

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

In the Matter of:

Ronnie Ash,

Petitioner.

HUDOA 13-AM-0171-AO-006

Claim No. 721003407

March 6, 2014

DECISION AND ORDER

Ronnie Ash (“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 order to satisfy Petitioner’s alleged debt to HUD.

On August 19, 2013, Petitioner requested a hearing concerning the enforceability of the alleged debt. The Office of Hearings and Appeals has been designated to conduct a hearing to determine whether the debt is legally enforceable. 24 C.F.R. § 17.69(c). As a result of Petitioner’s hearing request, referral of the debt to the U.S. Department of the Treasury for the administrative offset was temporarily stayed by the Court on September 16, 2013, until the issuance of a written decision by the Administrative Judge. (Notice of Docketing, Order, and Stay of Referral (“Notice of Docketing”), dated Sept. 16, 2013.)

Background

On March 15, 2001, Petitioner executed a Promissory Note that stated “In return for a loan received from [Secretary of Housing and Urban Development and its successors and assigns], [Ronnie Ash] promises to pay the principal sum of FOURTEEN THOUSAND, THREE HUNDRED THIRTY EIGHT AND 96/100 DOLLARS (U.S. \$14,338.96) to the order of the [Secretary of Housing and Urban Development and its successors and assigns].” *Petitioner’s Letter*, dated August 19, 2013, Exh. B.

Petitioner’s alleged debt obligation was transferred to the U.S. Department of Treasury’s Treasury Offset Program (“TOP”), on June 18, 2013, HUD recovered a TOP offset of \$5,358.00 from Petitioner’s federal income tax refund. *Petitioner’s Letter*, dated August 19, 2013, Exh. A.

Discussion

The Deficit Reduction Act of 1984, 31 U.S.C. § 3720A, provides federal agencies with the remedy of administrative offset of federal payments for the collection of debts owed to the

United States Government. In these cases, Petitioners bear the initial burden of filing evidence to prove that the debt is not past-due or legally enforceable. 24 C.F.R. § 17.69(b); Juan Velazquez, HUDBCA No. 02-C-CH-CC049 (Sept. 25, 2003).

Petitioner does not dispute the existence or amount of her alleged debt to HUD. Rather, Petitioner claims that the statute of limitations has run on the debt. (Petitioner's Hearing Request ("Pet'r's Hr'g Req."), received August 19, 2013.) The Office of Appeals, in Angela Cortez, HUDOA No. 09-M-CH-AWG102, has already recognized that while 31 U.S.C. § 3716(e)(1) previously contained a ten-year statute of limitations, the statute was amended in 2008 to eliminate the limitations period. *See* Pub. L. 110-234, title XIV, §14219(a), May 22, 2008, 122 Stat. 1482.

The pertinent federal statute applicable to collection of debts by administrative offset clearly provides that "[a]fter trying to collect a claim from a person under § 3711(a) of this title, the head of an executive . . . agency may collect the claim by administrative offset." 31 U.S.C. § 3716(a) (2008). Furthermore, this statute provides that "[n]otwithstanding any other provision of law, regulation, or administrative limitation, no limitation on the period within which an offset may be initiated or taken pursuant to this section shall be effective." 31 U.S.C. § 3716(e)(1) (2008). This means that there is no time limitation restricting the right of the Government to collect this debt by means of administrative offset. Therefore, consistent with applicable law, I find that the Secretary is not barred by any statute of limitations from collecting the alleged debt by means of administrative offset.

Further, Petitioner has failed to meet his initial burden of filing evidence that the debt in this case is not past due or legally enforceable. On September 16, 2013, Petitioner was ordered to file documentary evidence "on or before October 16, 2013." (Notice of Docketing, dated Sept. 16, 2013.) Petitioner failed to file any evidence by that date, or otherwise comply with the Notice of Docketing. Accordingly, Petitioner's appeal is **DISMISSED**, *sua sponte*.

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 administrative offset is **VACATED**.

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

SO ORDERED.



H. Alexander Manuel
Administrative Judge