Text as published on gao.gov, https://www.gao.gov/products/b-122929, archived 2026-07-11. GAO published no original file for this decision. Rendered by Comptroller Desk.

B-122929, Jun. 24, 1955

Number: B-122929

Date: 1955-06-24

B-122929, JUN. 24, 1955

TO MR. BRUCE W. KIRBO, ATTORNEY AT LAW:

REFERENCE IS MADE TO YOUR LETTER OF NOVEMBER 3, 1954, AND ENCLOSURE, CONCERNING THE INDEBTEDNESS TO THE UNITED STATES OF FRED H. WILLIAMSON, 305 LOUISE STREET, BAINBRIDGE, GEORGIA, BY REASON OF HIS DEFAULT ON LOAN NO. LH-21190-GA. WHICH WAS GUARANTEED BY THE VETERANS ADMINISTRATION UNDER THE PROVISIONS OF THE SERVICEMEN'S READJUSTMENT ACT OF 1944, AS AMENDED.

YOU STATE THAT OUR LETTER OF OCTOBER 26, 1954, TO YOU, SHOWS THAT "THIS ACCOUNT AROSE BY THE SALE OF REAL ESTATE ON FORECLOSURE, WITHOUT LEGAL PROCESS, UNDER POWERS CONTAINED IN A SECURITY DEED, AT WHICH SALE THE REAL ESTATE DID NOT BRING THE AMOUNT OF THE DEBT SECURED BY SUCH DEED," AND YOU REFER TO SECTION 37-608 OF THE CODE OF GEORGIA ANNOTATED, WHICH PROVIDES THAT NO ACTION MAY BE TAKEN TO OBTAIN DEFICIENCY JUDGMENTS IN SUCH CASES UNLESS THE PERSON INSTITUTING THE FORECLOSURE PROCEEDINGS SHALL, WITHIN 30 DAYS AFTER THE SALE, REPORT THE SALE TO THE JUDGE OF THE SUPERIOR COURT OF THE COUNTY IN WHICH THE LAND LIES FOR CONFIRMATION AND APPROVAL, ETC. YOU FURTHER STATE THAT UPON RECEIPT OF EVIDENCE THAT THERE WAS A COMPLIANCE WITH THE PROVISIONS OF THE STATUTE, OR OF INFORMATION AS TO WHY COMPLIANCE WAS NOT REQUIRED, MR. WILLIAMSON WILL MAKE AN EFFORT TO PAY THE AMOUNT DUE.

OUR LETTER OF OCTOBER 26, AND THE ENCLOSURE THEREWITH, WAS NOT INTENDED TO CONVEY THE IMPRESSION THAT MR. WILLIAMSON'S INDEBTEDNESS AROSE SOLELY BY VIRTUE OF THE SALE OF THE PROPERTY INVOLVED, NOR THAT THE CLAIM IS FOUNDED UPON A DEFICIENCY JUDGMENT.

THE INDEBTEDNESS AROSE BY REASON OF THE LOAN-GUARANTY PAYMENT MADE BY THE VETERANS ADMINISTRATION TO THE PAUL REVERE LIFE INSURANCE COMPANY, WORCESTER, MASSACHUSETTS, AS A RESULT OF MR. WILLIAMSON'S DEFAULT ON THE ABOVE LOAN. THE APPLICABLE VETERANS ADMINISTRATION REGULATIONS, 38 CFR 36.4323, ISSUED PURSUANT TO THE SERVICEMEN'S READJUSTMENT ACT OF 1944, AS AMENDED, ARE IN PART AS FOLLOWS:

"SUBROGATION AND INDEMNITY.

"/E) ANY AMOUNTS PAID BY THE ADMINISTRATOR ON ACCOUNT OF THE LIABILITIES OF ANY VETERAN GUARANTEED OR INSURED UNDER THE PROVISIONS OF THE ACT SHALL CONSTITUTE A DEBT OWING TO THE UNITED STATES BY SUCH VETERAN.'

IT IS THUS CLEAR THAT THE CLAIM AGAINST MR. WILLIAMSON REPRESENTS AN INDEPENDENT DEBT WHICH IS DUE AND OWING TO THE UNITED STATES UNDER THE PROVISIONS OF THE

STATUTE AND REGULATIONS.

YOU MAY BE FURTHER ADVISED THAT IT IS WELL SETTLED THAT THE UNITED STATES IS NOT BOUND BY STATE STATUTES OF LIMITATION OR SUBJECT TO THE DEFENSE OF LACHES IN ENFORCING ITS RIGHTS. SEE UNITED STATES V. SUMMERLIN, 310 U.S. 414; ALSO, CHESAPEAKE AND DELAWARE CANAL CO. V. UNITED STATES, 250 U.S. 123. THEREFORE, THE 30 DAY REPORT PERIOD OF THE GEORGIA STATUTE WOULD NOT APPEAR APPLICABLE TO A DEBT DUE THE UNITED STATES.

IT IS THEREFORE REQUESTED THAT MR. WILLIAMSON BE ADVISED ACCORDINGLY, AND THAT HE SHOULD UNDERTAKE LIQUIDATION WITHOUT FURTHER DELAY OF THE INDEBTEDNESS TO THE UNITED STATES IN THE AMOUNT OF $1,420.24, PLUS INTEREST AT 4 PERCENT PER ANNUM FROM JANUARY 1, 1951, ON THE PRINCIPAL AMOUNT, ..END :