

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

In the Matter of:

WILLIE PHILLIPS,

Petitioner.

Docket No. 24-VH-0048-AO-007  
(Claim No. 7-210200200A)

February 6, 2025

**DECISION AND ORDER**

On November 17, 2023, Willie Phillips (“Petitioner”) filed a *Hearing Request*, pursuant to 24 C.F.R. § 17.69(a), seeking a hearing concerning a debt allegedly owed to the United States Department of Housing and Urban Development (“HUD”). HUD seeks to collect the alleged debt via administrative offset under 31 U.S.C. § 3716.

**LEGAL FRAMEWORK**

The Debt Collection Improvement Act of 1996 authorizes federal agencies to use administrative offset as a mechanism for the collection of debts owed to the United States government. See 31 U.S.C. §§ 3716, 3720A. The Office of Hearings and Appeals (“Tribunal”) has jurisdiction to determine whether Petitioner’s alleged debt is past due and legally enforceable pursuant to 24 C.F.R. §§ 17.61 *et. seq.* The administrative judges of this Tribunal proceed in accordance with the procedures set forth at 24 C.F.R. §§ 17.69 and 17.73.

**PROCEDURAL HISTORY**

Petitioner filed the *Hearing Request* with evidence in support of Petitioner’s position. Then, this Tribunal issued a *Notice of Docketing, Order, and Stay of Referral* (“*Notice of Docketing*”) staying the issuance of an administrative offset of any federal payment due to Petitioner until the issuance of this *Decision and Order*. On December 29, 2023, HUD filed the *Secretary’s Statement that Petitioner’s Debt is Past Due and Legally Enforceable* in a related case (i.e., *In re Willie Phillips*, HUDOHA No. 24-VH-0043-AG-034) as evidence of Petitioner’s indebtedness. To date, Petitioner has failed to provide evidence in response to the *Notice of Docketing* and subsequent *Order to Show Cause* issued by this Tribunal on November 29, 2023 and, March 13, 2024, respectively. This case is now ripe for review.

**FINDINGS OF FACT**

Petitioner executed and delivered a Promissory Note, dated December 20, 2019, in favor of HUD in the principal amount of \$17,821.78 (“Note 1”). Petitioner also executed and delivered

a Note, dated July 17, 2021, in favor of HUD in the principal amount of \$11,388.45 (“Note 2”).<sup>1</sup> The funds secured by the Notes were paid by HUD to Petitioner’s primary mortgage lender to bring Petitioner’s mortgage current and provide foreclosure relief to Petitioner.

The terms of Note 1 included Petitioner’s promise to pay, secured by a mortgage, deed of trust, or similar security instrument to protect the Secretary from losses if Petitioner defaulted on Note 1. Note 1 required payment on January 1, 2050, or, if earlier, when the first of the following events occurs:

- i. Borrower has paid in full all amounts due under the primary Note and related mortgage, deed of trust or similar Security Instruments insured by the Secretary, or
- ii. The maturity date of the primary Note has been accelerated, or
- iii. The primary Note and related mortgage, deed of trust or similar Security Instrument are no longer insured by the Secretary, or
- iv. The property is not occupied by the purchaser as his or her primary residence.

The terms of the Note 2 also included Petitioner’s promise to pay, secured by a mortgage, deed of trust, or similar security instrument to protect the Secretary from losses if Petitioner defaulted on Note 2. Note 2 required payment on July 1, 2051, or, if earlier, when the first of the following events occurs:

- i. Borrower has paid in full all amounts due under the primary Note and related mortgage, deed of trust or similar Security Instruments insured by the Secretary, or
- ii. The maturity date of the primary Note has been accelerated, or
- iii. The primary Note and related mortgage, deed of trust or similar Security Instrument are no longer insured by the Secretary.

On or about January 27, 2022, the Federal Housing Administration mortgage insurance on Petitioner’s primary mortgage was terminated, as the lender indicated that the primary mortgage was paid in full. Accordingly, the Notes became due. And HUD alleges that Petitioner is indebted to it in the following amounts:

- i. \$29,210.23 as the total unpaid principal balance as of November 30, 2023;
- ii. \$267.63 as the unpaid interest on the principal balance at 1.00% per annum as of November 30, 2023;
- iii. \$1,744.11 as the unpaid penalties and administrative costs as of November 30, 2023; and
- iv. interest on said principal balance from December 1, 2023 at 1.00% per annum until paid.

A Notice of Intent Collect by Treasury Offset (“Notice”), dated February 27, 2023, was sent to Petitioner. The Notice afforded Petitioner the opportunity to enter into a written repayment

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<sup>1</sup> Note 1 and Note 2 are collectively referred to as the “Notes.”

agreement with HUD under mutually agreeable terms. Petitioner has not entered into a written repayment agreement with HUD.

The Secretary requests that this Tribunal find Petitioner's debt past due and legally enforceable and the Secretary's proposed repayment schedule fair.

### **DISCUSSION**

Petitioner argues that Petitioner does not owe the debt. Specifically, Petitioner argues that Truly Title, the company that performed a title search for Petitioner, is responsible for the debt because Truly Title improperly performed the title search. In support, Petitioner submitted an Authorization to Release Information form, which petitioner had sent to Truly Title.

The Authorization to Release form Petitioner sent to the title company is insufficient as proof that Petitioner has been released from his obligation to pay the subject debt, despite his allegation that the title company may have improperly conducted the title search. Any action or inaction by Truly Title Company is irrelevant in this case. HUD's right to collect the subject debt emanates from the terms of the Notes, as agreed between Petitioner and HUD and not as communicated between Petitioner and Truly Title, which was not a party to the Notes.<sup>2</sup> See *In re Bruce R. Smith*, HUDOA No. 07-A-CH-AWG11 (June 22, 2007); *In re Scott Wassam*, HUDOHA No. 24-VH-0009-AG-005 (Dec. 5, 2024). For Petitioner not to be held liable for the full amount of the debt, there must be either a release in writing directly from HUD that explicitly relieves Petitioner's obligation to HUD under the Notes, "or valuable consideration accepted by the lender" indicating intent to release. See, e.g., *In re Cecil F. and Lucille Overby*, HUDOA No. 87-1917-G250 (Dec. 22, 1986); *In re John Tipton*, HUDOHA No. 23-VH-0153-AO-083 (Sept. 12, 2024). To date, Petitioner has failed to meet the burden of proof required by failing to offer evidence of a written release or exchange of valuable consideration. The Tribunal therefore finds Petitioner's claim fails for lack of proof and further finds that the subject debt remains enforceable against Petitioner.

### **ORDER**

Based on the foregoing, the Tribunal finds the subject debt to be legally enforceable against Petitioner in the amount claimed by the Secretary. It is:

**ORDERED** that the Secretary is authorized to seek collection of this outstanding obligation by means of administrative offset in the amount claimed by the Secretary. It is:

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<sup>2</sup> This *Decision and Order* does not preclude Petitioner from independently seeking reimbursement from a third party.

**FURTHER ORDERED** that the *Notice of Docketing* imposing the stay of referral of this matter to the U.S. Department of the Treasury for administrative offset is **VACATED**.

SO ORDERED.  
  
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Vanessa L. Hall  
Administrative Judge

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**Finality of Decision.** Pursuant to 24 C.F.R. § 17.73(a), this constitutes the final agency action for the purposes of judicial review under the Administrative Procedure Act (5 U.S.C. §§ 701 *et seq.*).