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

UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, Petitioner, v. LADARIUS F. PATRICK, Respondent.	HUDALJ 11-M-032-PF-8 November 14, 2011

DEFAULT JUDGMENT AND ORDER

The above-entitled matter is before this Court on a Motion for Default Judgment filed on October 25, 2011, by the United States Department of Housing and Urban Development ("HUD" or "the Government"). Respondent, Ladarius F. Patrick, did not file an answer to the Government's initial complaint. Additionally, Respondent has not responded to the present motion.[1] Accordingly, the Motion for Default Judgment will be **GRANTED**.

On May 20, 2011, HUD filed a Complaint seeking 107 civil penalties and assessments against Respondent pursuant to the Program Fraud Civil Remedies Act of 1986 ("PFCRA"), 31 U.S.C. §§ 3801-3812, and the applicable regulations at 24 C.F.R. Part 28. The Complaint charges that Respondent made and/or caused to be made 107 claims to the Indianapolis Housing Agency for HUD-funded Section 8 housing assistance payments that he knew or had reason to know were false. (Compl. 14.) The Complaint further claims that Respondent knew or had reason to know the claims were supported by his materially false statements representing that he owned the Section 8 rental properties at issue, when in fact he did not own these properties. (Id.) The Complaint seeks civil penalties and assessments totaling $371,706.00. (Id. at 17.) The Complaint notified Respondent of his right to appeal the imposition of the civil penalties and assessments by filing a written response within 30 days of the receipt of the Complaint, and that failure to file a response may cause HUD to file a Motion for Default Judgment with regard to the allegations in the Complaint. (Id. at 17-18.)

Applicable HUD regulations provide that a Respondent "may file a written response

[1] A Respondent is allowed 10 days to respond to a default motion. 24 C.F.R. § 26.41(a) (2010). Allowing for 3 days mail time both ways, Respondent's reply should have been received on or before November 10, 2011.

to the complaint, in accordance with § 26.30 of this title, within 30 days of service of the complaint," and that "[t]he response shall be deemed to be a request for a hearing." 24 C.F.R. § 28.30(a) (2010); see also 31 U.S.C. § 3803(d)(2) (2006) (providing a 30-day statutory requirement for requesting a hearing); 24 C.F.R. § 26.38 (2010) ("The respondent's response to the complaint shall be timely filed with the Docket Clerk and served upon the Government in accordance with the procedures set forth in the complaint.").

HUD served Respondent on May 19, 2011, by hand delivering the Complaint to Respondent's legal counsel, who had previously advised that the Complaint could be dropped off at his office. (Compl. 20.) A response was therefore due to HUD by June 20, 2011. No such response has been received by HUD, or this Court.

Pursuant to 24 C.F.R. § 28.38, "If the respondent fails to submit a response to the Docket Clerk, then the Government may file a motion for a default judgment in accordance with § 26.41." That regulation provides as follows:

> **24 C.F.R. § 26.41 Default.**
>
> (a) General. The respondent may be found in default, upon motion, for failure to file a timely response to the Government's complaint. The motion shall include a copy of the complaint and a proposed default order, and shall be served upon all parties. The respondent shall have 10 days from such service to respond to the motion.
>
> (b) Default order. The ALJ shall issue a decision on the motion within 15 days after the expiration of the time for filing a response to the default motion. If a default order is issued, it shall constitute the final agency action.
>
> (c) Effect of default. A default shall constitute an admission of all facts alleged in the Government's complaint and a waiver of respondent's right to a hearing on such allegations. The penalty proposed in the complaint shall be set forth in the default order and shall be immediately due and payable by respondent without further proceedings.

24 C.F.R. § 26.41 (2010).

FINDINGS OF FACT

1. All facts alleged in HUD's Complaint filed on May 20, 2011, are hereby found to have been admitted by Respondent;

2. Respondent has failed to defend this action; and

3. The penalty proposed in the Complaint must be imposed.

4. HUD seeks imposition of 107 civil penalties in the amount of $3,000.00 each (totaling $321,000.00), plus the maximum assessment of twice the amount of each of the 107 false claims (totaling $116,706.00), minus $66,000.00 in restitution that Respondent was ordered to pay in a related state court criminal conviction.[2]

CONCLUSIONS OF LAW

By reason of the facts admitted by Respondent in Counts 1 through 107 of the Complaint, Respondent made or caused to be made 107 claims to the Indianapolis Housing Agency for HUD-funded Section 8 housing assistance payments, knowing or having reason to know that such claims were false, and knowing or having reason to know that such claims were supported by his materially false statements representing that he owned the Section 8 rental properties at issue, when in fact he did not own these properties. The allegations in the Complaint are legally sufficient to establish that Respondent is liable to HUD under the PFCRA and 24 C.F.R. Part 28. The 107 claims violated 31 U.S.C. § 3802(a)(1) and 24 C.F.R. § 28.10(a)(1). HUD is therefore entitled to 107 civil penalties and 107 assessments, totaling $371,706.00, pursuant to the PFCRA and 24 C.F.R. Part 28.

ORDER

Accordingly, the Government's Motion for Default Judgment is **GRANTED**;

Respondent, Ladarius F. Patrick, shall pay civil penalties and assessments in the total amount of $371,706.00 to HUD, which amount is due and payable immediately, without further proceedings.

So **ORDERED**,

J. Jeremiah Mahoney
Administrative Law Judge

Notice of Appeal Rights. This Order constitutes the final agency action. 24 C.F.R. § 26.41(b) (2010). Respondent Levy may seek judicial review of this Order as provided in 31 U.S.C. § 3805 (2006).

[2] Depending on the date each of the false claims was committed, the maximum penalty authorized by law was either $6,500.00 or $7,500.00. Based upon its analysis of the regulatory factors to be considered in determining an appropriate amount of civil penalties and assessments, as listed in 24 C.F.R. § 28.40(b), HUD has sought the lesser penalty of $3,000.00 per false claim.