



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

DECISION AND ORDER

Petitioner was notified that, pursuant to 31 U.S.C. §§ 3716 and 3720A, the Secretary of the U.S. Department of Housing and Urban Development ("HUD") intended to seek administrative offset of any federal payments due to Petitioner in satisfaction of a delinquent and legally enforceable debt allegedly owed to HUD.

On April 21, 2010, Petitioner made a request for a hearing concerning the existence, amount or enforceability of the debt allegedly owed to HUD. The administrative judges of the Office of Appeals have been designated to conduct a hearing to determine whether the debt allegedly owed to HUD is legally enforceable. *See* 24 C.F.R. §§ 17.152 and 17.153. As a result of Petitioner's hearing request, referral of the debt to the U.S. Department of the Treasury for administrative offset was temporarily stayed by this Office on April 29, 2010 until the issuance of a written decision by the administrative judge. *See* 24 C.F.R. § 17.156.

Background

On June 11, 1984, Petitioner executed and delivered to Countrywide Acceptance Corporation ("Countrywide") an Installment Contract ("Note") in the amount of \$18,486.00 for a mobile home loan that was insured against nonpayment by the Secretary pursuant to Title I of the National Housing Act, 12 U.S.C. § 1703. (Secretary's Statement ("Sec'y Stat."), filed July 22, 2010, ¶ 2, Ex. A.) On January 15, 1986, Petitioner entered into a Contract Modification Agreement with Countrywide in which the interest rate and monthly payment were reduced. (*Id.* at ¶ 2, Ex. C.) The Note was later assigned by Countrywide to Government National Mortgage Association. (*Id.*) After default by Petitioner, the Note was assigned to the Secretary pursuant to the provisions of the Title I insurance program. (*Id.* at ¶ 3.)

HUD has attempted to collect the amounts due under the Note, but Petitioner remains delinquent. (*Id.* at ¶ 4, Ex. B, Declaration of Kathleen M. Porter, Acting Director, Asset Recovery Division, Financial Operations Center of HUD ("Porter Decl."), dated May 5, 2010, ¶ 4.) The Secretary has filed a Statement with documentary evidence in support of his position that Petitioner is indebted to the Department in the following amounts:

- (a) \$3,437.14 as the unpaid principal balance as of April 30, 2010;
- (b) \$1,459.28 as the unpaid interest on the principal balance at 5% per annum through April 30, 2010; and
- (c) interest on the principal balance from May 1, 2010 at 5% per annum until the debt is paid in full.

(*Id.* at ¶ 5, Ex. B, Porter Decl., ¶ 4.) A Notice of Intent to Collect by Treasury Offset dated March 29, 2010, was sent to Petitioner. (*Id.* at ¶ 6, Ex. B, Porter Decl., ¶ 5)

Discussion

The Deficit Reduction Act of 1984, 31 U.S.C. § 3720A, provides Federal agencies with a remedy for the collection of debts owed to the United States Government. Petitioner bears the initial burden of submitting evidence to prove that the debt is not past-due or legally enforceable. 24 C.F.R. § 17.152(b); *Juan Velazquez*, HUDBCA No. 02-C-CH-CC049 (September 25, 2003).

Petitioner's sole argument is that the subject debt is not legally enforceable against Petitioner "because it has been outstanding for more than ten years and can no longer be collected by means of administrative offset as a matter of law." (Petitioner's Letter ("Pet'r Ltr."), filed June 1, 2010.) Petitioner states that "the original date of default was 03/03/1992," that "the original notification [was] dated 09/11/1996," and that "the time for collection would expire in February of 2002." (*Id.*)

The Office of Appeals has already recognized that while 31 U.S.C. [§] 3716(e) (1) previously contained a ten-year statute of limitations, the statute was amended in 2008 to eliminate limitations period. See *Lucille Robinson*, HUDOA No. 10-H-CH-LL28, dated July 28, 2010, (citing *Angela Cortez*, HUDOA No. 09-M-CH-AWG102, dated July 20, 2009.)

Additionally, the Supreme Court has held that no statute of limitations exists in administrative proceedings. B.P. America Prod. Co. v. Burton[,] 127 S. Ct. 638 (2006).

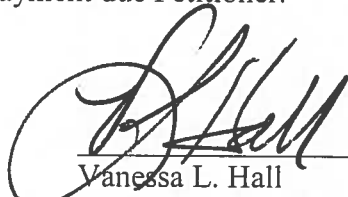
In this case, the pertinent Federal statute applicable to collection of debts by administrative offset clearly provides that “[a]fter trying to collect a claim from a person under § 3711(a) of this title, the head of an executive . . . agency may collect the claim by administrative offset.” 31 U.S.C. § 3716(a) (2008). Furthermore, this statute provides that “[n]otwithstanding any other provision of law, regulation, or administrative limitation, no limitation on the period within which an offset may be initiated or taken pursuant to this section shall be effective.” 31 U.S.C. § 3716(e)(1) (2008). Consequently, there is no time limitation restricting the right of the Government to collect this debt by means of administrative offset. Consistent with statutory regulations and case law precedent, I find that the Secretary is not barred by statute of limitations from collecting the alleged debt by means of administrative offset, and I further find that Petitioner remains legally obligated to pay the subject debt.

ORDER

For the reasons set forth above, I find that the debt which is the subject of this proceeding is legally enforceable against Petitioner in the amount claimed by the Secretary.

The Order imposing the stay of referral of this matter to the U.S. Department of the Treasury for administrative offset is **VACATED**. It is hereby

ORDERED that the Secretary is authorized to refer this matter to the U.S. Department of the Treasury for administrative offset of any payment due Petitioner.



Vanessa L. Hall
Administrative Judge

September 2, 2010