

In the Matter of:	:	
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Renne Houghton Brown,	:	HUDBCA No. 04-A-CH-AWG12
	:	FHA No. 780425903
	:	
Petitioner	:	

Renne Houghton Brown
8900 Independence Parkway #34-203
Plano, TX 75025

Pro se

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U.S. Department of Housing and
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For the Secretary

DECISION ON ADMINISTRATIVE WAGE GARNISHMENT

Petitioner requested a hearing concerning a proposed administrative wage garnishment relating to a debt allegedly owed to the U.S. Department of Housing Urban Development (“HUD”). This alleged debt resulted from a defaulted loan, which was insured against non-payment by the Secretary of HUD. The Debt Collection Improvement Act of 1996, as amended (31 U.S.C. § 3702D), authorized Federal agencies to utilize administrative wage garnishment as a remedy as for the collection of debts owed to the United States Government.

The administrative judges of this Board have been designated to determine whether this debt is past due and enforceable against Petitioner and, if so, whether the Secretary may collect the alleged debt by administrative wage garnishment. 24 C.F.R. § 17.170(b). This hearing was 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 present by a preponderance of the evidence that no debt exists or that the amount of the debt is incorrect. 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 law. 31 C.F.R. § 285.11(f)(8)(ii). Pursuant to 31 C.F.R. § 285.11(f)(10)(i), issuance of a wage withholding order was stayed until the issuance of this written decision.

Summary of Facts and Discussion

On May 13, 1995, Petitioner executed and delivered to Oakwood Acceptance Corp. an installment note in the amount of \$42,402.90 for a mobile home that was insured against nonpayment by the Secretary pursuant to Title I of the National Housing Act, 12 U.S.C. § 1703. (Secretary's Statement, hereinafter, "Secy Stat." Exh. A). Petitioner defaulted on the note, and Oakwood Acceptance Corp. assigned the note to the United States of America in accordance with 24 C.F.R. § 201.54 on October 5, 2001. (Secy Stat. at ¶ 3). Petitioner is indebted to the United States in the following amounts: \$1,097.88 as the unpaid principal balance as of September 30, 2003; \$915.30 as the principal unpaid interest of the principal balance at 6% per annum through September 30, 2003; and, interest on said principal balance from October 1, 2003 at 6% per annum until paid. (Secy Stat., Exh. B, Declaration of Brian Dillon, hereinafter, "Dillon Decl." at ¶ 4). HUD mailed Documents evidencing the debt to Petitioner on October 20, 2003. (Secy Stat., Exh. B, Dillon Decl. at ¶ 7).

Petitioner stated in her fax dated September 29, 2003 that she "has no problem agreeing to paying the debt, but [that she] is entitled to proof." The Board stated in its Notice of Docketing, Order, and Stay of Referral dated October 16, 2003 that "[d]ocuments relating to [Petitioner's] alleged debt are not in possession of this Board." Furthermore, the Board directed Petitioner to contact Mary Bump at HUD's Financial Operations Center in Albany, NY for copies of documents related to her debt.

Having received no response from Petitioner to the Board's Notice of Docketing, Order, and Stay of Referral, the Board sent Petitioner an Order to Show Cause dated December 12, 2003 that directed her to submit "documentary evidence which will prove that all or part of the alleged debt is either unenforceable or not past due, or forward to this office a copy of her request to Mary Bump for documents in possession of HUD relating to this debt." Petitioner failed to file any response to the Board's Order.

The Board sent Petitioner an Order to Show Cause dated January 7, 2004 by certified mail, which was received by Petitioner on January 30, 2004. That Order directed Petitioner to "file documentary evidence which will prove that all or part of the alleged debt is either unenforceable or not past due, or to otherwise show cause why judgment should not be entered in favor of the Secretary." Petitioner again failed to respond to the Board's Order.

The Secretary has met his burden of proof as to the amount of debt. Petitioner has submitted no documentary evidence to rebut the Secretary's proof. The Board finds that Petitioner's debt is that amount reflected in the Secretary's Statement.

Petitioner may wish to negotiate repayment terms with the Department, but this Board is not authorized to extend, recommend, or accept any payment plan or settlement offer on behalf of the Department. Petitioner may want to discuss this matter with Counsel for the Secretary or Lester J. West, Director, HUD Albany Financial Operations Center, 52 Corporate Circle, Albany, NY 12203-5121. His telephone number is 1-800-669-5152, extension 4206. Petitioner may also request a review of her financial status by submitting to the HUD Office a Title I Financial Statement (HUD Form 56142). In any event, Petitioner has provided no legal or credible factual basis on which this Board can find that she is not liable for repayment of the outstanding balance due on this loan.

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 the 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 seek collection of this outstanding obligation by means of administrative wage garnishment to the extent authorized by law.

H. Chuck Kullberg
Administrative Judge

March 1, 2004