

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 10-0072
)	
Barbara Cooper)	
)	
)	
Petitioner)	Decision and Order

Pursuant to a Hearing Notice, I held a hearing in this proceeding by telephone, on March 23, 2010, at 1:00 PM Eastern Time. Petitioner, Barbara Cooper, and Respondent’s representatives, Gene Elkin and Mary E. Kimball, participated and were sworn. Ms. Kimball introduced, identified and authenticated records regularly maintained by USDA, Rural Development that were received as Exhibits RX-1 through RX-8. Petitioner had not completed preparation of her exhibits and none were introduced or received. At issue is the nonpayment of a debt owed to USDA, Rural Development on a home mortgage loan on property that Mrs. Cooper and her husband allowed to be sold at a short sale. The proceeds of the short sale were inadequate to eliminate the debt. Mrs. Cooper explained her present circumstances and those of her disabled husband. Her testimony showed that the collection of the debt by garnishment of her salary would cause her undue financial hardship.

Findings

The testimony and exhibits received in evidence proved that:

1. On December 20, 1991 and September 17, 1993, petitioner signed promissory notes, obligating her to reimburse USDA, Rural Development for any future loss claim, in respect to loans given her and her husband to

purchase property located at 665 E. Cottrell Avenue, Holly Springs, MS 38635 (RX-1, RX-3 and RX-5).

2. The mortgage loan was defaulted upon and the property was sold in a short sale, on March 5, 2009, for \$16,000.00. At that time, the amount due to USDA, Rural Development was \$36,796.61. After the sale funds and the receipt of \$233.00, on May 14, 2009, from the United States Treasury Department were applied to the debt, the remaining balance was \$20,563.61 (RX-7).
3. Presently, the amount owed to USDA, Rural Development is \$20,536.61 plus fees assessed by Treasury of \$5,757.81, or a total of \$26,321.42 (RX-8).
4. Mrs. Cooper's husband is blind and disabled. In 2003, Mrs. Cooper obtained a degree to become a teacher and now teaches the second grade. Her bi-weekly income is [REDACTED]9. Her bi-weekly expenses for rent [REDACTED] medicine [REDACTED], car payments, [REDACTED] and gasoline [REDACTED], have caused her to restrict the amount she spends for food to [REDACTED] with virtually nothing left over for clothing and other necessities.

Conclusions

1. USDA, Rural Development has proven that Barbara Cooper is indebted to USDA, Rural Development in the amount of \$20,536.61 plus fees assessed by Treasury of \$5,757.81, or a total of \$26,321.42.

2. Based upon the Petitioner's current income and necessary living expenses, administrative wage garnishment of Petitioner's wages would cause her undue financial hardship.
3. Due to the undue financial hardship that it would cause, administrative wage garnishment is not authorized at this time and may not be again considered for twelve (12) months from the date of this Order.

Order

For the foregoing reasons, administrative wage garnishment of the wages of the Petitioner, Barbara Cooper, is not authorized at this time, and may not be again instituted for the next twelve (12) months.

This matter is stricken from the active docket.

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

Dated: _____

Victor W. Palmer
Administrative Law Judge