

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

In the Matter of:

**Richard and Karen Sewell,**

Petitioner

HUDOA No. 12-H-NY-PP17  
Claim No. 7-210053320A  
7-210053320B

Date: April 27, 2012

**RULING ON SECRETARY'S MOTION TO DISMISS**

Petitioner was notified by a Due Process Notice, pursuant to 31 U.S.C. §§ 3716 and 3720A, that the Secretary of the U.S. Department of Housing and Urban Development ("HUD") intended to seek administrative offset by the United States Department of the Treasury of any Federal payments due to Petitioner to recover a claimed past-due, legally enforceable debt of Petitioner to HUD.

Petitioner filed a timely request to present evidence that the debt was not past-due or not legally enforceable. Pursuant to 24 C.F.R. § 17.61<sup>1</sup> et. seq. and § 20.4(b), the administrative judges of the HUD Office of Appeals are authorized to determine whether these debts are past due and legally enforceable. As a result of Petitioner's request, referral of the debt to the U.S. Department of the Treasury was temporarily stayed by this Office on December 19, 2011.

On April 13, 2012, the Court issued an Order for Documentary Evidence to Counsel for the Secretary, an Order not required by regulation to be issued by the Court, but instead, is routinely issued as a courtesy reminder to counsel on either side to file documentary evidence that best supports their position after the opposing counsel has appropriately responded to the Order(s) issued by the Court.

On April 23, 2012, the Secretary filed a Motion to Dismiss in which the Secretary sought to "dismiss, without prejudice, its action to pursue collection of the subject debt via Administrative Offset because Petitioners filed a Chapter 13 bankruptcy petition in the United States Bankruptcy Court[,] Northern District of Alabama on October 21, 2010. The Chapter 13 bankruptcy is pending resolution." (*See also* Declaration of Brian Dillon at ¶ 3- Exhibit A).

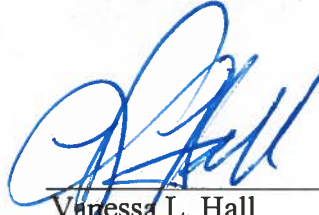
<sup>1</sup> It should be noted, for future purposes, that Title 24 of the Code of Federal Regulations, §§ 17.150- 17.161 regarding the Department's procedures for requesting the Department of the Treasury to offset Federal payments was amended, effective December 7, 2011.

Upon due consideration, the Secretary's Motion to Dismiss is **GRANTED**. It is hereby

**ORDERED** that the Secretary shall not seek to collect the claimed debt of Petitioner by means of administrative offset of any Federal payment due Petitioner.

The Stay of Referral of this matter to the U.S. Department of the Treasury issued by this Court on December 19, 2011 shall remain in place indefinitely. It is hereby

**FURTHER ORDERED** that this matter be **DISMISSED WITHOUT PREJUDICE**.



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Vanessa L. Hall  
Administrative Judge