

UNITED STATES OF AMERICA  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF HEARINGS AND APPEALS

In the Matter of:

**Jerome Moorehead,**

Petitioner.

Case No. 12-H-CH-PP39

Claim No. 7-210073880B

July 30, 2012

**ORDER OF DISMISSAL**

In 24 C.F.R. § 17.69(b) it provides that failure by Petitioner to submit evidence within 60 calendar days from the date of the Department's Notice of Intent to Offset will result in a dismissal of Petitioner's request for review by the HUD Office of Appeals. Petitioner claimed "The above claim is not my debt. I never applied or signed for an additional HUD loan. I've attached my divorce decree from 2006. You will see that my ex-spouse received the house and the debt that goes along with it [is] in the divorce decree." (Petitioner's Request for Hearing, "H'rg Req.," filed April 19, 2012). Petitioner provided a copy of his divorce decree as support.

This Court issued, thereafter, an Order for Documentary Evidence on June 19, 2012 in which Petitioner was informed that "This Office has previously held that co-signers of a loan are jointly and severally liable to the obligation, and as a result, "a creditor may sue the parties to such obligation separately or together." *Mary Jane Lyons Hardy*, HUDBCA No. 87-1982-G314, at 3 (July 15, 1987). As such, "the Secretary may proceed against any co-signer for the full amount of the debt" because each co-signer is jointly and severally liable for the obligation. *Hedieh Rezai*, HUDBCA No. 04-A-NY-EE016 (May 10, 2004). (Order, dated June 19, 2012). The Secretary's right to collect the alleged debt in this case emanates from the terms of the Note. *Bruce R. Smith*, HUDBCA No. 07-A-CH-AWG11 (June 22, 2007). As a result, Petitioner's reliance upon the terms of the divorce decree is not a sufficient basis upon which he can rely to claim the alleged debt as unenforceable.

Petitioner was ordered on three occasions to submit documentary evidence that would more sufficiently support his position that he was not legally obligated for the alleged debt. But, Petitioner failed to comply with any of the Orders issued by this Court. (Notice of Docketing, Order, and Stay of Referral, March 14, 2012; Order, dated May 3, 2012; and Order to Show Cause, dated June 12, 2012.) Without such evidence, the Court is unable to proceed with this hearing based upon the record of this proceeding. This Court has consistently maintained 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)).

Furthermore, Rule 26.4(c) of Title 24 of the Code of Federal Regulations provides:

If a party refuses or fails to comply with an Order of the hearing officer, the hearing officer may enter any appropriate order necessary to the disposition of the hearing including *a determination against a noncomplying party*. (emphasis added).

Because Petitioner has failed to comply with any of the Orders issued by this Court to submit sufficient documentary evidence, I find that Petitioner's non-compliance with the Orders issued also provides a basis for rendering a decision against Petitioner pursuant to Rule 26.4(c) of Title 24 of the Code of Federal Regulations.

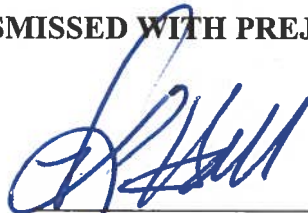
As a final point, Petitioner stated "Please provide me a copy of the application of the HUD loan where I signed it, also a copy of who received the check and the back of the check where it was signed. If this loan was taken out in my name after 2006, it was done so fraudulently." (H'rg. Req.) Petitioner was issued a Notice of Docketing, Order, and Stay of Referral on April 19, 2012 in which Petitioner was informed that:

**Documents relating to this alleged debt are not in the possession of this Office.** Petitioner may request copies of these documents by writing to: Debra Mele Cox, U.S. Department of Housing and Urban Development, Financial Operations Center, 52 Corporate Circle, Albany, NY 12203.

(Notice of Docketing, p.2.)

Upon due consideration of Petitioner's failure to comply with 24 C.F.R. § 17.69 (b) and pursuant to Rule 26.4 of Title 24 of the Code of Federal Regulations, Petitioner's appeal is **DISMISSED sua sponte**. It is hereby

**ORDERED** that this matter be **DISMISSED WITH PREJUDICE**.



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Vanessa L. Hall  
Administrative Judge