

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

United States Department of Housing  
and Urban Development,

Plaintiff,

v.

Richard Christensen,

Defendant.

HUDALJ 92-1894-PF  
Decided: December 10, 1993

Richard Christensen, *Pro se.*

Dane M. Narode, Esq.  
For Plaintiff

Before: SAMUEL A. CHAITOVITZ  
Administrative Law Judge

**INITIAL DECISION**

Statement of the Case

The United States Department of Housing and Urban Development (HUD) issued a Complaint<sup>1</sup> which was received by Defendant Christensen on September 10, 1992. Christensen filed a response in which he did not deny the factual allegations or legal conclusions of the Complaint. Because Christensen was representing himself this response was treated as an Answer.

Over an extended period of time documents were successfully exchanged by the parties by mail. Initially Christensen was written to at a Post Office Box in Heron, Montana, but my Order dated April 22, 1993, was returned with a notation that Christensen was not at that address. Orders were then sent to him at a Post Office Box

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<sup>1</sup>The Complaint originally also named Clarence Mark Hessing and Gary Prince McKeeth, Jr. as co-defendants. The Cases against Hessing and McKeeth were subsequently settled and their names were removed from the case caption.

in Clark Fork, Idaho, which was the return address on a letter written by Christensen. These Orders were also returned with the notation that Christensen had moved and left no address.

On October 13, 1993, HUD filed Government's Motion For The Imposition Of Penalties And Assessments For Failure To Defend. HUD stated that on July 13, 1993, it had written Christensen a letter to discuss the status of the case. The letter, sent Certified Mail-Return Receipt Requested, was returned unclaimed. HUD attempted to send the letter a second time but again it was returned. A conference call scheduled for October 5, 1993, was cancelled because Christensen was unreachable. In light of the foregoing and pursuant to 24 C.F.R. § 28.57(d) HUD requested that Christensen's case be dismissed based on his failure to defend HUD's claims and that HUD be awarded an assessment of \$276,543.86 and penalties in the amount of \$15,000.

An Order To Show Cause was issued on November 3, 1993, ordering Christensen to show cause by December 1, 1993 why HUD's motion should not be granted and Christensen's case dismissed for his failure to defend and why an assessment of \$276,543.86 and penalties of \$15,000 should not be awarded. The Order stated that failure to respond would constitute consent to this tribunal dismissing Christensen's case and awarding an assessment of \$276,543.86 and penalties of \$15,000. Christensen has failed to respond to the Order To Show Cause.<sup>2</sup>

Christensen has failed to keep this tribunal and HUD advised of his current address and telephone number as provided in 24 C.F.R. § 28.51(a)(3). Thus, after filing his answer and exchanging some additional documents, Christensen has acted in such a way as to make it impossible to resolve this case or to notify him of any actions. Accordingly, I conclude, pursuant to 24 C.F.R. § 28.57(d), Christensen has failed to defend this case and I will issue this Initial Decision imposing penalties and assessments, consistent with the above-described Order to Show Cause.

I make the following findings of fact based upon the Complaint issued in this case.

### **Findings of Fact**

1. Christensen participated in a scheme to defraud HUD by knowingly presenting or causing to be presented false or fraudulent claims and by knowingly making, using or causing to be made false and fraudulent documents and statements to obtain FHA mortgage insurance for property located at [REDACTED] Kuna, Idaho. (Complaint ¶ 59).

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<sup>2</sup>The letter transmitting the Order To Show Cause has not been returned, as of yet, but it may reasonably be anticipated that it will be.

2. The property located at [REDACTED], Kuna, Idaho went into default and as a result of the default, HUD paid \$87,459.90 in acquisition costs and \$4,229.90 in expenses after acquisition. (Complaint ¶ 60).

3. Christensen knowingly made, used or caused to be made, false documents or statements which resulted in the payment of claims in violation of Title 31 U.S.C. § 3801(a)(1). (Complaint ¶ 61).

4. Christensen participated in a scheme to defraud HUD by knowingly presenting or causing to be presented false or fraudulent claims and by knowingly making, using or causing to be made false and fraudulent documents and statements to obtain FHA mortgage insurance for property located at [REDACTED], Nampa, Idaho. (Complaint ¶ 63).

5. The property located at [REDACTED], Nampa, Idaho, went into default and as a result of the default, HUD paid \$57,717.07 in acquisition costs and \$5,248.33 in expenses after acquisition. (Complaint ¶ 64).

6. Christensen knowingly made, used or caused to be made, false documents or statements which resulted in the payment of claims in violation of Title 31 U.S.C. § 3801(a)(1). (Complaint ¶ 65).

7. Christensen participated in a scheme to defraud HUD by knowingly presenting or causing to be presented false or fraudulent claims and by knowingly making, using or causing to be made false and fraudulent documents and statements to obtain FHA mortgage insurance for property located at [REDACTED], Boise, Idaho. (Complaint ¶ 67).

8. The property located at [REDACTED], Boise, Idaho, went into default and as a result of the default, HUD paid \$63,348.67 in acquisition costs and \$3,765.56 in expenses after acquisition. (Complaint ¶ 68).

9. Christensen knowingly made, used or caused to be made, false documents or statements which resulted in the payment of claims in violation of Title 31 U.S.C. § 3801(a)(1). (Complaint ¶ 69).


### Discussion

HUD seeks an assessment of \$276,543.86 and penalties in the amount of \$15,000. This assessment was calculated by doubling the amount paid by HUD and subtracting the amount collected in the settlements from the other two Defendants. The \$15,000 civil penalty is composed of \$5,000 for each of the three false claims. (31 U.S.C. § 3802(a)(1) and 24 C.F.R. § 28.5).

In light of all of the foregoing, and in accordance with the Order to Show Cause, I conclude that an assessment of \$276,543.86 and a civil penalty in the amount of \$15,000 are appropriate.

#### DETERMINATION

Defendant Richard Christensen's three false claims violated 31 U.S.C. § 3801(a)(1) and 24 C.F.R. § 28.5. Accordingly, Defendant Richard Christensen is liable for an assessment of \$276,543.86 and a civil penalty of \$15,000.

  
SAMUEL A. CHAITOVITZ  
Administrative Law Judge