



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

In the Matter of:

ELIZABETH W. BAZEMORE,
Petitioner.

HUDOA No. 10-M-CH-LL102
Claim No. 770741004 OB

Elizabeth W. Bazemore.
10805 Briar Rd. S.W.
Lakewood, WA 98499

Pro se

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For the Secretary

DECISION AND ORDER

Elizabeth W. Bazemore, aka Elizabeth A. Bazemore (“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” or “the Secretary”) 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 February 23, 2010, Petitioner made a request for a hearing concerning the existence, amount or enforceability of the debt allegedly owed to HUD. The Office of Appeals has jurisdiction to determine whether Petitioner’s debt is past due and legally enforceable pursuant to 24 C.F.R. § 17.170(b). 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, this Office temporarily stayed referral of the debt to the U.S. Department of Treasury for offset on March 24, 2010. (Notice of Docketing, Order, and Stay of Referral, issued Mar. 24, 2010.)

Background

On January 17, 1987, Petitioner executed a Retail Installment Contract (“Note”), in the amount of \$13,635.33 to finance certain repairs on her home. (Secretary’s Statement (“Sec’y Stat.”), filed Sept. 29, 2010, ¶ 1; Sec’y Stat., Ex. 1, Note.) After Petitioner defaulted on the Note, the Note was assigned to HUD by National Loan Servicer, Inc. under the regulations governing the Title I Insurance Program. (Sec’y Stat., Ex. 3, Declaration of Brian Dillon (“Dillon Decl.”), dated Apr. 2, 2010.)

HUD has attempted to collect on the Note from Petitioner but has not been successful. (Sec’y Stat. ¶ 3; Dillon Decl. ¶ 4.) The Secretary has filed a statement alleging that Petitioner is justly indebted to HUD in the following amounts

- (a) \$2,730.96 as the unpaid principal balance as of March 30, 2010;
- (b) \$47.81 as the unpaid principal balance at 3% per annum through March 30, 2010; and
- (c) interest on said principal balance from March 30, 2010 at 3% per annum until paid.

(Sec’y Stat. ¶ 4; Dillon Decl. ¶ 4.) A Notice of Intent to Collect by Treasury Offset dated Jan. 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 the remedy of administrative offset of federal payments for the collection of debts owed to the United States government. In these cases, 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, HUD/BCA No. 02-C-CH-CC049 (Sept. 25, 2003).

In Petitioner’s Hearing Request, Petitioner states “I am in no way responsible for this debt; I have never owned a house. I am requesting HUD to present a record that I am responsible for this debt.” (Petitioner’s Hearing Request (“Pet’r’s Hr’g Req.”), filed Feb. 23, 2010.) On March 24, 2010, this Office ordered the Secretary to file documentary evidence to prove that Petitioner is indebted to HUD in the amount alleged, and that the alleged debt is enforceable and past due. (Notice of Docketing, at p. 2.) On September 29, 2010, the Secretary filed a Statement setting forth his argument that Petitioner is indebted to HUD, and supported his argument with a copy of the Note and a sworn declaration by Brian Dillon. (Sec’y Stat., Attachs.)

Having received the Secretary’s Statement and documentary evidence, this Office then ordered Petitioner to file her documentary evidence to “prove that Petitioner does not owe the alleged debt in this case, or that the debt is unenforceable or not past due.” (Order, dated Sept. 30, 2010.) The Order also stated that “[f]ailure to comply with this Order may result in a decision based on the documents in the record of this proceeding.” (emphasis in original) (*Id.*) In response to the Order, Petitioner filed a letter stating, “I, the undersigned take no responsibility

for the debt imposed upon me, I do not owe HUD any monies[.] Regarding this debt, I do not own a house at this time.” (Petitioner’s Letter (“Pet’r’s Ltr.”), filed Oct. 22, 2010.) Petitioner did not file any documentary evidence to support her argument that she is not responsible for this debt. This Office has held that “[a]ssertions without evidence are not sufficient to show that the debt claimed by the Secretary is not past due or enforceable.” Troy Williams, HUDOA No. 09-M-CH-AWG52, (June 23, 2009) (citing, Bonnie Walker, HUDBCA No. 95-G-NY-T300, (July 3, 1996)). Further, Petitioner’s failure to file documentary evidence is a violation of 24 C.F.R. § 26.4(a), which states that “[t]he hearing officer may sanction a person, including any party or representative for failing to comply with an order...; failing to prosecute or defend an action; or engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.” 24 C.F.R. § 26.4(a) (2010). Pursuant to 24 C.F.R. § 26.4(c), which sets forth the specific sanctions that may be imposed, including “any appropriate order necessary to the disposition of the hearing including a determination against the noncomplying party...,” (24 C.F.R. § 26.4(a)) this Office finds that: (1) Petitioner has not met her burden of defense against the Secretary’s allegations; and (2) the debt in this case is past due and enforceable in the amount alleged by the Secretary.

ORDER

For the reasons set forth above, I find the debt that is the subject of this proceeding to be 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 federal payment due Petitioner.



H. Alexander Manuel
Administrative Judge

December 17, 2010