



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

In the Matter of:

**ERNEST T. HOLLEY, JR.,**

Petitioner

HUDOA No. 10-M-NY-LL09  
Claim No. 7210034610A

Ernest T. Holley, Jr.  
42 Curtis Place  
Staten Island, N.Y. 10301

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 in satisfaction of a delinquent and legally enforceable debt allegedly owed to HUD.

On December 7, 2009, Petitioner made a request for 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 debt allegedly owed 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 8, 2009, until the issuance of a written decision by the Administrative Judge. *See* 24 C.F.R. § 17.156.

### Discussion

31 U.S.C. §§ 3716 and 3720A authorize federal agencies to collect debts owed to the United States Government by means of administrative offset. The burden of proof is on the alleged debtor to show that the debt claimed by the Secretary is unenforceable or not past due. 24 C.F.R. § 17.152(b). Failure to provide documentary evidence to meet this burden shall result in a dismissal of the debtor's request for review. *Id.*

Petitioner has acknowledged that he signed the Note which is the subject of these proceedings. However, he argues that (1) the offset would create "a financial hardship to [him] and [his] family" (Petitioner's Request for Hearing ("Pet'r Hr'g Req."), filed December 7, 2009); and (2) he "only could find two letters showing [his] bill was being paid [and he] assume[d] [his] bill was paid." (Petitioner's Letter ("Pet'r Ltr."), filed December 23, 2009.)

On two separate occasions, this Office ordered Petitioner to file documentary evidence to prove that the debt in this case is not enforceable or not past due. (Notice of Docketing, Order and Stay of Referral, dated December 8, 2009; Order ("Order"), dated February 18, 2010.) The February 18<sup>th</sup> Order specifically stated, "Failure to comply with this Order shall result in a decision based upon the documents in the record of this proceeding." (Order.) Petitioner failed to respond to both Orders.

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

**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

July 28, 2010