Office of Appeals
U.S. Department of Housing and Urban Development
Washington, D.C. 20410-0001

In the Matter of: **Lisa Wommack,** Petitioner	HUDOA No. 10-H-CH-LL133 Claim No. 7-708821540B

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Pro se

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For the Secretary

RULING AND ORDER ON PETITIONER'S MOTION FOR RECONSIDERATION

In the Decision and Order ("Decision") dated September 2, 2010, this Court held that, "the Secretary is not barred by statute of limitations from collecting the alleged debt by means of administrative offset, and…that Petitioner remains legally obligated to pay the subject debt." *In re Lisa Wommack,* HUDOA No. 10-H-CH-LL133, at 3 (Sept. 2, 2010). James M. Wommack, Petitioner's attorney-in-fact, filed an appeal of the Decision on September 9, 2010, which was deemed to be a motion for reconsideration. (Pet'r's Mot. Recon.)

If this Court has issued a decision on the merits within the previous year, Petitioner is only entitled to a review when: "…the debt has become legally unenforceable since the issuance of that decision or when the debtor can submit newly discovered material evidence that the debt is presently not legally enforceable." 24 C.F.R. § 17.152(d) (2007). Petitioner, in her appeal, has not sufficiently demonstrated that either requirement has been met. Instead, Petitioner argues that:

> "...[the Decision] is fundamentally flawed as it relates to the timing of the cases cited. It would appear that neither case allows for a retro application of the ruling. We believe as a matter of law that our case should be adjudicated based on the statutes in place at the expiration of the ten year periods, which was long before either of these cases."

(Pet'r's Mot. Recon.)

Petitioner's argument that: "retroactive effect should not be given to the amendment eliminating the 10-year statute of limitation for administrative offset cases" is without merit. The language of the amendment clearly states that, "the amendment...shall apply to any debt outstanding on or after the date of the enactment of this Act." Pub. L. No. 110-234, § 14219(b), 112 Stat. 923. The Secretary has sufficiently demonstrated that the debt in this case remains outstanding, and Petitioner also admits the same by stating that: "...[the debt in this case] has been outstanding for more than ten years...." (Pet'r's Letter, Jun. 1, 2010.) As Petitioner has not proffered any evidence showing that the debt in this case has been satisfied, this Court finds that the statute shall be given retroactive effect and revive the Secretary's claim. *See In re Jerry Minchew,* HUDOA No. 10-M-NY-LL58 (Aug. 17, 2010); *see also, United States v. Singer,* 943 F. Supp. 9 (D.D.C. 1996) (holding that legislation eliminating all statutes of limitation on actions to recover on defaulted student loans applied retroactively to revive the cause of action that would otherwise have been time barred)[1].

Petitioner also claims that: "...the court showed a favorable bias toward the attorney for the Secretary when it allowed for an extension which was without merit or justification." (*Id.*) 24 C.F.R. § 17.154(b) provides that the presiding administrative judge has the discretion to extend time limitations in appropriate circumstances for good cause shown. In this case, the Secretary established good cause sufficient enough to warrant the Court granting a motion for extension of time to the Secretary in order to prepare his response to the Court's Order issued on June 15, 2010. Likewise, in reference to the Secretary's request for extension, Petitioner was ordered "if there are any objections *to be raised by either party*, such objections should be filed with this Court, on or before August 6, 2010, or the record shall otherwise be considered complete and a decision shall be rendered based on the record of this proceeding." (Order of Clarification, p.2, dated July 28, 2010). Petitioner failed to submit any objections in compliance with the Order issued and also failed to demonstrate how the extension granted to the Secretary would be prejudice towards him.

Petitioner's only argument supporting her claim is that: "...Counsel [for the Secretary] had 24 years to prepare to file her pleading, which seems to be more than adequate time" (Pet'r's Letter Jul. 29, 2010) and that "...an extension of time would create an unconscionable delay." (Pet'r's Request for Denial of the Motion for Extension). But, Petitioner again failed to further demonstrate how granting the Secretary's motion, that extended the Secretary's filing period by 23 days, would be an unconscionable delay or unfairly prejudice Petitioner. Nevertheless, as

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[1] Although this case was later reversed in part, the appellate court affirmed the district court's finding that the language of the Higher Education Technical Amendments of 1991 effectively revived the government's claim against the debtor. *See, United States v. Singer,* 132 F.3d 1482 (Table), 1997 WL 812459 (C.A.D.C. 1997.)

previously stated, Petitioner is only entitled to a review of the Decision if the debt has become unenforceable or upon newly discovered material evidence. Therefore, this Office finds that since Petitioner has failed to establish either that the debt has become legally unenforceable or that the debt is presently not legally enforceable because of newly discovered material evidence, Petitioner remains legally obligated to pay the debt that is the subject of this proceeding.

As a final point, Petitioner requested that "the Decision be vacated or the case remanded to a higher court." (Pet'r's Mot. Recon.) Pursuant to 24 C.F.R. § 17.153(a), "[t]he decision of the administrative judge…is the final agency decision with respect to the past-due status and enforceability of the debt." While the case may not be *remanded to a higher court*, if Petitioner wishes to appeal the Decision, she may file her appeal with a district court having jurisdiction over this case. (Emphasis added.)

ORDER

For the reasons set forth above, it is hereby **ORDERED** that the administrative offset order authorized by the Decision, *In re Lisa Wommack,* HUDOA No. 10-H-CH-LL133 (Sept. 2, 2010) shall not be modified and shall remain in **FULL FORCE AND EFFECT**.

Vanessa L. Hall
Administrative Judge

September 10, 2010