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

IN THE MATTER OF	
WILLIAM THOMAS BROGLAN Respondent	HUDALJ No. 08-015-PF OGC Case No. 08-3459-PF Decided: January 24, 2008

William Thomas Broglan, *pro se*

Joel Foreman, Esq.
For the Government

Before: Constance T. O'Bryant
Administrative Law Judge

DEFAULT JUDGMENT AND ORDER

The United States Department of Housing and Urban Development ("HUD" or "the Department") brought charges against William Thomas Broglan ("the Respondent") seeking to establish the Respondent's liability under the Program Fraud Civil Remedies Act of 1986 ("PFCRA"), Pub. L. No. 99-509, 31 U. S. C. §§ 3801-3812, as implemented by 24 C.F.R. Part 28. The Department charged that Mr. Broglan entered into a conspiracy to submit materially false statements to HUD in violation of 18 U. S. C. § 1010 concerning properties which he or others acting on his behalf purchased from HUD's property disposition program.

The Department served a complaint on Respondent on November 19, 2007. The complaint sought civil penalties against Respondent of $12,000 (one penalty of $6500 and one of $5500) plus assessments totaling $8,710 (twice the claim made on two properties) in Counts 7 and 8 of the complaint, for a total of $20,710. The complaint notified Respondent of his right to request a hearing to contest the imposition of the civil penalty and the assessment by filing an Answer within 30 days of receipt of the complaint, and that failure to file an answer could result in a Motion for Default Judgment by HUD. *See* 24 C.F.R. § 28.30. Respondent did not file an answer to the complaint. On January 3, 2008, the Department filed the instant Complaint ("the Complaint") against Respondent as well as a Motion for Default Judgment with this Office. Respondent has not responded to the Complaint or to the Motion for Default Judgment.

STATUTORY AND REGULATORY AUTHORITY

Jurisdiction is conferred on the Office of Administrative Law Judges by the PFCRA, 31 U. S. C. §§ 3801-3812, and 24 C.F.R. Part 28.

The Secretary is authorized to impose a civil penalty against any person who makes, presents, or submits, or causes to be made, presented, or submitted a *claim* that the person knows or has reason to know -

(A) is false, fictitious or fraudulent; or
(B) includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

31 U.S.C. § 3802(a)(1)(A)-(C); 24 C.F.R. § 28.10(a)(1)9i)-(ii). A civil penalty of no more than $5,500 may be imposed on a person for causing such a claim. *See* 31 U.S.C. 3802(a)(1)(2002). *See also* 24 C.F.R. 28.10(a)(2002).[1] For a violation under 31 U.S.C. § (a)(1)(A), if the Department has made any payment or transferred property on the claim, an assessment, in lieu of damages sustained by the Department because of such claim, may also be imposed of not more than twice the amount of the claim. 31 U.S.C. § 3802(a)(1) &(3) and 24 C.F.R § 28.10(a)(6). This penalty and assessment may be in addition to any other remedy that may be prescribed by law. 31 U.S.C. § 3802(a)(1)(D).

HUD regulations provide that if a respondent fails to file an Answer within 30 days of receiving the complaint, the Administrative Law Judge may issue a Default Judgment. 24 C.F.R. § 26.39(b). The default shall constitute an admission of all facts alleged in the Government's complaint and a waiver of respondent's right to a hearing in the matter. 24 C.F.R. § 26.39(c). The default judgment shall constitute the final agency action. *Id.*

Finally, 24 C.F.R. § 26.39(a) provides that a respondent shall have seven days from the service of the Complaint and the Motion for Default Judgment to respond to the Motion. The Certificate of Service in the instant case shows service of the Complaint and Motion for Default Judgment on Respondent on January 3, 2008. It is now three weeks later and no response has been received from Respondent. Accordingly, I conclude that this action is appropriate.

FINDINGS OF FACT

Respondent William Thomas Broglan has failed to file a response to the Complaint and/or the Motion for Default Judgment after being afforded ample opportunity to do so. A default judgment against Respondent Broglan is therefore warranted. Accordingly, all facts alleged in the Government's Complaint dated November 14, 2007, are hereby deemed admitted by him.

CONCLUSION OF LAW AND DECISION

The facts alleged in Counts 7 and 8 of the Complaint, which are deemed admitted by Respondent, demonstrate a knowing and material violation pursuant to 31 U.S.C. § 3802(a)(1) and 24 C.F.R. § 28.10(b), for which civil money penalties and assessments may be imposed. Respondent is liable for civil penalties of $12,000 ($6,500 for the violation in Count 7 and

[1]Effective April 16, 2003, HUD regulations allow a civil penalty of up to $6,500.

$5,500 for the violation in Count 8) and assessments totaling $8,710 ($4,310 in Count 7 and $4,400 in Count 8) for two false claims made and supported by the false statements as identified in Counts 7 and 8.

ORDER

1. The Motion for Default Judgment is *Granted*.

2. Respondent William Thomas Broglan shall pay to the Secretary of the U.S. Department of Housing and Urban Development a civil money penalty and assessment totaling $20,710 (penalties of $6,500 and $5,500 and assessments of $4,310 and $4,400) such amount being due and payable immediately without further proceedings. 24 C.F.R. § 26.39(c).

3. In the event other persons identified in the Complaint against Respondent as co-conspirators are also found to be liable for penalties in Counts 7 and/or 8 or the Complaint, the penalties – but not the assessments – owed by Respondent Broglan shall be considered to be debts for which Respondent Broglan and the other liable parties are jointly and severally liable. Liability for the assessments ordered herein shall remain the exclusive responsibility of Respondent Broglan. See 24 C.F.R. § 28.10(e).

This Decision and Order shall constitute the final agency action in this matter. 24 C.F.R. § 26.39(b).

So ORDERED, this 24th day of January, 2008.

Constance T. O'Bryant

CONSTANCE T. O'BRYANT
Administrative Law Judge

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CERTIFICATE OF SERVICE

I hereby certify that copies of this DEFAULT JUDGMENT AND ORDER issued by CONSTANCE T. O'BRYANT, Administrative Law Judge, HUDALJ No.08-015 -PF, were sent to the following parties on this 24th day of January, 2008, in the manner indicated:

Chief Docket Clerk

REGULAR MAIL:

William Thomas Broglan
[redacted]

INTEROFFICE MESSENGER

Joel Foreman, Esq.
Office of General Counsel
Administrative Proceedings Division
U.S. Department of Housing and Urban Development
Portals Building, Suite 200
1250 Maryland Avenue, SW
Washington, DC 20024

Maura Malone, Esq.
Acting Associate General Counsel for
Administrative Proceedings Division
U.S. Department of Housing and Urban Development
Portals Building, Suite 200
1250 Maryland Avenue, SW
Washington, DC 20024

Tammie Parshall, Docket Clerk
Departmental Enforcement Center
U.S. Department of Housing and Urban Development
Portals Building, Suite 200
1250 Maryland Avenue, SW
Washington, DC 20024