



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

In the Matter of:

DEMETRIO RODRIGUEZ,

Petitioner

HUDOA No. 10-M-NY-LL124
Claim No. 7210006850A

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Pro Se

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For the Secretary

DECISION AND ORDER

On or about February 20, 2009, 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 April 6, 2010, Petitioner filed a request for a hearing concerning the existence, amount or enforceability of the debt allegedly owed to HUD. The administrative judges of this Office 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, referral of the debt to the U.S. Department of the Treasury for administrative offset was temporarily stayed by this Office on April 9, 2010.

Discussion

Petitioner does not deny the existence or delinquency of the debt that is the subject of this proceeding. Petitioner, however, contends that the alleged debt is unenforceable because the offset of \$954 was not credited to his account, and he received no response to his request for a repayment plan of \$100 per month. Petitioner writes in Spanish, "On February 20, 2009, the agency took my tax refunds for the amount of \$954.00. That amount was not credited to my account. I asked the agency for a monthly payment plan of \$100, but never received a response." (Petitioner's Request for Hearing, filed April 6, 2010.)

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 April 9, 2010; Order, dated August 8, 2010.) The August 8th Order stated, "Failure to comply with this Order shall result in a decision based upon the documents in the record of this proceeding." Petitioner failed to respond to both Orders.

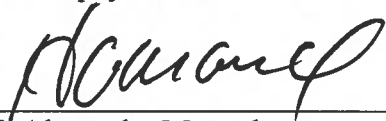
Furthermore, this Office is not authorized to extend, recommend, or accept any payment plan or settlement offer on behalf of the Department. Should Petitioner wish to initiate, continue, or renew discussion regarding settlement terms, Petitioner may wish to discuss this matter with counsel for the Secretary in this proceeding, or to file a HUD Title I Financial Statement (HUD Form 56142) with Lester J. West, Director, HUD Albany Financial Operations Center, 52 Corporate Circle, Albany, NY 12203-5121. Mr. West's telephone number is 1-800-669-5152, extension 4206.

Petitioner has 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.



H. Alexander Manuel
Administrative Judge

October 19, 2010