



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

In the Matter of:

**Wendi L. Adams,**  
Petitioner

HUDOA No. 11-M-CH-LL45  
Claim No. 7-801121540B

Wendi L. Adams  
1200 Daffodil Drive  
Dayton, NV 89403

*Pro se*

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77 West Jackson Boulevard  
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For the Secretary

**DECISION AND ORDER**

On August 22, 2011, Petitioner filed a request for a hearing concerning a proposed administrative offset relating to a debt allegedly owed to the U.S. Department of Housing and Urban Development ("HUD" or "the Department") by Petitioner. The Debt Collection Improvement Act of 1996, as amended (31 U.S.C. § 3716), authorizes federal agencies to utilize administrative offset as a mechanism for the collection of debts owed to the United States government.

This case is conducted in accordance with the procedures set forth at 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, and whether the Secretary may collect this debt via federal administrative offset. 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 August 24, 2011. (Notice of Docketing, Order and Stay of Referral ("Notice of Docketing"), dated August 24, 2011.)

## Background

On or about August 22, 1997, Petitioner executed and delivered a Note to Community Financial, Inc., in the amount of \$25,000.00, which was insured against nonpayment by the Secretary, pursuant to Title I of the National Housing Act, 12 U.S.C. § 1703. (Secretary's Statement ("Sec'y Stat."), ¶ 2, filed September 6; Ex. A, Note.) The Note was subsequently assigned from Community Financial, Inc., to Trust One Mortgage Corp., who in turn assigned it to Coast Partners Investors Corp. (Sec'y Stat.; Ex. A, p. 2-3.) Coast Partners then assigned the Note to Empire Funding Corp., who subsequently assigned it to the Federal national Mortgage Association ("Fannie Mae") after Petitioner failed to make payment on the Note. (Sec'y Stat., ¶ 4; Ex. A, p. 3-4.)

HUD has attempted to collect the alleged debt from Petitioner, but has been unsuccessful. (Sec'y Stat. ¶ 5; Ex. B, Declaration of Kathleen Porter, Acting Director, Asset Recovery Division, HUD Financial Operations Center ("Porter Decl."), ¶ 4. dated April September 2, 2011.) The Secretary alleges that Petitioner is indebted to HUD in the following amounts:

- (a) \$24,790.60 as the unpaid principal balance as of August 31, 2011;
- (b) \$10,501.02 as the unpaid interest on the principal balance at 5.0% per annum through August 31, 2011; and
- (c) interest on said principal balance from September 1, 2011 at 5.0% per annum until paid.

(Sec'y Stat., ¶ 8; Porter Decl., ¶ 4.)

A Notice of Intent to Collect by Treasury Offset, dated August 8, 2011, was mailed to Petitioner. (Sec'y Stat. ¶ 6; Porter Decl., ¶ 5.)

## Discussion

The Deficit Reduction Act of 1984, 31 U.S.C. § 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 enforceability of the alleged debt. Specifically, Petitioner appears to argue that her liability for this debt has already been conclusively decided by this Office. (Petitioner's Hearing Request ("Pet'r's Hr'g Req.", p. 2.) Petitioner has included as documentary evidence a copy of *In re: Wendi Adams*, HUDOA No. 09-M-CH-AWG106 (July 10, 2009), an administrative wage garnishment decision in which this Office determined that any garnishment of Petitioner's salary would constitute financial hardship. Citing Petitioner's potential financial hardship, this Office ordered that the stay of referral to the U.S. Department of Treasury for administrative wage garnishment remain in place indefinitely.

The Secretary counters that the 2009 decision related to a proposed wage garnishment action distinct from the present federal offset action. (Sec'y Stat., ¶ 7.) We agree with the Secretary. HUD regulations state that the existence of an administrative wage garnishment action "does not preclude a Federal agency from pursuing other debt collection remedies, *including the offset of Federal payments*. ... A Federal agency may pursue such debt collection remedies separately or in conjunction with administrative wage garnishment." 31 C.F.R. § 285.11(a)(4) (emphasis added). The Secretary is therefore authorized to seek collection of this alleged debt via federal offset, without regard to the outcome of the wage garnishment hearing.

In the Notice of Docketing, dated August 24, 2011, this Office ordered Petitioner to "file [on or before October 31, 2011] documentary evidence to prove that all or part of the alleged debt is either unenforceable or not past due." (Notice of Docketing, p. 2.) Petitioner failed to respond to this Order.

On September 8, this Office again ordered Petitioner to file, no later than September 30, 2011, documentary evidence to prove that the debt in this case is not enforceable or past due. (Order, issued September 8, 2011.) The Order also stated that "Failure to comply with this Order may result in the imposition of sanctions ... including the entry of judgment in favor of the opposing party, and/or a decision based upon the documents of record in this proceeding." (emphasis in original.) Petitioner again failed to comply with the Order.

The Secretary has introduced documentary evidence proving that Petitioner signed the subject Note, that the Note was subsequently assigned to HUD, and that Petitioner has failed to make payments upon the Note. Petitioner, meanwhile, has failed to present any evidence that the alleged debt in this case is unenforceable or not past due. I therefore find that Petitioner has not met her burden of proof, and so remains liable for the debt in the amount claimed by the Secretary.

### ORDER

For the reasons set forth above, the Order imposing the stay of referral of this matter to the U.S. Department of the Treasury for federal treasury offset is **VACATED**.

It is hereby **ORDERED** that the Secretary is authorized to seek collection of this outstanding obligation by means of federal treasury offset to the extent authorized by law.



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H. Alexander Manuel  
Administrative Judge

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November 15, 2011  
