

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

In the Matter of:

**Adrian and Carla Lesmes**

Petitioners.

23-VH-0168-AG-097

721019509

March 18, 2024

**ORDER OF DISMISSAL**

24 C.F.R. § 26.4 (c) provides that “If a party refuses or fails to comply with an order of the hearing officer, including an order compelling discovery, the hearing officer may enter any appropriate order necessary to the disposition of the hearing *including a determination against the noncomplying party...*” Further, under 24 C.F.R. § 26.4 (d), it provides, “If a party fails to prosecute *or defend an action brought under subpart A of this part, the hearing officer may dismiss the action* or may issue an initial decision against the non-prosecuting or defending party. (Emphasis added).

On September 8, 2023, Petitioners filed a *Request for Hearing* to review HUD’s determination that Petitioners owed the subject debt. There is no record of evidence to support Petitioners’ claim that the subject debt was not owed or was paid off, or that Petitioners were released from their contractual obligation to pay the subject debt. To date, Petitioners have failed to comply with the Court’s subsequent *Show Cause Order* issued on February 2, 2024 to again produce sufficient evidence as proof of Petitioners’ position. The *Secretary’s Statement* was filed on November 14, 2023.

The *Order to Show Cause* specifically stated “Failure to comply with this Order may result in sanctions being imposed by the Court pursuant to 24 C.F.R. § 26.4(c)-(d), including judgment entered on behalf of the opposing party, dismissal of this action, or a decision based on the documents in the record of this proceeding. Non-compliance, and timeliness of the same, shall be determined based on the Court’s assessment of the record of the proceeding. (Emphasis added). Petitioners again failed to comply as ordered. The lapse of time since September 2023 has provided Petitioners with sufficient opportunities to comply with the Court’s *Orders*. Without such evidence, the Court is unable to determine the credibility of Petitioners’ argument.

Consistent with the provisions of 24 C.F.R. § 26.4 (c) and (d), Petitioners’ appeal is **DISMISSED WITH PREJUDICE** *sua sponte* due to Petitioners’ non-compliance with the Court’s *Orders* to produce the evidence necessary for appellate review.

The stay of proceeding issued on September 14, 2023 is hereby **VACATED**.

SO ORDERED.



Vanessa L. Hall  
Administrative Judge