In the Matter of:

    Jack Lobaido,

           Petitioner

HUDBCA No. 10-H-CH-LL17
Claim No. 7-704062100A

Jack Lobaido
34596 Whittaker Street
Clintons TWP, MI 48035

Pro se

Matthew Towey, Esq.
U.S. Department of Housing and
 Urban Development
Office of Assistant General Counsel
 For Midwest Field Offices
77 West Jackson Boulevard
Chicago, IL 60604

For the Secretary

RULING ON SECRETARY'S MOTION TO DISMISS

Petitioner was notified by a Due Process Notice, pursuant to 31 U.S.C. §§ 3716 and 3720A, that the Secretary of the U.S. Department of Housing and Urban Development ("HUD") intended to seek offset by the United States Department of the Treasury of any federal payments due to Petitioner to recover a claimed past-due, legally enforceable debt of Petitioner to HUD.

Petitioner filed a timely request to present evidence that the debt was not past-due or not legally enforceable. Pursuant to 24 C.F.R. §§ 17.150 et. seq. and 20.4(b), the administrative judges of the HUD Office of Appeals are authorized to determine whether these debts are past due and legally enforceable. As a result of Petitioner's request, referral of the debt to the Department of the Treasury was temporarily stayed by this Office.
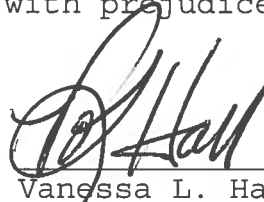
While the death of a debtor does not bar or estop a creditor from pursuing enforcement of a debt against the

debtor's estate, on March 4, 2010 a Motion to Dismiss was filed on behalf of the Secretary stating that the Secretary has determined that "Upon the suggestion of death, the cause is abated."

Upon due consideration, the Secretary's Motion to Dismiss is **GRANTED**. It is hereby

ORDERED that the Secretary shall not seek to collect the claimed debt of Petitioner by means of administrative offset of any federal payment due to Petitioner. The stay of referral of this matter to the Department of the Treasury is made permanent.

This matter is **DISMISSED** with prejudice.

Vanessa L. Hall
Administrative Judge

March 9, 2010