

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

In the Matter of:

ROGELIO GONZALEZ, SR.,

Respondent.

HUDALJ No. 06-016-PF
OGC Case No. 06-3323-PF

DEFAULT JUDGMENT AND ORDER

On November 29, 2005, the Department of Housing and Urban Development (“Government” or “HUD”), issued a Complaint seeking a civil penalty of \$5,500 and an assessment of \$10,000 against Rogelio Gonzalez, Sr. (“Respondent”), pursuant to the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812 and the applicable regulations at 24 C.F.R. Part 28. The Complaint charges that Respondent submitted a written statement that he knew or had reason to know asserted a false material fact to HUD with respect to an FHA-insured mortgage. The Complaint notified Respondent of his rights to appeal the imposition of the civil penalty and assessment by filing an Answer within 30 days of the receipt of the Complaint, and that failure to file an Answer would cause HUD to file a Motion for Default Judgement.

Respondent Gonzalez received the Complaint and sent HUD a letter regarding the proceedings, but did not file an Answer. I issued a Notice of Hearing and Order on January 27, 2006, following a conference call with the parties.¹ Respondent was directed to file an Answer to the Complaint on or before February 6, 2006.

The Government requested another conference call after Respondent failed to file an Answer as ordered, and one was held on February 17, 2006. During that call, Respondent informed me that he would not defend the case. I explained the consequences of failing to do so, including the likelihood of entry of a default judgment against him. I issued an Order on February 27, 2006, that noted for the record Respondent’s statement that he did not intend to defend the case, cancelled the hearing previously scheduled, and established filing dates for the Government’s dispositive motion and the Respondent’s response to same.

¹ Respondent’s son, Rogelio Gonzalez, Jr., participated in both telephone conference calls in behalf of the Respondent, his father, because of Respondent’s limited fluency in the English language.

On February 28, 2006, the Government timely filed a Motion for Default Judgment. Respondent Gonzalez has never filed a response.

The regulations provide that if a respondent fails to file an Answer within 30 days of receiving a Complaint, the Administrative Law Judge shall issue a Default Judgment. *See* 24 C.F.R. § 26.39(b). Failure to file an Answer to the Complaint constitutes an admission of all facts alleged in the Complaint and a waiver of a respondent's right to a hearing. *See* 24 C.F.R. § 26.39(c). If a party fails to defend an action, the Administrative Law Judge may issue an initial decision against the respondent. *See* 24 C.F.R. § 26.39(d).

FINDINGS OF FACT

1. All facts alleged in the Government's Complaint dated November 29, 2005, are hereby found to have been admitted by Respondent Rogelio Gonzalez, Sr.; and
2. Respondent Rogelio Gonzalez, Sr., has failed to defend this action.

CONCLUSION OF LAW

By reason of the facts admitted by the Respondent, the Respondent has committed a knowing and material violation of 31 U.S.C. § 3802(a)(2) and 24 C.F.R. § 28.10(b), for which civil money penalties and an assessment may be imposed.

ORDER

1. The Motion for Default Judgment is granted;
2. Respondent Rogelio Gonzalez, Sr., shall pay a civil money penalty of \$5,500 and an assessment of \$10,000, which penalty and assessment are due and payable immediately without further proceedings; and
3. This Order shall constitute the final agency action. *See* 24 C.F.R. § 26.39(c).

So ORDERED, this 30th day of March, 2006.

/s/

ARTHUR A. LIBERTY
Chief Administrative Law Judge