



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

In the Matter of:

BERNADETTE STEGALL,
Petitioner.

HUDOA No. 10-H-NY-LL152
Claim No. 7-710316110A

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For the Secretary

RULING ON MOTION FOR RECONSIDERATION AND ORDER

In the Decision and Order dated January 6, 2011, this Court found that the debt that is the subject of this proceeding was not discharged through Petitioner's Chapter 13 Bankruptcy and that "Petitioner failed to provide any evidence that supported her claim of reduction, or otherwise refuted or rebutted the Secretary's claim that the amount of the subject debt is enforceable or past due." *In re Bernadette Stegall*, HUDOA No. 10-H-NY-LL152, at p.3 (January 6, 2011).

On January 31, 2011, Petitioner, through counsel, filed a Motion for Reconsideration, along with supporting documentation. Petitioner argued that the actual amount due for the principal balance is "\$3,824.09 based on Judge Fox['s] Order," an Order issued by the U.S. Bankruptcy Court for the Eastern District of Pennsylvania. (Motion for Reconsideration, Attachment.) Petitioner's Motion for Reconsideration is **GRANTED**.

Reconsideration is within the Court's discretion and will not be granted in the absence of compelling reasons, e.g. newly discovered material evidence or clear error of fact or law. See *Paul Dolman*, HUDBCA No 99-A-NY-Y41 (November 4, 1999); *Louisiana Housing Finance Agency*, HUDBCA No. 02-D-CH-CC006, (March 1, 2004); and *Wayne R. Cross*, HUDBCA No. 04-K-NY-EE007 (March 10, 2004). 24 C.F.R. §17.152(d) also provides the same two exceptions that entitle Petitioner to review a previous decision issued by the Office of Appeals: 1) when the debt has become legally unenforceable since the issuance of that decision; or, 2) when the debtor can submit newly discovered material evidence that the debt is presently not legally enforceable.

In this case, Petitioner has persuaded the Court that, based upon newly discovered material evidence presented by Petitioner, the amount originally claimed by the Secretary is erroneous. Petitioner submitted, as material evidence, a copy of an Order issued by Judge Bruce Fox on July 14, 1997 from the U.S. Bankruptcy Court of the Eastern District of Pennsylvania. The judge ordered that, "judgment was entered in favor of Plaintiff-Debtor [Petitioner] and against Defendants." (Motion for Reconsideration, Attachment.) He further ordered that, "Core States holds a secured claim of \$45,875.91, Mego Mortgage holds a secured claim of \$3,824.09 and an unsecured claims [sic] of \$5,803.04, (emphasis added.) (Id.) The accuracy of the amount of the secured claim for Mego Mortgage is the subject of this proceeding.

On February 4, 2011, this Court ordered the Secretary to file a response to Petitioner's Motion for Reconsideration. The Secretary stated, in response, that: "Based on Bankruptcy Judge Fox's July 14, 1997 Order, HUD adjusted the principal balance owed to \$3,824.09 and reduced the Note's interest rate of 15.75% to the 1998 federal claim collection rate of 5%...the updated outstanding balance due to HUD is \$5,519.12." (Secretary's Response to Court's Order, "Sec'y's Response," ¶¶ 3-4, filed February 18, 2011.) The Secretary further stated that the current balance now due "includes the receipt of the Trustee's disbursement of the arrears and three Treasury Offset payments of \$165.90 each from Petitioner." (*Id.* at ¶ 5.)

While both parties have produced sufficient and credible documentation that substantiates the adjusted amount of \$3,824.09 as the principal balance owed for the alleged debt, the Secretary, in addition, has also produced an Audit Reconstruction Report that reflects the updated outstanding balance due HUD in the amount of \$5,519.12. (Sec'y's Response, Declaration of Brian Dillon, Director, Asset Recovery Division, Financial Operations Center of HUD, ¶ 3, Exhibit A.) Upon review, the Audit Report shows that the outstanding balance, with adjustments, includes the receipt of the Trustee's disbursement of the arrears on June 4, 1998, and the three Treasury Offset payments of \$165.90 each from Petitioner on July 2, 2010, August 3, 2010, and February 3, 2011, respectively. (Sec'y's Response, Ex. A., pp. 1,3, and 5.)

RULING AND ORDER

Based upon the evidence presented by Petitioner that verifies the correct amount for the principal balance due for the alleged debt, and likewise the evidence produced by the Secretary that substantiates the amount of the updated outstanding balance of the alleged debt, the ruling issued in the Decision and Order, *In re Bernadette Stegall*, HUDOA No. 10-H-NY-LL152,

(January 6, 2011) is hereby **MODIFIED** to reflect the adjusted amount of the principal balance at \$3,824.09, and the updated outstanding balance due to HUD of \$5,519.12. It is hereby

FURTHER ORDERED that the Decision and Order, *In re Bernadette Stegall*, HUDOA No. 10-H-NY-LL152, (January 6, 2011), OTHERWISE SHALL REMAIN IN FULL FORCE AND EFFECT as so previously ordered.

/s/ _____
Vanessa L. Hall
Administrative Judge

January 24, 2012