

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

In the Matter of:

Sam and Karen Valletto

Petitioner

23-VH-0021-AG-011

721013452

December 1, 2023

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).

On December 12, 2022, Petitioners filed a *Request for Hearing* to review HUD’s determination that Petitioners owed the subject debt. There is no record of evidence in support of Petitioners’ claim that the subject debt was not owed or was paid off, or that Petitioners were released from the contractual obligation to pay the subject debt. To date, Petitioners have failed to comply with any of the Court’s Orders on December 14, 2022, May 19, 2023, and August 17, 2023, to produce sufficient evidence as proof of Petitioners’ position.

The *Order to Show Cause* issued by the Court to Petitioners on August 17, 2023 specifically stated “Failure to comply with this Order may result in sanctions being imposed by the Court pursuant to 24 C.F.R. § 26.4(c)-(d), including judgment entered on behalf of the opposing party, dismissal of this action, or a decision based on the documents in the record of this proceeding. Non-compliance, and timeliness of the same, shall be determined based on the Court’s assessment of the record of the proceeding. (Emphasis added). Petitioners again failed to comply as ordered. The lapse of time since December 2022 has provided Petitioners with a number of opportunities to comply with the Court’s *Orders*. As a result, the Court is unable to determine the credibility of Petitioners’ argument in the absence of such evidence.

Consistent with the provisions of 24 C.F.R. § 26.4 (c) and (d), Petitioners’ appeal is **DISMISSED WITH PREJUDICE** *sua sponte* due to Petitioners’ non-compliance with the Court’s *Orders* to produce the necessary evidence for the Court’s review.

The stay of proceeding issued on December 14, 2022 is hereby **VACATED**.

SO ORDERED.

A handwritten signature in blue ink, appearing to read 'Vanessa L. Hall', is written over a horizontal line.

Vanessa L. Hall
Administrative Judge