

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

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| UNITED STATES OF AMERICA | * | CIVIL ACTION |
| VERSUS | * | NO: 08-5146 |
| MICHELLE L. MYER | * | SECTION: "D"(5) |

ORDER AND REASONS

Before the court is the **"Motion for Summary Judgment"** (Doc. No. 15) filed by Plaintiff, the United States of America. Defendant, Michelle L. Myer, filed a memorandum in opposition. The motion, set for hearing on Wednesday, November 18, 2009, is before the court on the Government's brief, without oral argument.

Having considered the Government's memorandum (and attached summary judgment evidence), the record, and the applicable law, the court finds that there is no genuine issue of material fact that Defendant Myer has defaulted on certain promissory notes she executed in connection with her student loans from the Department of Education, and thus the Government is entitled to judgment as a matter of law.

In her Affidavit attached to her opposition, Defendant Myers

states in part that:

1) she made several payments in the last twenty (20) years towards her student loans and 13 promissory notes associated with these loans that she is not being given credit for in the [Government's] complaint and/or amended complaint.

(See Myer Affidavit attached to Opposition Memorandum,. Doc. No. 25).

Defendant, however, cannot defeat summary judgment with this self-serving Affidavit. She simply cannot demonstrate the existence of a genuine issue of material fact by asserting "some metaphysical doubt as to the material facts, by conclusory allegations, by unsubstantiated assertions, or only by a scintilla of evidence." *Little v. Liquid Air Corp.*, 37 F.3d 1069, 1075 (5th Cir. 1994). In the absence of any competent summary judgment evidence (whether cancelled checks, prior statements of account balance, or otherwise), the court cannot assume that Defendant Myer could or would prove necessary facts to show that the Government has made an error in the calculation of her debt. Defendant Myer has also made an insufficient showing as to why the court should grant her additional time to obtain proof of payment.

Accordingly;

IT IS ORDERED that the "**Motion for Summary Judgment**" (Doc. No. 15) filed by Plaintiff, the United States of America, be and is

hereby **GRANTED**, entitling the United States to Judgment against Defendant Myer for:

1. the amount of \$19,353.29, plus interest accruing on the principal amount of \$9,121.29 at the daily rate of \$2.00 from August 31, 2009 to date of judgment, and interest from date of judgment until paid in full at the Treasury bill rate, 28 U.S.C. §1961;
2. the amount of \$20,443.54, plus interest accruing on the principal amount of \$8,957.64 at the rate of 10.00% per year or the daily rate of \$2.45 from August 31, 2009 to date of judgment, and interest from date of judgment until paid in full at the Treasury bill rate, 28 U.S.C. §1961;
3. the amount of \$15,730.06, plus interest accruing on the principal amount of \$7,900.12 at the daily rate of \$1.73 from August 31, 2009 to date of judgment, and interest from date of judgment until paid in full at the Treasury bill rate, 28 U.S.C. §1961;
4. the amount of \$20,960.92, plus interest accruing on the principal amount of \$11,107.52 at the rate of 3.73% per year or the daily rate of \$1.13 from August 31, 2009 to date of judgment, and interest from date of judgment until paid in full at the Treasury bill rate, 28 U.S.C.

§1961;

5. the amount of \$28,602.06, plus interest accruing on the principal amount of \$15,800.26 at the rate of 3.28% per year or the daily rate of \$1.42 from August 31, 2009 to date of judgment, and interest from date of judgment until paid in full at the Treasury bill rate, 28 U.S.C. §1961; and
6. the amount of \$25,913.40, plus interest accruing on the principal amount of \$13,866.81 at the rate of 3.58% per year or the daily rate of \$1.36 from August 31, 2009 to date of judgment, and interest from date of judgment until paid in full at the Treasury bill rate, 28 U.S.C. §1961.

New Orleans, Louisiana, this **19th** day of **November**, **2009**.


A.J. McNAMARA
UNITED STATES DISTRICT JUDGE