

On November 26, 2003, I issued an Order To Show Cause to Defendant Davis which required him to file a response to the Complaint that would answer the Government's Allegations of Liability with particularity by December 10, 2003, and would show cause why he should not be found liable by default for not having responded within the required 30 days. The Order informed Defendant that failure to respond timely and adequately to the Order would constitute his consent to the entry of a default judgment in this matter. There has been no response to that Order.

The regulations provide that if a Defendant fails to file an Answer within 15 days of receiving a Complaint the Administrative Law Judge assigned to the case shall issue a Default Judgment. *See* 24 CFR 26.39(b). Such a default shall constitute an admission of all facts alleged in the Government's Complaint and a waiver of the Defendant's right to a hearing in the matter. 24 CFR 26.39. Moreover, a default judgment under these circumstances shall constitute the final agency action in the case. *Id.*

FINDINGS OF FACT

The allegations of the Government's Complaint (HUDALJ 04-012-PF), styled "U.S. Department of Housing and Urban Development, Petitioner v. Richard C. Fawcett and Matthew G. Davis, Defendants " and dated February 20, 2003, are incorporated herein and found to be true on the basis of Defendant's default and his consequent admission to these facts.

CONCLUSION OF LAW AND DECISION

The Government's Complaint demonstrates a knowing and material violation of HUD rules and regulations. A default judgment against Defendant Davis is not only warranted but also mandated because of Defendant's failure to file an Answer to the Complaint and a response to the Order To Show Cause. Accordingly, Defendant, Matthew G. Davis, shall pay to the Secretary of the United States Department of Housing and Urban Development a Civil Penalty of \$82,500 which is immediately due and payable without further proceedings.

This Order constitutes the final agency action in this matter pursuant to the regulation codified at 24 CFR 26.39.

So **ORDERED**.

/s/

ROBERT A. ANDRETTA
Administrative Law Judge