



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

In the Matter of:

William Craig Hubbert,
Petitioner

HUDOA No. 10-M-CH-LL11
Claim No. 780156565

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For Petitioner

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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 to recover a claimed past-due, legally enforceable debt owed to HUD by referring the matter to the U.S. Department of the Treasury.

Petitioner requested a hearing concerning the existence, amount or enforceability of the debt allegedly owed to HUD in this case. The Office of Appeals has been designated to conduct a hearing to determine whether the alleged debt to HUD is legally enforceable. 24 C.F.R. § 17.152(c). 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 December 10, 2009, until the issuance of a written decision by the Administrative Judge. See 24 C.F.R. § 17.156.

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*, HUDBCA No. 02-C-CH-CC049 (September 25, 2003).

On December 10, 2009, this Office issued a Notice of Docketing, Order, and Stay of Referral (“Order”) ordering Petitioner to file documentary evidence proving that Petitioner is not indebted to HUD in this matter or that the debt is otherwise unenforceable and not past due. (Notice of Docketing, Order, and Stay of Referral, dated December 10, 2009.)

On January 5, 2010, this Office received a letter from Petitioner in which Petitioner requests “all documents from the office of Kim McManus, Financial Operations Center, 52 Corporate Circle, Albany, NY.” (Petitioner’s Letter, dated January 4, 2010.) Petitioner’s letter was deemed to be a motion for extension of time. Subsequently, this Office granted Petitioner’s Motion for Extension of Time. Petitioner did not submit any documentary evidence with the letter.

On February 18, 2010, this Office again ordered Petitioner to file documentary evidence, in accordance with 24 C.F.R. § 17.152(b), proving that all or part of the alleged debt in this case is not enforceable or not past due. (Order, dated February 18, 2010.) The Order further stated that: “Failure to comply with this Order shall result in a decision based on the documents in the record of this proceeding.” (*Id.*)

On February 22, 2010, this Office received a letter from Petitioner in which Petitioner states: “[A]ny effort to collect his debt by administrative offset is barred because the Government did not commence a lawsuit or administrative action within six years or for that matter, ten years of October 15, 1998 (the default and assignment date).” (Petitioner’s Letter, dated February 5, 2010.) However, the controlling statute in the instant case, 31 U.S.C. § 3716, does not contain a time limitation in which the government is required to bring such administrative actions. Therefore, this Court finds that the Secretary is not barred from seeking an administrative offset to recover the outstanding debt to HUD. Additionally, Petitioner failed to provide any documentary evidence proving that he is not indebted to HUD in this matter or that the debt is unenforceable or not past due. (*Id.*)

Petitioner has, therefore, not met his burden to prove that the debt in this case is not past-due or legally enforceable. In the absence of documentary evidence to support Petitioner’s position, I find the debt that is the subject of this proceeding to be legally enforceable against Petitioner as set forth in the Notice of Intent to Collect by Treasury Offset.

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 payments due Petitioner.



H. Alexander Manuel
Administrative Judge

May 6, 2010