

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

In the Matter of:

NB-EDEN TIC 1, LLC, a Delaware Limited Liability Company;
NB-EDEN TIC 2, LLC, a Delaware Limited Liability Company;
NB-EDEN TIC 3, LLC, a Delaware Limited Liability Company;
NB-EDEN TIC 4, LLC, a Delaware Limited Liability Company;
NB-EDEN TIC 5, LLC, a Delaware Limited Liability Company;
NB-EDEN TIC 6, LLC, a Delaware Limited Liability Company;
NB-EDEN TIC 7, LLC, a Delaware Limited Liability Company;
NB-EDEN TIC 8, LLC, a Delaware Limited Liability Company;
NB-EDEN TIC 9, LLC, a Delaware Limited Liability Company;
NB-EDEN TIC 10, LLC, a Delaware Limited Liability Company;
NB-EDEN TIC 11, LLC, a Delaware Limited Liability Company;
NB-EDEN TIC 12, LLC, a Delaware Limited Liability Company;
ESTELLE TENNBAUM; the MARIANNE S. PERAKIS TRUST;
MARIANNE S. PERAKIS as the Sole Trustee of the Marianne S.
Perakis Trust; AIR WAY PARTNERS V, a California General
Partnership; the EDWARD A LADRECH SEPARATE PROPERTY
TRUST; EDWARD A. LADRECH as the Sole Trustee of the Edward
A. Ladrech Trust; LESLEY HITCHINGS; WILLIAM HITCHINGS;
NEIL GAROFANO; the JOHN AND ROXANN PECHARICH TRUST;
JOHN PECHARICH as Trustee of the John and Roxann Pecharich
Trust; ROXANN PECHARICH as Trustee of the John and Roxann
Pecharich Trust; the DENIS F. & MARY R. O'CONNOR TRUST
UDT DATED APRIL 9, 1997; DENIS O'CONNER as Trustee of the
Denis F. & Mary R. O'Connor Trust UDT dated April 9, 1997;
MARY O'CONNOR as Trustee of the Denis F. & Mary R.
O'Connor Trust UDT dated April 9, 1997; ELIZABETH KEYS
MACMANUS; DONALD HUFFMAN; SYLVIE HUFFMAN; MALVINA
WEISS; and MURIEL SHANDLER,

Respondents.

23-JM-0093-CM-003

October 25, 2023

**ORDER DISMISSING COMPLAINT AGAINST RESPONDENTS
MALVINA WEISS AND NB-EDEN TIC 11, LLC**

This matter is before the Court upon a *Complaint for Civil Money Penalties*
("Complaint") filed by the United States Department of Housing and Urban Development

(“HUD”) seeking to impose civil money penalties against the Respondents pursuant to 12 U.S.C. § 1735f-15(c) as implemented by 24 C.F.R. part 30.

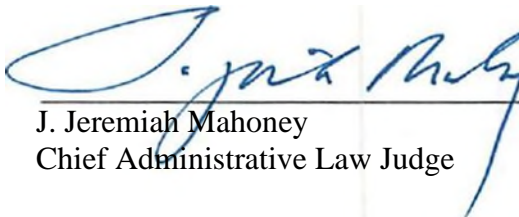
When HUD seeks to assess civil money penalties under 12 U.S.C. § 1735f-15, the complaint must be served upon the respondents and simultaneously filed with this Court. 24 C.F.R. § 30.85(b). Upon receipt of the complaint, the respondents have 15 days to request a hearing before this Court. See 12 U.S.C. § 1735f-15(d)(2); 24 C.F.R. § 30.90(a).

In this case, the *Complaint* was filed on May 18, 2023. The Court docketed the *Complaint* as Case No. 23-JM-0093-CM-003. The Court has not issued any orders or scheduled a hearing in this matter because none of the Respondents have filed a hearing request and it is unclear whether and when service of the *Complaint* was completed upon all the Respondents.¹

On October 20, 2023, HUD filed a *Motion to Dismiss* seeking to dismiss, without prejudice, the proceedings against Respondent Malvina Weiss and Respondent NB-Eden TIC 11, LLC, on the basis of settlement. HUD represents that the remaining Respondents are not parties to the settlement and that, upon dismissal of Respondents Weiss and NB-Eden TIC 11, LLC, HUD intends to file an amended complaint naming additional parties as respondents based upon recently discovered facts.

For good cause shown, the *Complaint* is hereby **DISMISSED** as against Respondent Malvina Weiss and Respondent NB-Eden TIC 11, LLC.

So **ORDERED**,



J. Jeremiah Mahoney
Chief Administrative Law Judge

¹ On June 20, 2023, Respondent Sylvie Huffman, member of Respondent NB-Eden TIC 10, LLC, filed a letter with the Court indicating that a third party was “handling the response and negotiations with HUD.” As the letter did not request a hearing, the Court did not treat it as a hearing request. The Court has received no other correspondence from any of the Respondents. Ordinarily, when a respondent misses the 15-day deadline to request a hearing in a civil money penalty matter, the Administrative Law Judge may dismiss the proceedings before him on grounds that he lacks jurisdiction because the penalty proposed in the complaint has already become final. See PF Sunset Plaza, LLC v. U.S. Dep’t of Hous. & Urban Dev., 60 F.4th 692 (D.C. Cir. 2023) (affirming In re Ralston GA LLC, No. 21-JM-0180-CM-007 (HUDALJ Oct. 25, 2021), and In re PF Sunset Plaza LLC, No. 21-AF-0131-CM-006 (HUDALJ Oct. 7, 2021)). In this case, however, dismissal for failure to meet the 15-day deadline would be premature because HUD has not submitted proof of service to establish when the deadline began to run and has further indicated its intent to re-start the clock by issuing an amended complaint.