

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. HEA 12694-15

**NEW JERSEY HIGHER EDUCATION
STUDENT ASSISTANCE AUTHORITY,**

Petitioner,

v.

ERIC HAYES,

Respondent.

Douglas Charipper, Esq., and Philip Levitan, Esq., for Petitioner (Fein, Such, Kahn & Shepard, attorneys) and **Brian Lyszkiewicz,** Student Loan Investigator

Eric Hayes, pro se entered his appearance **via correspondences** but did not appear at the Fair Hearing

Record Closed: September 17, 2015

Decided: October 14, 2015

BEFORE **JOHN P. SCOLLO, ALJ:**

STATEMENT OF THE CASE
AND PROCEDURAL HISTORY

Petitioner, E.H. appealed the issuance of a Wage Garnishment Order issued on June 5, 2015 by the Respondent NJHESAA to the Petitioner, E.H.'s employer. E.H. filed a Fair Hearing request, which was filed in the Office of Administrative Law (OAL) on August 17, 2015. The Office of Administrative Law (OAL) set it down for a hearing as a contested case. N.J.S.A. 14B-1 thru -15; N.J.S.A. 52:14F-1 thru -13. The hearing was held on September 17, 2015, at which time the record was closed.

Petitioner sent three correspondences to the OAL. In each correspondence E.H. stated that he would not attend the hearing on September 17, 2015. He asserts as his defense lack of jurisdiction over him; unauthorized use of his name, which he claims is copyrighted; and violation of civil rights generally.

FINDINGS OF FACT

Having had an opportunity to consider the evidence and to observe the witness, I **FIND** the following **FACTS**.

(1) On October 28, 2007, E.H. signed a Federal Stafford Loan Master Promissory Note (the loan) providing for a college student loan in the principal amount of ten thousand five hundred dollars (\$10,500) at an interest rate of six and eight-tenths percent (6.8%). Sallie-Mae paid \$10,500 to The College of New Jersey on behalf of E.H. pursuant to the terms of the loan. Under the terms of the loan re-payment would be deferred until December 14, 2010. Under the terms of the loan E.H. was obligated to start making payments on the loan beginning on December 14, 2010. Under the terms of the loan, interest accrued between the loan's inception and December 14, 2010, would be added to the \$10,500 principal as additional principal. Under the terms of the loan the NJHESAA guaranteed repayment. The terms of the loan provided for the imposition of collection costs (including, but not limited to, attorney's fees, court costs,

and other fees) in the event of default. As of September 17, 2015, the collection costs amounted to \$3,333.02.

(2) Although obligated to re-pay the loan, E.H. made no re-payments and so defaulted on his obligation to re-pay the loan.

(3) Notices were sent to and received by E.H. regarding his failure to re-pay the loan.

(4) As a result of E.H.'s default, NJHESAA as guarantor of E.H.'s obligation under the loan, paid \$14,015.57 to Sallie-Mae.

(5) NJHESAA sent correspondences to E.H. attempting to induce E.H. to make payments on the loan and warning E.H. of the potential for garnishment of his wages, but said attempts did not result in E.H. making any re-payments.

(6) On April 29, 2015, the NJHESAA, acting pursuant to 20 U.S.C.A. Section 1095 (a), et seq. and 34 C.F.R. Section 682.410 (9), issued a Notice of Administrative Wage Garnishment to E.H.

(7) After receipt of the Notice of Administrative Garnishment, E.H. failed to make any re-payments on the loan.

(8) On June 5, 2015, the NJHESAA issued a Wage Garnishment Order to E.H.'s employer instructing it to deduct fifteen percent (15%) of E.H.'s disposable wages and remit same to the NJHESAA until the amount of \$18,118.67 (the total amount due as of June 5, 2015, subject to the accrual of additional interest charges) was paid in full. As a result of the wage garnishment, the NJHESAA received one involuntary payment in the amount of \$141.30 from E.H.'s employer.

(9) When E.H. informed the NJHESAA of his decision to appeal to the OAL, the NJHESAA ceased garnishing E.H.'s wages pending the results of the Fair Hearing of September 17, 2015.

(10) Since there is no evidence indicating that E.H. lacked the capacity to understand his obligations under the terms of the loan, I **FIND** that E.H. breached the terms of the loan and, I further **FIND** that the Wage Garnishment Order was issued pursuant to and under the terms of the loan.

LEGAL ANALYSIS AND CONCLUSION

The controlling document in this matter is the Federal Stafford Loan Master Promissory Note, which the Petitioner, E.H., signed and by which E.H. received the benefit of a \$10,500 college student loan, which was used to further his education at the College of New Jersey.

Based upon the findings of fact that I have made, I **CONCLUDE** that E.H. was properly warned of the consequences of non-payment and despite the warnings went into default.

I **CONCLUDE** that the testimony of the NJHESAA's witness was credible, and that the Affidavit and all documents submitted by the NJHESAA were in proper order and clearly established E.H.'s obligation under the loan and his non-payment of same.

I **NOTE** that in all three of the aforesaid correspondences E.H. stated that he would not attend the September 17, 2015 hearing and indeed he did not appear.

Despite E.H.'s submission of the September 1, 2015, correspondence with attachments; the September 10, 2015 correspondence with attachments; and the September 15, 2015 correspondence with attachments, I **CONCLUDE** that E.H. has not overcome the evidence presented against him by the NJHESAA and is obligated to repay his student loan plus ongoing accrual of interest charges plus costs of collection as provided in the loan.

I **CONCLUDE** that E.H. is liable to the NJHESAA for the amount claimed in the Wage Garnishment Order issued to E.H.'s employer (i.e. \$18,118.67 as of June 5, 2015, minus the \$141.30 paid by the employer, plus ongoing interest charges at the rate of 6.8% per annum).

I **CONCLUDE** that the Wage Garnishment Order was properly issued and should be re-instated forthwith.

ORDER

Based on the foregoing, I **ORDER** that the Wage Garnishment Order issued by the NJHESAA on June 5, 2015 to E.H.'s employer be re-instated.

This decision is final pursuant to 34 C.F.R. § 682.410(b)(9)(i)(N) (2010).

October 14, 2015

DATE

JOHN P. SCOLLO, ALJ

Date Received at Agency

Date Mailed to Parties:

DB