

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.

RHODA ROBERTSON,

Respondent.

18-JM-0091-PF-008

September 11, 2018

DEFAULT JUDGMENT AND ORDER

This case arises from a *Complaint* filed by the United States Department of Housing and Urban Development (“HUD,” “Department”) against Rhoda Robertson (“Respondent”), whereby HUD sought thirty-three penalties and assessments under the Program Fraud Civil Remedies Act of 1986 (“PFCRA”), 31 U.S.C. §§ 3801-3812, as implemented by 24 C.F.R. Part 28.¹

The *Complaint* alleges the Respondent, in violation of requirements of the Housing Choice Voucher Program (“Voucher Program”), submitted thirty-three false claims totaling \$30,510.

Legal Framework

Under the PFCRA, liability may be imposed on a person who makes, presents, submits, or causes to be made, presented or submitted, a claim to the Department that the person knows or has reason to know is for payment for the provision of property or services which the person has not provided as claimed. See 31 U.S.C. § 3802(a)(1)(D). A claim includes any request, demand, or submission made to a recipient of property, services, or money from an authority or to a party to a contract with an authority for property or services if the United States provided any portion of the funds for the purchase of such property or services. See 31 U.S.C. § 3801(a)(3)(B)(i)(II).

Under the PFCRA, the maximum civil penalty for false, fictitious, or fraudulent claims is up to \$7,500 for claims made on or after 2007, and up to \$8,500 for claims made on or after

¹ The *Complaint* was filed against Louella Robertson and Rhoda Robertson. On March 22, 2018, the Department executed a settlement agreement with Louella Robertson resolving the issues against her as stated in the January 8, 2018 *Complaint*. On April 3, 2018, this Court granted the *Government’s Motion for Partial Dismissal of Louella Robertson Pursuant to Settlement*.

February 19, 2013. 72 Fed. Reg. 5586 (Feb. 6, 2007) (adjusting the maximum penalty to \$7,500); 78 Fed. Reg. 4057 (Jan. 18, 2013) (adjusting the maximum penalty to \$8,500).²

Also under the PFCRA, in addition to a civil penalty, an assessment of twice the amount of the claim(s) may be imposed on a person if the Department has made any payment or transferred property on the claim. 31 U.S.C. § 3802(a)(1) & (3); 24 C.F.R. § 28.10(a)(6).

Program Background

The program involved in this case was the Voucher Program, through which HUD pays subsidies to public housing agencies (“PHAs”), which in turn pay subsidies to rental housing owners/landlords so that eligible tenants can afford decent, safe and sanitary housing. 24 C.F.R. § 982.1(a).

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 Department’s complaint, the Department 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 January 8, 2018, and re-served the *Complaint* on January 19, 2018. Respondent received the *Complaint* on February 15, 2018. To date, Respondent has not filed an answer. On June 20, 2018, the Government filed a *Motion for Default Judgment*.

Findings of Fact

1. The factual findings stated in the “Process” section, *supra*, are incorporated herein by reference.
2. Louella Robertson is Rhoda Robertson’s mother.
3. Louella Robertson purchased the property located at 2316 Maryland Street, Baton Rouge, LA (“Maryland Street Property”) on May 7, 1998.
4. Water service at the Maryland Street Property began in Louella Robertson’s name in February 2011, and cable television services began in her name in April 2011.
5. Both services remained in Louella Robertson’s name through 2015.

² HUD has elected to seek a reduced penalty of \$3,705.82 for each false claim submitted.

6. When interviewed by OIG Agents on September 22, 2015, September 29, 2015, and December 17, 2015, Louella Robertson admitted that she had resided at the Maryland Street Property from 2011 through the date of the interviews.

7. Rhoda Robertson purchased the property located at 12766 Parnell Avenue, Baton Rouge, LA ("Parnell Avenue Property") on March 5, 2001.

8. Water service at the Parnell Avenue Property began in Rhoda Robertson's name in April 2005, and cable television services began in her name in May 2005.

9. Both services remained in Rhoda Robertson's name through 2015.

10. In January 2011, Rhoda Robertson applied for Voucher Program rental assistance through the Housing Authority.

11. Section VII of the Application required the applicant to list all assets of all household members, including real property. Rhoda Robertson indicated that neither she nor her household members owned any assets and she signed the application, which contained the following certification:

I/We understand that this is not a contract and does not bind either party. I/We further certify that the information given to the East Baton Rouge Parish Housing Authority representing household composition, income, assets, etc., is accurate and allowances and deductions is accurate and complete to the best of my/our knowledge and belief. I/We also understand that furnishing false information and/or making false statements is grounds for termination of housing occupancy, and I/we am/are responsible to repay any underpaid rent or overpaid rental assistance.

12. Rhoda Robertson's certification was false because she owned the Parnell Avenue Property and did not disclose that fact on the application.

13. In May 2011, the Housing Authority determined, based in part upon Rhoda Robertson's Application containing this false statement, that Rhoda Robertson qualified for voucher assistance.

14. Both Rhoda Robertson and the Housing Authority representative signed this form, which included the following provisions: the family must use the assisted unit as its residence, the unit must be the family's only residence, and the family must not commit fraud in connection with the program or receive voucher assistance while residing in a unit owned by a parent or grandparent of any member of the family.

15. Rhoda Robertson was, therefore, on notice that the rules of the Voucher Program prohibited her from renting a unit in which she did not reside, or a unit owned by her mother or her children's grandmother.

16. In 2012, 2013, and 2014 when Rhoda Robertson recertified her eligibility for Voucher Program assistance she executed the same application/recertification form containing the same false statement.

17. Having been approved for voucher assistance, Rhoda Robertson began receiving rental assistance for a short time at a property located on Little John Boulevard in Baton Rouge.

18. In June 2011, Rhoda Robertson purported to relocate (using her voucher) to the Maryland Street Property owned by her mother, Louella Robertson.

19. On June 13, 2011, Louella Robertson and a representative of the Housing Authority, executed a HAP contract in order for Louella Robertson to receive Voucher Program rental assistance for her daughter Rhoda Robertson to reside in the Maryland Street Property.

20. In executing the HAP contract, Louella Robertson certified, among other things that:

To the best of the owner's knowledge, the members of the family reside in the contract unit, the unit is the family's only residence, and the owner is not the parent ... grandparent ... of any member of the family....

21. Louella Robertson's certification on the HAP contract was false because she knew that Rhoda Robertson and her family did not reside at the Maryland Street Property, that Rhoda Robertson owned the Parnell Avenue Property, and that she, the owner, was Rhoda Robertson's parent and Rhoda Robertson's children's grandparent.

22. Louella Robertson and Rhoda Robertson received rental assistance for the Maryland Property for Rhoda Robertson to rent the Maryland Street Property from Louella Robertson from July 1, 2011, through December 4, 2014, when the Housing Authority terminated the assistance based upon the violations noted supra.

23. During this period Rhoda Robertson did not reside at the Maryland Street Property.

24. Instead, she resided at the Parnell Avenue Property, which she owned, but did not list as an asset on the HCV Application.

25. Louella Robertson, however, did reside at the Maryland Street Property.

26. Louella Robertson's and Rhoda Robertson's acceptance of rental assistance for Rhoda Robertson to rent the Maryland Street Property from Louella Robertson constitutes a series of false claims pursuant to the PFCRA.

27. On January 26, 2016, the United States Attorney for the Middle District of Louisiana filed separate Bills of Information for Theft of Government Funds and Forfeiture Allegations against Louella Robertson and Rhoda Robertson in connection with their fraud upon HUD's Voucher Program.

28. Both entered plea agreements in which they admitted to one count of Theft of Government Funds.

29. The Court entered judgment and ordered restitution (both), probation (Louella Robertson), and incarceration followed by supervised release (Rhoda Robertson).

30. By virtue of her failure to timely respond to the Government's *Complaint*, Respondent is deemed to have admitted all facts alleged in the *Complaint*.

Penalty


Respondent's knowing and material submission of false statements in support of false claims to HUD in connection with the Voucher Program justify HUD's request for a determination finding Respondent liable for thirty-three civil penalties totaling \$122,292, plus an assessment of twice the amount of the falsely claimed amounts ($\$30,510 \times 2 = \$61,020$), less the \$7,000 in the settlement the Department reached with the previous co-respondent, for a total award of \$176,312 pursuant to the PFCRA, 31 U.S.C. § 3802(a), and 24 C.F.R. § 28.10.

Order

Accordingly, it is hereby **ORDERED**:

1. Pursuant to the foregoing, the Department's *Motion for Default Judgment* is **GRANTED**, and Respondent is hereby found in **DEFAULT**.
2. Based upon the foregoing findings of fact, Respondent is liable for thirty-three false claims made between March 2012 and November 2014. 24 C.F.R. § 28.10(e).
3. Respondent shall pay to HUD civil penalties and assessments totaling \$176,312. Such amount due and payable immediately without further proceedings. 24 C.F.R. § 26.41 (c).
4. This *Order* constitutes the **FINAL AGENCY ACTION**. 24 C.F.R. § 26.41(b).

So **ORDERED**,



J. Jeremiah Mahoney
Chief Administrative Law Judge