested a hearing to contest the *Notice of Proposed Debarment*. Respondent's August 6, 2021 written response did not specifically deny any allegations in the *Notice of Proposed Debarment*. This Court issued a *Notice of Hearing and Order* on September 13, 2021, requiring Respondent to file an Answer by September 27, 2021. Respondent has not filed an Answer. Respondent has not specifically denied any of the allegations in the *Notice of Proposed Debarment*. Respondent has failed to raise any material fact in dispute for the Court to consider.

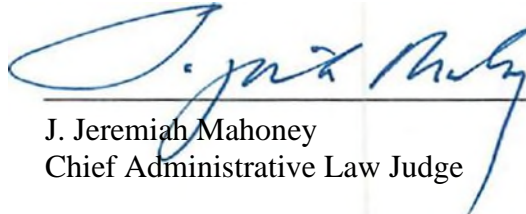
Respondent had until November 8, 2021 to file a response to the Motion, and until November 12, 2021 to file a response to the *Order to Show Cause*. Under 24 C.F.R. § 26.14(c), Respondent has admitted the factual allegations in the *Notice of Proposed Debarment* due to his failure to respond to the allegations as required under § 26.14, the *Notice of Hearing and Order*, and the *Order to Show Cause*. As such, the factual allegations in the *Notice of Proposed Debarment* are hereby incorporated as the Court's findings of fact in this matter.

Accordingly, the Government's motion will be **GRANTED**.

IV. Conclusion and Order

Having made the foregoing findings of fact, Respondent's contest of the *Notice of Proposed Debarment* is **DISMISSED**, and this matter is **REMANDED** to the Debarring Official for determination of a debarment against Respondent.

So **ORDERED**,



J. Jeremiah Mahoney
Chief Administrative Law Judge