

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

UNITED STATES DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT,

Petitioner,

v.

SEAN ALFRED,

Respondent.

16-JM-0020-PF-007

March 28, 2016

DEFAULT JUDGMENT AND ORDER

This case arises from a *Complaint* filed by the United States Department of Housing and Urban Development (HUD) against Sean Alfred (Respondent), whereby HUD seeks two civil penalties under the Program Fraud Civil Remedies Act (PFCRA), 31 U.S.C. §§ 3801-3812, as implemented by 24 C.F.R. Part 28.

The *Complaint* alleges Respondent, in violation of requirements of the Merit Staffing Program, submitted two false statements to HUD.

Legal Framework

Under the PFCRA, liability may be imposed on any person who “makes, presents, submits, or causes to be made, presented, or submitted, a written statement that the person knows or has reason to know asserts a material fact which is false, fictitious, or fraudulent; or omits a material fact; and is false fictitious, or fraudulent as a result of such omission and which the person making, presenting, or submitting such statement has a duty to include such material fact; and contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement. . . .” 31 U.S.C. § 3802(a)(2); see also 24 C.F.R. § 28.10(b).

Under the PFCRA, the maximum civil penalty for false, fictitious, or fraudulent statements made on or after March 8, 2007, is \$7,500 per statement. 72 Fed. Reg. 5586 (Feb. 6, 2007). Liability under the PFCRA is joint and several. 24 C.F.R. § 28.10(e).

Program Background

The Program involved in this case is the Merit Staffing Program. The Merit Staffing Policy Handbook, states as its purpose, “This handbook governs the administration of a Department-wide program to systematically place individuals in competitive and excepted services positions on a merit basis. It is a primary goal within the Department to achieve efficiency in the acquisition of human resources necessary to support mission accomplishment through reduction of recruitment lead times.” Id. “The policies and procedures promulgated by this handbook have been designed to simplify the recruitment process, provide increased management flexibility and program administration, reduce recruitment cost, and foster the confidence of both managers and perspective candidates.” Id.

Process

Pursuant to 24 C.F.R. § 28.30(b), a respondent must submit a written response to a PFCRA complaint, which shall be deemed to be a request for a hearing, to HUD and the Office of Hearings and Appeals no later than thirty days following service of the complaint.

If a respondent does not timely file a request for hearing in response to the complaint, HUD is authorized to file a motion for default judgment, attaching to it a copy of the complaint, as set forth at 24 C.F.R. §§ 28.30(b) and 26.41(a).

HUD filed the *Complaint* in this matter on December 14, 2015. Respondent received the *Complaint* on or about January 4, 2016. To date, Respondent has neither requested a hearing nor filed an answer.

On February 10, 2016, HUD filed this *Motion for Default Judgment* (Motion), seeking a finding that Respondent violated the PFCRA, based upon his failure to respond to the *Complaint* and the allegations alleged therein. Respondent did not respond to the *Motion* within the ten-day period allotted for a response. See 24 C.F.R. § 26.40(b).

By *Order to Show Cause*, dated February 22, 2016, the Court ordered Respondent to show cause as to why the *Motion* should not be granted. Respondent’s response to the *Order to Show Cause* was due March 8, 2016. As of the date of this *Default Judgment and Order*, Respondent has not responded to the *Complaint*, the *Motion*, or the *Show Cause Order*, or otherwise appeared in this matter.

Findings of Fact

When Respondent applied for employment with HUD in September 2011, he executed numerous electronic documents. Respondent made false statements on at least two of those documents.

First, when he completed the Electronic Questionnaires for Investigations Processing (e-QIP), he certified that,

My statements on this form, and any Exhibits to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I understand that a knowing and willful false statement on this form can be punished by fine or imprisonment or both. (Section 101 of title 18, United States Code).

Section 11 of the e-QIP directed him to provide a detailed entry for each of his employment activities for the last seven years. Respondent failed to list his employment with the New York City Housing Authority (NYCHA) in 2010, though he had a duty to include this material fact. Further, Section 12 of the e-QIP asked whether he had been fired from a job in the last seven years. Respondent checked “no” when in fact he had been terminated from his employment with NYCHA on September 24, 2010. Therefore, Respondent’s certification on the e-QIP was false.

Second, when he completed the Declaration of Federal Employment (DFE), he certified that,

. . . to the best of my knowledge and belief, all of the information on and attached to this Declaration of Federal Employment, including any attached application materials, is true, correct, complete, and made in good faith. I understand that a false or fraudulent answer to any questions or item on any part of this declaration or its Exhibits may be grounds for not hiring me, or for firing me after I begin work, and may be punishable by fine or imprisonment. I understand that any information I give may be investigated for purposes of determining eligibility for Federal employment as allowed by law or Presidential order

Question 12 of the DFE asked,

During the last 5 years, have you been fired from any job for any reason, did you quit after being told that you would be fired, did you leave any job by mutual agreement because of specific problems, or were you debarred from Federal employment by the Office of Personnel Management or any other Federal agency?

Respondent checked “no” when in fact he had been terminated from his employment with NYCHA on September 24, 2010. Therefore, Respondent’s certification on the DFE was false.

In support of his false statements on the e-QIP and DFE, Respondent provided a copy of his resume, which also failed to include his employment with, and termination from, NYCHA. In reliance upon his false statements, HUD hired Respondent to work as a Realty Specialist in its Fort Worth, Texas office. After HUD’s discovery of the falsity of Respondent’s statements on the e-QIP and DFE, HUD issued him a notice of proposal to remove him from federal service. Following receipt of the notice, Respondent resigned from his position with HUD.

Respondent failed to list his employment with NYCHA on the e-QIP, and he certified that he had not been fired from any job in the past seven years. He also certified on the DFE that he had not been fired from any job in the past five years. Respondent knew that his statements on the e-QIP and DFE were false since he had been fired from his employment with NYCHA in 2010, barely two years prior to the date of his false statements. Respondent's false statements on the e-QIP and DFE are material because HUD relied upon the accuracy of those documents in hiring Respondent. Further, Respondent's false statements frustrated HUD's goals of achieving efficiency in the acquisition of human resources and fostering confidence.

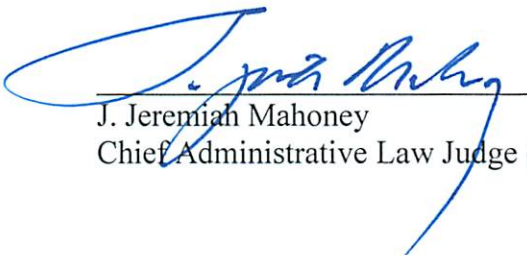
Penalty

Respondent's knowing and material submission of false statements to HUD in connection with the Merit Staffing Program justifies HUD's request for a determination finding Respondent liable for two civil penalties totaling \$15,000, pursuant to the PFCRA, 31 U.S.C. § 3802(a), and 24 C.F.R. § 28.10.

Order

1. Pursuant to the foregoing, Respondent is hereby found in **DEFAULT**, and the Department's *Motion for Default* will be **GRANTED**.
2. Based upon the foregoing findings of fact, Respondent is liable for two false statements made in connection with the Merit Staffing Program. 24 C.F.R. § 28.10(e).
3. As this order results from a default, the penalty proposed in the *Complaint* must be set forth in the default order. Accordingly, Respondent shall pay to HUD civil penalties totaling \$15,000.¹

It is so **ORDERED**.



J. Jeremiah Mahoney
Chief Administrative Law Judge (Acting)

¹ Such amount is due and payable immediately without further proceedings. 24 C.F.R. § 26.41(c). This Order constitutes the FINAL AGENCY ACTION. 24 C.F.R. § 26.41(b). Judicial review may be available in accord with applicable statutory procedures and the procedures of the appropriate federal court. 24 C.F.R. § 26.54; 31 U.S.C. §3805.