



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

In the Matter of:

**Kenneth W. Perry,**

Petitioner

HUDOA No. 10-H-CH-LL54  
Claim No. 7-709986610A

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For the Petitioner

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For the Secretary

**RULING ON SECRETARY'S MOTION TO VACATE ORDER AND  
ORDER OF DISMISSAL**

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. §§ 17.152 and 17.153, the Administrative Judges of the HUD Office of Appeals are authorized to determine whether the debt is past due and legally enforceable. As a result of Petitioner's request, referral of the debt to the U.S. Department of the Treasury was temporarily stayed by this Office. (Notice of Docketing, Order, and Stay of Referral, dated February 24, 2010.)

On July 20, 2010, a Motion to Vacate Order and Dismiss was filed on behalf of the Secretary advising this Office that "upon review of Petitioner's file, the Secretary's Counsel discovered a letter, dated April 27, 2010 letter [sic] from Petitioner." (Motion to Dismiss, ¶5.) The Secretary further states that in that letter "Petitioner stated that he filed

for debt relief under Chapter 7 of the United States Bankruptcy Code under Case Number 1050688,” and that in fact “a review of PACER demonstrates that Petitioner has, in fact, filed for debt relief under Chapter 7 on the United States Bankruptcy Code.” (Id., ¶¶6-7.)

The Secretary admits that “until the file was reviewed on July 7, 2010, the Secretary’s Counsel was unaware that the office of Appeals was not in possession of the petitioner’s correspondence, dated April 27, 2010.” (Id., ¶8.)

Therefore, upon due consideration and for good cause shown, the Secretary’s Motion to Vacate Order issued on June 30, 2010 is hereby **GRANTED**, and the Motion to Dismiss also is **GRANTED**. It is therefore

**ORDERED** that the Secretary shall not seek to collect the claimed debt of Petitioner by means of administrative offset of any federal payment due Petitioner due to Petitioner’s bankruptcy.

This matter is **DISMISSED WITH PREJUDICE**.



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Vanessa L. Hall  
Administrative Judge

July 22, 2010