



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

In the Matter of:

**MARCIA MEDINA RODRIGUEZ,**

Petitioner

HUDOA No. 10-M-CH-LL88  
Claim No. 7-801069410B

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*Pro Se*

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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.

On March 15, 2010, this Office received from Petitioner a hearing request 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 March 17, 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 Note, signed by Petitioner, and assigned to the Secretary under the provisions of the Title I Insurance Program. (Secretary's Statement ("Sec'y Stat."), filed July 28, 2010, ¶ 1, Ex. 1.) The Secretary alleges that Petitioner is indebted to HUD in the following amounts:

- (a) \$20,774.57 as the unpaid principal balance as of February 28, 2010;
- (b) \$6,173.74 as the unpaid interest on the principal balance at 5.0% per annum through February 28, 2010; and
- (c) interest on said principal balance from March 1, 2010, at 5% per annum until paid.

(Sec'y. Stat., ¶ 2; Ex. 2, Declaration of Brian Dillon, Director, Asset Recovery Division, Financial Operations Center, HUD ("Dillon Decl."), dated March 23, 2010, ¶ 4.) Efforts have been made to collect this debt, but Petitioner remains delinquent. (Sec'y. Stat., ¶ 3; Dillon Decl., ¶ 4. ) A Notice of Intent to Collect by Treasury Offset dated February 15, 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*, HUDBCA No. 02-C-CH-CC049 (September 25, 2003).

On March 15, 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 15, 2010.) In the letter, Petitioner states:

"I received a notice of intent to collect by treasury offset and would like to please request to inspect and copy HUD's records related to the debt or request HUD to provide a copy of such records. I believe I do not owe this debt and would also like to request to obtain a review of HUD's initial determination that the debt is past due and legally enforceable."

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

On July 29, 2010, and September 29, 2010, this Office ordered Petitioner to file, on or before October 18, 2010, documentary evidence proving that all or part of the alleged debt in this case is not past due or not legally enforceable against Petitioner. (Order, issued September 29, 2010.) The Order also stated that “Failure to comply with this order may result in a decision based on the documents in the record of this proceeding.” (emphasis in original)

Petitioner failed to respond to both the September 29, 2010 and the July 29, 2010 Orders, and is therefore in violation of 17 C.F.R. §26.4(a)<sup>1</sup>. Pursuant to 17 C.F.R. § 26.4(c)<sup>2</sup>, this Office finds Petitioner has not met her burden of defense to the Secretary’s allegations against her. This Office has also 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 evidence that would prove that the debt 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 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

November 30, 2010

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<sup>1</sup> 24 C.F.R. § 26.4(a) states that “[t]he hearing officer may sanction a person, including any party or representative, for failing to comply with an order, rule, or procedure governing the proceeding; failing to prosecute or defend an action; or engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.”

<sup>2</sup> 17 CFR §26.4(c) sets forth the specific sanctions that may imposed, including “any appropriate order necessary to the disposition of the hearing including a determination against the noncomplying party . . .”