

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWG Docket No. 10-0035
)
Elizabeth Hutchinson,)
)
Petitioner)

Decision and Order

This matter is before me upon the request of the Petitioner, Elizabeth Hutchinson, for a hearing in response to efforts of Rural Development, Respondent, to institute a federal administrative wage garnishment against her. On November 24, 2009, I issued a Pre-hearing Order requiring the parties to exchange information concerning the amount of the debt. The Hearing date was set to be February 11, 2010.

At the scheduled date and time for the hearing, I called Ms. Hutchinson on her phone number listed on her Petition at 813-704-40##¹ and left a voice mail message that the hearing was about to start.

I commenced the hearing with Mary Kimball, Gene Elkin and John Weaver representing Rural Development. The witnesses were sworn in. Since Petitioner was properly notified of the hearing date and time under the rules, I proceeded with a “paper hearing.” See 31 CFR ¶ 285.11(f)(3)(iii).

RD had filed a copy of a Narrative along with exhibits RX-1 through RX-4 on January 11, 2010 with the OALJ Hearing Clerk and certified that it mailed a copy of the same to Petitioner. After the hearing, RD submitted RX-5 which were the computations for the Treasury

¹ Complete phone number maintained in USDA Records.

fees that were testified to in the hearing..

Petitioner did not submit any documents or exhibits.

Petitioner owes \$73,768.07 on the USDA RD loan as of February 11, 2010, and in addition, potential fees of \$21,087.91 due to the US Treasury pursuant to the terms of the Promissory Note.

Findings of Fact

1. On December 23, 2005, Petitioner and her husband Ronnie Hutchinson obtained a USDA Rural Development home mortgage loan for property located at 30## Jim John*** Road, Plant City, FL 335##.² Petitioner signed a promissory note for \$142,800 and a Rural Development Loan Guarantee. Narrative, RX-4@ p. 2 of 2.

2. Petitioner and her husband Ronnie Hutchinson are jointly and severally liable under the terms of the Note.

3. A suggestion of bankruptcy was subsequently filed for Ronnie Hutchinson.

4. On May 1, 2007, Petitioner defaulted on the note and was sent a Notice of Acceleration and Demand for Payment (Default) on the Promissory Note. Narrative and Ms. Kimball's testimony. At the time of the Default Notice, the total balance due on the note was \$140,228.32. Narrative, RX-1 @ 6 of 8.

5. The property was appraised "As is" for \$115,000 on April 8, 2008. It also received a brokers appraisal (BPO) of \$110,000 on April 15, 2008. RX-1 @3 of 8.

6. The property was initially listed for sale at \$110,000 on April 25, 2008 and then re-listed for \$99,300 on July 2, 2008. RX-1 @ p. 4 of 8.

²Complete address maintained in USDA records.

7. The property was sold for \$94,400 on August 1, 2008 to a new buyer wherein the lender released the property for resale while holding Petitioner liable for the unsecured debt.

8. The remaining balance due after the receipt of foreclosure sale proceeds was \$75,313.95. RX-1 @ p. 7 of 8.

9. After the foreclosure sale, additional funds recovered by Treasury in the amount of \$1,545.88 were attributed to Petitioner for a total now due of \$73,768.07.

RX - 2.

10. The potential fees due U.S. Treasury pursuant to the Loan Guarantee Agreement are \$21,087.91. RX-5.

11. There was no testimony or exhibit(s) received from Petitioner regarding employment and RD has no knowledge that Petitioner is not fully employed.

12. Elizabeth Hutchinson is jointly and severally liable for the debt under the terms of the Promissory Note.

Conclusions of Law

1. Petitioner Elizabeth Hutchinson is indebted to USDA's Rural Development program in the amount of \$73,768.07.

2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$21,087.91.

3. All procedural requirements for administrative wage garnishment set forth in 31 C.F.R. ¶ 285.11 have been met.

4. Petitioner is under a duty to inform USDA's Rural Development of her current address and employment circumstances.

5. Following compliance with 31 C.F.R.¶ 285.11(j), the USDA Rural Development

Agency (RD) is entitled to administratively garnish the wages of the Petitioner

Order

For the foregoing reasons, provided the requirements of 31 C.F.R. ¶ 288.11(j) have been met, the wages of the Petitioner, Elizabeth Hutchinson, shall be subject to administrative wage garnishment up to 15% of Monthly Disposable Income.

Copies of this Decision and Order shall be served upon the parties by the Hearing Clerk's office.

JAMES P. HURT
Hearing Official

February 16, 2010