



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

In the Matter of:

**SANDRA MILES,**

Petitioner

HUDOA No. 10-M-CH-LL118  
Claim No. 77-0997606-0B

**DECISION AND ORDER**

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") seeks administrative offset of any federal payments due to Petitioner in satisfaction of an alleged delinquent and legally enforceable debt owed to HUD.

On March 8, 2010, this Office received from Petitioner, 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. 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 March 31, 2010, until the issuance of a written decision by the Administrative Judge. *See* 24 C.F.R. § 17.156.

**Background**

The nature of the alleged debt is a Retail Installment Contract ("Note") that was executed by Petitioner on May 6, 1993. (Secretary's Statement ("Sec'y Stat."), filed April 29, 2010, ¶ 1; Ex. 2, (Declaration of Brian Dillon, Director, Asset Recovery Division, Financial Operations Center, HUD ("Dillon Decl."), dated April 29, 2010, ¶ 3.)

The Note was assigned to the Secretary of HUD pursuant to the provisions of the Title I Insurance Program. (Sec'y Stat., ¶ 2; Dillon Decl., ¶ 2.) Petitioner is currently in default on the Note. HUD has attempted to collect the amounts due under the Note, but Petitioner remains delinquent. (Sec'y Stat., ¶ 4; Dillon Decl., ¶ 4.) Petitioner is alleged to be indebted to the Secretary in the following amounts:

- (a) \$6,123.50 as the unpaid principal balance as of March 30, 2010;
- (b) \$3,875.30 as the unpaid interest on the principal balance at 5% per annum through March 30, 2010; and
- (c) interest on said principal balance from April 1, 2010 at 5% per annum until paid.

(Sec'y Stat., ¶ 3; Dillon Decl., ¶ 4.) On or about February 22, 2010, a Notice of Intent to Collect by Treasury Offset was sent to Petitioner by HUD. (Sec'y Stat., ¶ 5; Dillon Decl., ¶ 5.) On March 5, 2010, HUD sent Petitioner a copy of her file. (Sec'y Stat., ¶ 6; Dillon Decl., ¶ 6.)

### 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 purpose of collecting 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 March 8, 2010, this Office received a letter from Petitioner that was deemed to be a Request for Hearing. (Petitioner's Hearing Request (Pet'r's Hr'g Req.), filed March 8, 2010.) In the letter, Petitioner states:

“I am requesting all the records that you may have to support your claim... I don't know what is going on[.] I also am requesting a review.”

(Pet'r's Hr'g Req.)

On April 29, 2010, the Secretary filed documentary evidence to prove that Petitioner's alleged debt to HUD is enforceable and past due. On May 4, 2010, this Office 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 past due or legally unenforceable against Petitioner.” (Order dated May 4, 2010.) The Order also stated that “Failure to comply with this order will result in a decision based on the documents in the record of this proceeding.” (*Id.* (emphasis in original))

On August 19, 2010, this Office received from Petitioner copies of documents received by Petitioner from “the Albany Area Office.” (Petitioner's Document Submission (“Pet'r's.

Doc.”), filed August 25, 2010.) The submission shows a HUD “Completion Certificate for Property Improvements” that was signed by both Sammie Miles and Sandra Miles dated May 20, 1993 underneath the section denoted as “Signature of Borrower & Date.” (Pet’r’s. Doc.) The information from the Albany Area Office also has before and after photos showing what purports to be the same residence before and after certain repairs. Petitioner has submitted two additional photos and states:

“Please look closely[,] this is not my home. Look at the picture I am sending you. My home has two windows near the corner and four windows in the living room.”

(Pet’r’s. Doc.)

These pictures filed by Petitioner, do not establish that Petitioner is not indebted to HUD on the Note that is the subject of this proceeding. Although Petitioner generally denies that she owes the debt in this case, nowhere does she deny that she signed the Note in this case.

On September 15, 2010, further documents were submitted by Petitioner. (Petitioner’s Secondary Documentary Submission, filed September 15, 2010.) Petitioner asserts three arguments: 1) that on the credit application for property improvement, her race is incorrectly indicated as being “white,” but that she is actually black; 2) that “the picture that [HUD] sent...is not [Petitioner’s] home...”; and 3) that the Department of the Treasury put an incorrect address on an offset receipt. (Petitioner Secondary Document Submission, dated September 10, 2010.)

The second argument was addressed *supra*. Petitioner was afforded ample opportunity 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 past due or legally unenforceable against Petitioner.” (Order, dated May 4, 2010.) I find that even accepting that technical administrative errors may have been made of the nature argued by Petitioner, such errors are not sufficient for Petitioner to carry her burden of proving that she does not owe the alleged debt in this case.

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)). Since Petitioner does not offer any substantial evidence to prove that the debt in this case is unenforceable or not past due, I find that Petitioner’s argument fails for want of proof.

### **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

**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.



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H. Alexander Manuel  
Administrative Judge

November 29, 2010