



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

In the Matter of:

**PRICILLA MOSBY,**  
Petitioner

HUDOA No. 10-M-CH-LL78  
Claim No. 78008138-3 0B

Priscilla Mosby  
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*Pro se*

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U.S. Department of Housing and  
Urban Development  
Office of the Assistant General Counsel  
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77 West Jackson Boulevard  
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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” 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 March 8, 2010, this Office received a letter, dated March 1, 2010, from Petitioner that was deemed to be a timely 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. § 17.152. 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 9, 2010. (Notice of Docketing, Order and Stay of Referral (“Notice of Docketing”), dated Mar. 9, 2010.)

## Background

On September 4, 1996, Petitioner executed and delivered to Custom Craft Builders an Ohio Retail Installment Contract and Truth in Lending Disclosure (“Note”) in the amount of \$9,950.00. (Sec’y Stat., Ex. 1, Note at p. 1.) After Petitioner defaulted on the Note, the Note was assigned to HUD by Empire Funding Corp. under the regulations governing the Title I Insurance Program. (Sec’y Stat., Ex. 2. Dillon Decl. ¶ 3; Note at p. 2.) HUD has attempted to collect on the Note from Petitioner, but remains unsuccessful. (Dillon Decl. ¶ 3.) The Secretary has filed a statement alleging that Petitioner is indebted to HUD in the following amounts:

- (a) \$1,235.71 as the unpaid principal balance as of February 28, 2010;
- (b) \$108.15 as the unpaid interest on principal balance at 5% per annum through February 28, 2010;
- (c) \$0.00 as the unpaid penalties and administrative cost as of February 28, 2010; and
- (d) interest on said principal balance from March 1, 2010, at 5% per annum until paid.

(Dillon Decl. ¶ 4.) A Notice of Intent to Collect by Treasury Offset, dated February 22, 2010, was mailed to Petitioner. (Sec’y Stat. ¶ 4.) In Petitioner’s hearing request, Petitioner requested a copy of HUD’s records for this alleged debt. (Pet’r’s Hr’g Req., filed Mar. 8, 2010). Pursuant to Petitioner’s request, HUD mailed a copy of Petitioner’s file to her on March 26, 2010. (Sec’y Stat. ¶ 5.)

## Discussion

The Deficit Reduction Act of 1984, 31 U.S.C.A. §3720, provides federal agencies with a means of collecting debts owed to the United States Government. Petitioner bears the initial burden of submitting evidence to prove that the alleged debt is unenforceable or not past due. 24 C.F.R. § 17.152(b). Petitioner disputes the existence of the debt and states, “I do not believe I owe this debt.” (Pet’r’s Hr’g Req.) Petitioner, however, failed to present any evidence to support her claim that she does not owe the alleged debt despite being ordered to do so on two separate occasions. (Order, issued Mar. 18, 2010 and Order, issued Jun. 30, 2010.) In the last order, Petitioner was informed that “[f]ailure to comply with this Order shall result in a decision based on the documents in the record of this proceeding.” (emphasis in original) (Order, issued Jun. 30, 2010.) 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. *In re Jane Johnson*, HUDOA No. 10-M-CH-LL45 (Aug. 6, 2010) (citing, *In re Bonnie Walker*, HUDBCA No. 95-G-NY-T300, (Jul. 3, 1996). Inasmuch as Petitioner has failed to provide documentary evidence to substantiate her position, this Office finds that her claim that she does not owe the debt must fail for lack of proof. *In re Elizabeth Aragon*, HUDBCA No. 97-C-SE-W231 (Oct. 28, 1997) (citing *In re Nona Mae Hines*, HUDBCA No. 87-1907-G240 (Feb. 4, 1987)).

On March 9, 2010, this Office ordered the Secretary to file documentary evidence to prove that Petitioner is indebted to the Department in the amount alleged to be due and owing, and that the alleged debt is enforceable and past due. (Notice of Docketing, at p. 2.) On March

17, 2010, the Secretary complied with the Notice of Docketing by filing a Statement and documentary evidence in support of his position. This Office notes that the Secretary has failed to clearly set for the chain-of-title that resulted in HUD becoming the holder of the Note. However, this Office shall not raise the issue since Petitioner has met her initial burden of going forward with the case by submitting evidence that the debt is unenforceable or not past due.

**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.



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H. Alexander Manuel  
Administrative Judge

November 2, 2010