



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

In the Matter of:

**Robert L. Blue,**  
Petitioner

HUDOA No. 11-M-NY-AWG89  
Claim No. 5526799 LL 9244

Robert L. Blue  
8310 Wire Grass Road  
Orrum, NC 28369

*Pro se*

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**DECISION AND ORDER**

On April 18, 2011, Petitioner requested a hearing concerning a proposed administrative wage garnishment relating to a debt allegedly owed to the U.S. Department of Housing and Urban Development ("HUD"). The Debt Collection Improvement Act of 1996, as amended (31 U.S.C. § 3720D), authorizes federal agencies to use administrative wage garnishment as a mechanism for the collection of debts owed to the United States Government.

The administrative judges of this Office have been designated to determine whether the Secretary may collect the alleged debt by means of administrative wage garnishment if the debt is contested by a debtor. This hearing is conducted in accordance with the procedures set forth at 31 C.F.R. § 285.11, as authorized by 24 C.F.R. § 17.170. The Secretary has the initial burden of proof to show the existence and amount of the debt. 31 C.F.R. § 285.11(f)(8)(i). Petitioner, thereafter, must show by a preponderance of the evidence that no debt exists or that the amount of the debt is incorrect. 31 C.F.R. § 285.11(f)(8)(ii). In addition, Petitioner may present evidence that the terms of the repayment schedule are unlawful, would cause a financial hardship to Petitioner, or that collection of the debt may not be pursued due to operation of law. *Id.*

Pursuant to 31 C.F.R. § 285.11(f)(4) and (f)(10), on April 19, 2011, this Office stayed referral by HUD of this matter to the U.S. Department of the Treasury for issuance of an administrative wage garnishment order until the issuance of this written decision, unless a wage withholding order had previously been issued against Petitioner. (Notice of Docketing, Order, and Stay of Referral, dated April 19, 2011.)

### **Background**

On February 12, 1993, Petitioner executed and delivered a Retail Installment Contract (the "Note") to Lumberton Housing Center in the amount of \$28,354.35, which was insured against nonpayment by the Secretary pursuant to the National Housing Act, 12 U.S.C. § 1721(g). (Secretary's Statement ("Sec'y Stat.") ¶ 2, Ex. A., filed May 13, 2011; Declaration of Christopher C. Haspel, Director, Mortgage-Backed Securities Monitoring Division of the Government National Mortgage Association ("Ginnie Mae") within HUD ("Haspel Decl.") ¶ 3, dated May 11, 2011.) Contemporaneously, on February 12, 1993, the Note was assigned by Lumberton Housing Center to Logan-Laws Financial Corporation ("Logan-Laws"). (Sec'y Stat. ¶ 3; Haspel Decl. ¶ 3.) Logan-Laws was defaulted as an issuer of Mortgage Backed Securities ("MBS") due to its failure to comply with Ginnie Mae's MBS program requirements. (Sec'y Stat. ¶ 4; Haspel Decl. ¶ 4.) Upon default by Logan-Laws, all of its rights, title, and interest in Petitioner's loan were assigned to Ginnie Mae by virtue of the Guarantee Agreement entered into between Logan-Laws and Ginnie Mae. (Sec'y Stat. ¶ 5; Haspel Decl. ¶ 4.) As Ginnie Mae is the rightful holder of the Note, the Secretary is entitled to pursue repayment from Petitioner. (Sec'y Stat. ¶ 6; Haspel Decl. ¶ 5.)

The Secretary has made efforts to collect from Petitioner, but has been unsuccessful. (Sec'y Stat. ¶ 7; Haspel Decl. ¶ 6.) The Secretary alleges that Petitioner is indebted to the Secretary in the following amounts:

- (a) \$22,712.27 as the unpaid principal balance;
- (b) \$17,197.30 as the unpaid interest on the principal balance at 13% per annum through May 11, 2011; and
- (c) interest on said principal balance from May 12, 2011 until paid.

(Sec'y Stat. ¶ 7; Haspel Decl. ¶ 6.) Pursuant to 31 C.F.R. § 285.11(e), a Notice of Intent to Initiate Administrative Wage Garnishment Proceedings, dated July 23, 2008, was sent to Petitioner. (Sec'y Stat. ¶ 8; Haspel Decl. ¶ 7.) In accordance with 31 C.F.R. § 285.11(e)(2)(ii), Petitioner was afforded the opportunity to enter into a written repayment agreement under mutually agreeable terms. (Sec'y Stat. ¶ 9; Haspel Decl. ¶ 7.) To date, Petitioner has not entered into a written repayment agreement. (Sec'y Stat. ¶ 9.)

The Secretary's proposed repayment schedule is 7% of Petitioner's disposable pay. (Sec'y Stat. ¶ 10; Haspel Decl. ¶ 8.)

### Discussion

Pursuant to 31 C.F.R. § 285.11(f)(8)(ii), Petitioner bears the burden of proving, by a preponderance of the evidence, that no debt exists or that the terms of the proposed repayment schedule would cause him financial hardship. Petitioner does not dispute the validity of the debt, but rather maintains that he does not owe the full amount of the debt. Specifically, Petitioner states: "I made payments before the creditor took over my account on this home. I know I owe you but not this much money. Please help me if you can." (Hr'g Request, filed April 18, 2011.) Further, Petitioner requests that he be "release[d] . . . from this debt," stating that "I don't make much money and [it] seems like I have already paying [sic] this debt forever." Petitioner also states that he has "been having a lot [of] hardship" due to his wife's lingering funeral expenses and asks that HUD "take less money out of check [sic]." (*Id.*) In support of Petitioner's argument, Petitioner submitted a receipt indicating his payment of \$200.00 for his deceased wife's funeral expenses. (Hr'g Request.)

The Secretary does not address Petitioner's argument that he does not owe the full amount of the debt. However, in response to Petitioner's allegation of financial hardship, the Secretary states: "In light of the hardship and one borrower being deceased, Ginnie Mae proposes a wage garnishment of just 7% of Petitioner's disposable pay, instead of the Federal Agency allowed amount of 15%." (Haspel Decl. ¶ 8.) Therefore, it appears that the Secretary granted Petitioner's request to "take less money out of [his] check." (Hr'g Request.)

Moreover, Petitioner has failed to provide documentary evidence to prove that all or part of the alleged debt is either unenforceable or not past due or that repayment would cause financial hardship. On April 19, 2011, this Court ordered Petitioner to file documentary evidence to prove that all or part of the alleged debt is either unenforceable or not past due. (Notice 2.) In the alternative, Petitioner could provide documentary evidence to prove that repayment of the debt would cause a financial hardship. (*Id.*) Petitioner failed to comply with the Notice. On June 9, 2011, this Court again ordered Petitioner to file documentary evidence, but Petitioner also failed to comply with this Order. (Order to Pet'r, dated June 9, 2011.)

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 unenforceable." *Troy Williams*, HUDOA No. 09-M-CH-AWG52 (June 23, 2009) (citing *Bonnie Walker*, HUDBCA No. 95-G-NY-T300 (July 3, 1996)). Except for Petitioner's assertions, there is no documentary evidence indicating that Petitioner does not owe the entire amount of the alleged debt or that garnishment in the amount of 7% of his disposable pay would cause financial hardship. Therefore, Petitioner has not satisfied his burden of proof in rebutting the Secretary's evidence that the debt does in fact exist and is enforceable against him in the amount claimed by the Secretary.

### ORDER

For the reasons set forth above, I find that the debt which is the subject of this proceeding is legally enforceable against Petitioner in the amount claimed by the Secretary.

The Order imposing stay of referral of this matter to the U.S. Department of Treasury for administrative wage garnishment is **VACATED**. It is hereby

**ORDERED** that the Secretary is authorized to refer this matter to the U.S. Department of the Treasury for administrative wage garnishment in the amount of 7% of Petitioner's disposable income.



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H. Alexander Manuel  
Administrative Judge

August 1<sup>7</sup>, 2011  
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