



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

In the Matter of:

Sebastian Rivalora,
Petitioner

HUDOA No. 11-H-NY-AWG66
Claim No. 721005534

Sebastian Rivalora
20 Hartford Street
Staten Island, NY 10308

Pro se

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For the Secretary

RULING ON SECRETARY'S MOTION TO DISMISS

Petitioner filed a timely request to present evidence that an alleged past due, legally enforceable debt of Petitioner to the U.S. Department of Housing and Urban Development ("HUD") should not be collected by the Secretary by means of administrative wage garnishment. Pursuant to 31 C.F.R. § 285.11, as authorized by 24 C.F.R. § 17.170, the administrative judges of the HUD Office of Appeals are authorized to determine whether the debt that is the subject of this proceeding is past due and legally enforceable. As a result of Petitioner's hearing request, referral of the debt to the U.S. Department of the Treasury was temporarily stayed by this Office on March 24, 2011. See 31 C.F.R. §285.11(f)(4).

On April 8, 2010, the Secretary filed a Motion to Dismiss this case on the grounds that:

Based on the issuance of the Wage Garnishment Order, HUD has received four wage garnishment payments totaling \$912.47, which have been credited to Petitioner's account. In addition to wage garnishments, HUD has also received and credited, three voluntary payments totaling \$300.00, and three Treasury Offset Payments

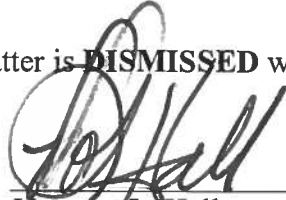
totaling \$9,797.00. A fifth wage garnishment payment in the amount of \$232.49 has not yet been credited to Petitioner's account.

As support, the Secretary provided a copy of Petitioner's Case Reconstruction Report as of March 31, 2011 for review by this Office. The Secretary further states that, "Upon review of Petitioner's account, it appears the account is now overpaid. Therefore, HUD is dismissing the administrative wage garnishment action, and will issue a refund to Petitioner in the amount of \$356.60, once the final wage garnishment payment in the amount of \$232.49 is received from the Treasury." (Motion to Dismiss., p.2.)

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

ORDERED that the Stay of Referral of this matter to the U.S. Department of the Treasury issued by this Office on March 24, 2011 is **VACATED**. It is hereby

FURTHER ORDERED that this matter is **DISMISSED** without prejudice.



Vanessa L. Hall
Administrative Judge

April 12, 2011