



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

In the Matter of:

**Ana Maria Medina (Alvarez),**

Petitioner

HUDOA No. 10-H-CH-LL89  
Claim No. 7-706533990B

Ana Maria Medina (Alvarez)  
12237 Dunrobin Avenue  
Downey, CA 90247

*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 March 15, 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. 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 March 16, 2010 until the issuance of a written decision by the administrative judge. 24 C.F.R. § 17.156.

## Background

On April 6, 1992, Petitioner executed a Note under the provisions of the Title I insurance program. (Secretary's Statement ("Sec'y Stat."), filed August 3, 2010, ¶ 1, Ex. 1.) After default by Petitioner, the Note was assigned to the Secretary pursuant to the provisions of the Title I Insurance Program. (*Id.* at ¶ 2; Ex. 2, Declaration of Brian Dillon, Director, Asset Recovery Division, Financial Operations Center of HUD ("Dillon Decl."), dated March 25, 2010, ¶ 3.)

HUD has attempted to collect this debt, but Petitioner remains delinquent. (Sec'y Stat., ¶ 3; Dillon Decl., ¶ 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) \$14,887.50 as the unpaid principal balance as of February 28, 2010;
- (b) \$8,344.07 as the unpaid interest on the principal balance at 4% per annum through February 28, 2010; and
- (c) interest on said principal balance from March 1, 2010 at 4% per annum until paid.

(Sec'y Stat., ¶ 4; Dillon Decl., ¶ 4.) A Notice of Intent to Collect by Treasury Offset, dated January 27, 2010, was sent to Petitioner. (Sec'y Stat., ¶ 5; Dillon 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 contends that the debt is unenforceable because Petitioner filed for bankruptcy. Petitioner states, "We filed for bankruptcy in 1994 and subsequently lost our home in the process. I have also included . . . my credit report . . . which reflects the bankruptcy filed." (Petitioner's Request for Hearing ("Pet'r Hr'g Req."), filed March 15, 2010.)

In response, the Secretary acknowledges that Petitioner filed a Chapter 13 bankruptcy in the Central District of California under case number 93-84880 on July 13, 1993. (Sec'y Stat., ¶ 6; Dillon Decl., ¶ 6.) However, the Secretary asserts that Petitioner's bankruptcy case was dismissed on May 12, 1994, with the explicit provision that any discharge that may have previously been entered be vacated. (Sec'y Stat., ¶ 6; Dillon Decl., ¶ 6, Ex. A.) As support, the Secretary submitted a copy of an "Order Dismissing Chapter 13 Case" issued on behalf of Ana Maria Medina (Alvarez) by the United States Bankruptcy Court for the Central District of California. (*Id.*)

The Order dismissing Petitioner's bankruptcy case establishes that the alleged debt due on the Note was not discharged as a result of Petitioner filing for a Chapter 13 bankruptcy. Thus, I find that the alleged debt remains due and owing by Petitioner. Petitioner has submitted no other documentary evidence to establish that all or part of the debt is either unenforceable or not

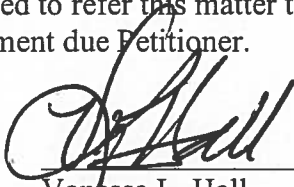
past due. Therefore, I find that the alleged debt remains enforceable against Petitioner in the amount claimed by the Secretary.

**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.

  
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Vanessa L. Hall  
Administrative Judge

January 27, 2011