

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MICHAEL K. CIACCI,)
)
 Plaintiff,)
)
 v.)
)
 UNITED STATES DEPARTMENT)
 OF EDUCATION *et al.*,)
)
 Defendants.)
 _____)

Civ. Action No. 12-1643 (ESH)

MEMORANDUM OPINION

Pending before the Court is Defendants’ Motion to Dismiss under Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure [Dkt. # 9]. By Order of January 28, 2013, plaintiff was advised to respond to defendants’ motion by February 28, 2013, or risk dismissal of the case on what the Court might treat as a conceded motion. Plaintiff has neither filed a response to the pending motion to dismiss nor sought additional time to do so. Therefore, the Court will treat the motion as conceded and dismiss the case. *See FDIC v. Bender*, 127 F.3d 58, 68 (D.C. Cir. 1997) (discretion lies wholly with the district court to grant motion to dismiss as conceded). A separate Order accompanies this Memorandum Opinion.

DATE: March 13, 2013

_____/s/_____
ELLEN SEGAL HUVELLE
United States District Judge