

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

In the Matter of:

JOSEPH HEATH,

Petitioner.

Docket No. 25-SG-0068-AG-049
(Claim No. 721025896)

September 22, 2025

DECISION AND ORDER

This matter is before the Court upon a *Hearing Request* filed by Joseph Heath (“Petitioner”) on November 13, 2024. In the *Hearing Request*, Petitioner requested review of the United States Department of Housing and Urban Development (“HUD”) decision to seek repayment of a debt by garnishing Petitioner’s wages. Petitioner disputed owing the debt to HUD and further claimed that the proposed garnishment would cause financial hardship. However, but did not provide any explanation or evidence in support of either position.

On November 15, 2024, this Court issued an order requiring HUD and Petitioner to each submit documentary evidence related to the existence of this debt. HUD timely complied with the order and filed the *Secretary’s Statement that Petitioner’s Debt is Past Due and Legally Enforceable* (“Secretary’s Statement”) on December 5, 2024. Petitioner, however, did not comply with the Court’s order to present evidence.

Having not received any response from Petitioner, this Court issued an *Order to Show Cause* on January 7, 2025, wherein Petitioner was again ordered to file documentary evidence in support of their position. Petitioner failed to respond and, to date, has not presented any evidence or argument to the Court.

The Parties have been afforded the opportunity to present arguments and evidence in support of their prospective positions. Accordingly, this matter is ripe for decision.

APPLICABLE LEGAL PRINCIPLES

Administrative Wage Garnishment. The Debt Collection Improvement Act of 1996 authorizes federal agencies to use administrative wage garnishment as a mechanism for the collection of nontax debts owed to the United States government. 31 U.S.C. § 3720D; *see also* 31 C.F.R. § 285.11(d) (“General rule. Whenever an agency determines that a delinquent debt is owed by an individual, the agency may initiate proceedings administratively to garnish the wages of the delinquent debtor.”); 24 C.F.R. § 17.81. Garnishment is the process of withholding

amounts from an employee's disposable pay and the paying of those amounts to a creditor in satisfaction of a withholding order. 31 C.F.R. § 285.11(c).

Hearings. The Secretary of HUD has designated the judges of the Office of Hearings and Appeals to adjudicate contested cases where the Secretary seeks to collect debts by means of administrative wage garnishment. 24 C.F.R. § 17.81(b). Hearings are conducted in accordance with procedures set forth at 31 C.F.R. § 285.11, as authorized by 24 C.F.R. § 17.81. This Court shall generally afford a debtor the right to a "paper hearing" wherein the issues in dispute are decided based upon a review of the written record. 31 C.F.R. § 285.11(f)(3)(iii).

Burden of Proof. HUD has the initial burden to prove the existence or amount of the debt. 31 C.F.R. § 285.11(f)(8)(i). After HUD has met its burden, the debtor must present by a preponderance of evidence that no debt exists or that the amount of the debt is incorrect. *Id.* at § 285.11(f)(8)(ii). Proving something by a preponderance of the evidence requires convincing "the trier of fact to believe that the existence of a fact is more probable than its nonexistence." Metro. Stevedore Co. v. Rambo, 521 U.S. 121, 137 n.9 (1997) (quoting Concrete Pipe & Prods. v. Constr. Laborers Pension Trust, 508 U.S. 602, 622 (1993)). In addition, the debtor may present evidence that the terms of the repayment schedule are unlawful, would cause a financial hardship to the debtor, or that collection of the debt may not be pursued due to operation of law. 31 C.F.R. § 285.11(f)(8)(ii).

FINDINGS OF FACT

As a means of providing foreclosure relief to Petitioner, HUD advanced funds to Petitioner's FHA-insured first mortgage lender. In exchange for such funds, Petitioner executed and delivered to the Secretary a Promissory Note ("HUD Note"), dated December 27, 2021, and in the principal amount of \$4,424.19.

The terms of the HUD Note required payment on October 1, 2047, or 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 Instrument 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 principal residence.

The HUD Note also required that payment to be made to "the Office of Housing FHA-Comptroller, Director of Mortgage Insurance Accounting and Servicing, 451 Seventh Street, SW, Washington, DC 20410 or any such other place as [the Secretary of HUD] may designate in writing...."

On August 14, 2023, the FHA insurance on Petitioner's primary mortgage was terminated, as the lender indicated that the primary mortgage was paid in full. By the terms of the HUD Note, the satisfaction of the primary mortgage and termination of the FHA insurance resulted in the HUD Note becoming immediately due.

HUD attempted to collect the amount due under the HUD Note but was unsuccessful. On October 22, 2024, a Notice of Intent to Initiate Wage Garnishment Proceedings ("Notice") was sent to Petitioner. The Notice informed Petitioner of the opportunity to enter into a written repayment agreement under terms acceptable to HUD. However, Petitioner never entered into any such agreement.

The Secretary alleges Petitioner remains indebted to HUD in the following amounts:

- a. \$ 4,424.19 as the unpaid principal balance as of October 30, 2024;
- b. \$ 88.50 as the unpaid interest on the principal balance at 4.0% per annum through October 30, 2024;
- c. \$ 321.27 as the unpaid penalties and administrative costs as of October 30, 2024; and
- d. interest on said principal balance, from November 1, 2024, at 4.0% per annum until paid.

DISCUSSION

HUD claims Petitioner owes a valid debt to HUD and proposes a repayment schedule in the amount of \$134.28 per month or, in the alternative, 15 percent of Petitioner's disposable pay. HUD bears the initial burden to prove the existence or amount of the debt. 31 C.F.R. § 285.11(f)(8)(i). In support of its position, HUD has produced a copy of the HUD Note bearing Petitioner's signature, and the sworn Declaration of Brian Dillon ("Declaration"), who is the Director for the Asset Recovery Division of HUD's Financial Operations Center.

The HUD Note establishes that Petitioner promised to pay the Secretary of HUD in return for a loan Petitioner received, and that payment would be made if Petitioner's primary mortgage was paid in full or no longer insured by the Secretary. The Declaration explained that the insurance on Petitioner's primary mortgage was terminated on or about August 14, 2023, because that lender indicated that the primary mortgage was paid in full. The Declaration adds that HUD has attempted to collect on this debt, but Petitioner remains delinquent.

The Court has reviewed the *Secretary's Statement* and its supporting evidence and finds that HUD has met its initial burden to prove the existence and amount of the debt. Therefore, the burden shifts to Petitioner to prove that no debt exists, or the amount of the debt is incorrect. 31 C.F.R. § 285.11(f)(8)(ii). Petitioner may also present evidence that repayment in the manner proposed by the Secretary would cause financial hardship. *Id.*

Petitioner disputes the amount of the debt and further claims that the proposed garnishment would cause financial hardship. However, as noted *supra*, Petitioner has not complied with this Court's orders to provide evidence in support of either position. In fact, beyond checking two boxes on his *Hearing Request* form, Petitioner has not presented any

argument or basis for review of HUD's intent to garnish his wages. This Court has consistently held that "assertions without evidence are not sufficient to show that the debt claimed by the Secretary is not past due or unenforceable." *In re Hongmei Zhang*, HUDOHA No. 23-AF-0163-AG-093, slip op. at 3 (Dec. 3, 2024). Accordingly, the Court finds that Petitioner has not met his burden to prove, by a preponderance of evidence, that he does not owe the full amount of the debt or that garnishment would cause him financial hardship.

ORDER

For the reasons set forth above, the Court 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 administrative wage garnishment in the amount of 15% of Petitioner's disposable pay, or such other amount as determined by the Secretary, not to exceed 15% of Petitioner's disposable pay. It is

FURTHER ORDERED that the Order imposing the *Stay of Referral* of this matter to the U.S. Department of the Treasury for administrative wage garnishment is **VACATED**.

SO ORDERED,



Sandra W. Gluvna
Administrative Judge

Finality of Decision. Pursuant to 31 C.F.R. § 285.11(f)(12), this constitutes the final agency action for the purposes of judicial review under the Administrative Procedure Act (5 U.S.C. § 701 *et seq.*).