



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

In the Matter of:

**Johnny Mack Herring,**

Petitioner

HUDOA No. 10-H-NY-LL83

Claim No. 7-704115581B

Johnny Mack Herring  
1313 County Road 457  
Woodland, AL 36280

Pro se

Julia Murray, Esq.  
U.S. Department of Housing and  
Urban Development  
Office of Regional Counsel  
for New York/New Jersey Field Offices  
26 Federal Plaza, Room 3237  
New York, NY 10278

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 states

I wish to challenge this action of debt collection and obtain a review of HUD's initial determination that the debt is due and legally enforceable. I also will [sic] like a[n] accounting and cal[c]ulation of balance due. According [to] the code #3 STATUTE OF LIMITATION [t]he Federal statu[t]e governing collection of debts pursuant to the Deficit Reduction Act provides that no claim 'that has been outstanding for more than 10 years' may be collected by means of administrative offset. 31 U.S.C. #3716 (c)(1).

(Petitioner's Request for Hearing, filed March 12, 2010).

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 16, 2010.)

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

Furthermore, while Petitioner argues that the collection of this debt is barred by the statute of limitations under 31 U.S.C. § 3716 (c)(1), the governing statute in 31 U.S.C. § 3716 (e)(1) was amended in 2008 to eliminate the ten-year limitation.<sup>[1]</sup> The regulation, 24 CFR §17.160, implementing the statute is therefore superseded by the amended statute under 31 USC § 3716 (e)(1). As a result, no statute of limitations applies in this case.

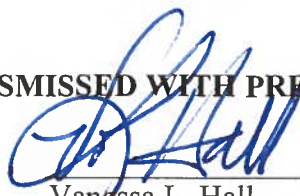
As a final point, Rule 26.3 of Title 24 of the Code of Federal Regulations provides:

If a party refuses or fails to comply with an Order of the hearing officer, the hearing officer may enter any appropriate order necessary to the disposition of the hearing including a *determination against a noncomplying party*. (emphasis added).

Accordingly, because Petitioner has also failed to comply with any of the Orders issued by this Office, I find that Petitioner’s non-compliance to the Orders issued by this Office provides a basis for rendering a decision against Petitioner pursuant to Rule 26.3 of Title 24 of the Code of Federal Regulations.

Upon due consideration of Petitioner’s failure to comply with 24 C.F.R. § 17.152(b) and Rule 26.3 of Title 24 of the Code of Federal Regulations, Petitioner’s appeal is **DISMISSED** *sua sponte*. It is hereby

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

  
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Vanessa L. Hall  
Administrative Judge

July 8, 2010

<sup>[1]</sup> On May 22, 2008, 31 U.S.C. 3716 (e)(1) was amended in Public Law No. 110-234, § 14219 to now state: Elimination of statute of limitations applicable to collection of debt by administrative offset.