

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.

KOREY SLOAN and CHRISTIE CALDWELL,

Respondents.

18-JM-0255-PF-013

March 27, 2019

DECISION ON DEFAULT JUDGMENT

The above-captioned matter is before this Court on a *Motion for Default Judgment* (“*Motion*”), filed on March 8, 2019, by the U.S. Department of Housing and Urban Development (“the Government” or “HUD”) against Korey Sloan and Christie Caldwell (collectively, “Respondents”). Respondents did not file an Answer to HUD’s *Complaint* nor did they respond to the present *Motion*. Accordingly, the Government’s motion for default judgment is **GRANTED**.

On September 28, 2018, the Government filed a *Complaint* against Respondents. The *Complaint* alleged violations of the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812, as implemented by 24 C.F.R. Part 28, and sought liability of \$25,830 in civil penalties and assessments, jointly and severally, against Respondents for fourteen false claims submitted to HUD. On October 29, 2018, the Court issued a *Notice of Hearing and Order* in this matter requiring Respondents to file a response within 30 days of the filing of the Government’s *Complaint*. Respondents did not file a response within this timeframe.

A *Notice of Stay of Proceedings* in this case was issued on December 26, 2018, due to a partial lapse in federal appropriations. The Court lifted the stay on January 29, 2019, and entered a *Second Notice of Hearing and Order* on January 31, 2019. This *Second Notice of Hearing and Order* extended Respondents’ deadline to file a response to February 15, 2019. As of the date of this Decision on Default Judgment, Respondents failed to file an answer to the Government’s *Complaint* or otherwise appear in this matter.

The *Complaint* charged that Respondents caused to be submitted 14 monthly false claims from November 1, 2012 to November 1, 2013. These false claims were made pursuant to Respondents’ participation in the HUD’s Housing Choice Voucher Program

("HCVP"). Through HCVP, HUD provides federal dollars to public housing authorities ("PHA") which, in turn, provide financial assistance to eligible renters. This financial assistance is affected by direct monthly rental payments from the PHA to the owner of the property in which the tenant resides. To be eligible to participate in the HCVP, the landlord enters into a housing assistance payments contract ("HAP Contract") and a Request for Tenancy Approval.

Here, Respondents are married to each other and have four children. Respondents' participation in the HCVP was administered by the Housing Authority of Cook County (HACC). Respondent Sloan entered into a HAP Contract with the HACC to receive monthly payments for the purported rental of a residence located at 21417 Butterfield Parkway, Matteson, IL 60443 (the "Butterfield Property"). Respondents identified Respondent Caldwell as the individual tenant who, along with four children, would reside at the Butterfield Property.

Respondents Sloan and Caldwell did not disclose to HUD or the HACC that they are married to each other, that they jointly own the Butterfield Property, that Respondent Sloan is the father of the four children living at the Butterfield Property, and that Respondents were living together at the Butterfield Property. These undisclosed conditions are contrary to the terms of the HAP contract. The HAP contract and Request for Tenancy Approval, which are the two contractual documents which govern the HCVP, state that the landlord must not rent to a member of the assisted family or have any interest in the contract unit and that the landlord must not live in the rental unit. The Recertification Applications, which are verifications of continued participant eligibility to participate in the HCVP, that Respondent Caldwell annually submitted to the HACC certified that only she and her four children resided in the Butterfield Property and that neither she nor any member of the household owned real estate. HUD alleges that Respondents were married, lived in the rental unit together with their four children, and jointly owned the Butterfield Property, which rendered them ineligible for the HCVP program. Nonetheless, Respondents submitted or caused to be submitted claims that caused Respondent Sloan to receive monthly rental subsidy benefits from HACC to which he was not entitled.

The *Complaint* notified Respondents of their right to respond to HUD's allegations and request a hearing. It also notified them that any response must include the admission or denial of all the allegations against them, that a failure to respond could result in HUD seeking a default judgment that could result in a finding that they had admitted all the allegations against them, and that the penalties set forth in the *Complaint* would be immediately due and payable without further proceedings in the event of an issuance of a default order.

Consistent with the PFCRA, HUD served the *Complaint* on Respondents through certified mail. The *Complaint* was sent on September 28, 2018 to the Butterfield Property, which remained Respondents' only known residence and primary abode. On November 28, 2018, the Government again served the *Complaint* on Respondents after Respondents failed to accept delivery of the *Complaint* sent as certified mail.

Respondent Sloan was personally served at the Butterfield Property on November 28, 2018. Contemporaneous with his personal service, Respondent Sloan accepted service on behalf of his wife, Respondent Caldwell.

The Government sent letters by certified mail Respondents at the Butterfield Property on November 5, 2018. Through this correspondence, the Government sought to engage Respondents in the pre-hearing requirements provide in the Court's *Scheduling Order*. While Respondent Sloan's received his correspondence (as evidence through his signature receipt on the certified mail), Respondents did not respond to the Government's inquiry.

The Government sent a second and third set of letters by certified mail to Respondents at the Butterfield Property on, respectively, November 16, 2018 and February 19, 2019. Both sets of correspondence advised Respondents that the Government would move for default against Respondents following their failure to file an answer. To date, Respondents have not filed a response, despite the passage of well over 30 days since the *Complaint* was served on Respondents at the Butterfield Property. The *Complaint* warned Respondents that service of the *Complaint* would trigger an important time limit regarding a response, and the other documents sent to Respondents at their address had kept them notified of the proceedings of this case.

HUD's regulations provide that if a respondent fails to file a timely response to a complaint against her, the Administrative Law Judge may, upon motion, issue a default judgment against that party. 24 C.F.R. § 26.41(a). Moreover, failure to file a timely response, as defined by HUD regulations, constitutes an admission of all facts alleged in the Complaint, a waiver of a respondent's right to a hearing, and entitles the petitioner to a judgment in the amount proposed in its complaint. 24 C.F.R. § 26.41(c).

FINDINGS OF FACT

1. HUD served Respondents by certified mail with the *Complaint* on September 28, 2018.
2. HUD personally served Respondent Sloan on November 28, 2018.
3. Contemporaneous with his personal service, Respondent Sloan accepted service on behalf of his wife, Respondent Caldwell, at the Butterfield Property.
4. The Butterfield Property is the address of Respondents' primary abode.
5. Respondent Sloan is an individual of "suitable age and discretion who resides" at the Butterfield Property.
6. HUD sent letters to Respondents Sloan and Caldwell on November 5, 2018, to request a conference on hearing location, for which Respondent Sloan signed a certified return receipt on November 16, 2018.
7. HUD sent letters by regular mail, return receipt requested, to Respondents warning that it planned to move for default against Respondents if Respondents did not reply to the *Complaint* on November 16, 2019 and February 19, 2019.
8. Pursuant to HUD regulations and the *Second Notice of Hearing and Order* in this case, any response to HUD's *Complaint* was due no later than February 15, 2019.

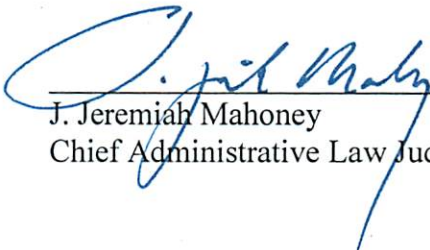
9. Respondents have not responded to HUD's *Complaint* in a timely manner.
10. HUD moved for default judgment on March 8, 2019.
11. Respondents were served with HUD's *Motion for Default Against Respondents Sloan and Caldwell* on March 16, 2019.
12. Respondents have not filed any response to HUD's *Motion*.
13. Respondents have failed to defend this action.
14. Due to Respondents' failure to respond to HUD's *Complaint*, all facts alleged in the *Complaint* are deemed admitted by Respondents.

CONCLUSIONS OF LAW

By reason of the facts in the *Complaint* deemed admitted, Respondents Sloan and Caldwell caused the submission of fourteen false claims to HUD in connection with their participation in the Housing Choice Voucher Program. Respondents are therefore jointly and severally liable for fourteen penalties totaling \$3,150 and assessments totaling \$22,680, for a combined total liability of \$25,830 pursuant to 31 U.S.C. § 3802(a)(1) and 24 C.F.R. § 28.10(a). This Court finds Respondents jointly and severally liable for \$25,830 in civil penalties and assessments under the PFCRA.

Pursuant to 24 C.F.R. § 26.41(b), this order constitutes final agency action.

So ORDERED,



J. Jeremiah Mahoney
Chief Administrative Law Judge