



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

In the Matter of:

John Wayne Wood,

Petitioner

HUDOA No. 10-H-CH-LL99
Claim No. 7-802529920A

John Wayne Wood
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London, AR 72847

Pro se

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For the Secretary

ORDER OF DISMISSAL

In 24 C.F.R. § 17.152(b) it provides that failure by the Petitioner to submit evidence within 65 calendar days from the date of the Department's Notice of Intent, will result in a dismissal of Petitioner's request for review by the HUD Office of Appeals. Petitioner previously stated: "On several occasions we have corresponded with HUD personnel via phone or mail. We have tried a number of times to resolve this with HUD and put this all behind us. I am sending my file that I have on this matter and would like to speak to someone that can help in getting this solved." (Petitioner's Request for Hearing, filed March 22, 2010.) Upon reviewing the documentation submitted by Petitioner with his Request for Hearing, it was found to not be in compliance with the March 23, 2010 Order. Such evidence failed to prove that the alleged debt was either unenforceable or past due.

In order to provide the assistance requested by Petitioner this Office issued a Notice of Docketing, Order, and Stay of Referral ("Notice of Docketing") to Petitioner in which Petitioner was informed:

Documents relating to this alleged debt are not in the possession of this Office. Petitioner may request copies

of these documents by writing to: Kim McManus, U.S. Department of Housing and Urban Development, Financial Operations Center, 52 Corporate Circle, Albany, NY 12203. (emphasis in original.) (Notice of Docketing, p.2, dated March 23, 2010.)

Petitioner was also ordered, in the Notice of Docketing, to submit documentary evidence in support of his claim that the debt was unenforceable or past due. (Id.) Thereafter, Petitioner was again ordered to submit documentary evidence in support of his position but again failed to comply with either Order. (Order, dated May 11, 2010; Order to Show Cause, dated June 1, 2010.)

This Office acknowledges Petitioner's financial circumstances, but the law provides "unfortunately, in administrative offset cases evidence of financial hardship, no matter how compelling, cannot be taken into consideration in determining whether the debt is past-due and enforceable." *Edgar Joyner, Sr.*, HUDBCA No. 04-A-CH-EE052 (June 15, 2005); *Anna Filiziana*, HUDBCA No. 95-A-NY-T11 (May 21, 1996); *Charles Lomax*, HUDBCA No. 87-2357-G679 (February 3, 1987). Financial adversity does not invalidate a debt or release a debtor from a legal obligation to repay it. *Raymond Kovalski*, HUDBCA No. 87-1681-G18 (December 8, 1986). Furthermore, no regulation or statute currently exist that permits financial hardship to be considered as a basis for determining whether a debt is past-due and enforceable in cases involving debt collection by means of administrative offset. Thus, consistent with case law precedent and statutory limitations, I find that financial hardship cannot be considered as a defense in this case as the debt owed by Petitioner is sought to be collected by means of administrative offset.

While this Office is not authorized to extend, recommend, or accept any payment plan, or consider any settlement offer on behalf of HUD, Petitioner may wish to discuss this matter with either Counsel for the Secretary, or submit a HUD Office Title I Financial Statement (HUD Form 56142) to Lester J. West, Director, HUD Financial Operations Center, 52 Corporate Circle, Albany, NY 12203-5121, who may be reached at 1-800-669-5152.

Upon due consideration of Petitioner's failure to comply with 24 C.F.R. § 17.152(b), and for good cause shown, Petitioner's appeal is *DISMISSED sua sponte*. It is hereby

ORDERED that this matter be **DISMISSED WITH PREJUDICE**.



Vanessa L. Hall
Administrative Judge

July 22, 2010