

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWG Docket No. 10-0063
)
Andre Walker,)
)
Petitioner)

Final Decision and Order

This matter is before me upon the request of the Petitioner, Andre Walker for a hearing in response to efforts of Respondent to institute a federal administrative wage garnishment against him. On January 5, 2010, I issued a Pre-hearing Order requiring the parties to exchange information concerning the amount of the debt.

I conducted a telephone hearing at the scheduled time on March 16, 2010. USDA Rural Development Agency (RD) was represented by Gene Elkin, Esq., and Mary Kimball who testified on behalf of the RD agency.

Petitioner was present and was self represented.

The witnesses were sworn in. RD had filed a copy of a Narrative along with exhibits RX-1 through RX-4 on January 28, 2010 with the OALJ Hearing Clerk and certified that it mailed a copy of the same to Petitioner. Mr. Walker stated that he received RD's Exhibits and witness list. Following the hearing, on March 18, 2010 RD filed the US Treasury Computation (RX-5) which substantiated Ms. Kimball's testimony.

Petitioner did not submit any exhibits prior to the hearing, but on March 31, 2010 filed a financial statement (under oath) and a weekly pay stub from his employer.

Petitioner owes \$34,763.00 on the USDA RD loan as of today, and in addition, potential

fees of \$9,733.64 due the US Treasury pursuant to the terms of the Promissory Note.

Findings of Fact

1. On August 27, 2004, Petitioner Andre Walker obtained a USDA Rural Development home mortgage loan for property located at 2## N. Wil***, Vicksburg, MI 490**.¹ Petitioner was signor to a promissory note for \$89,500. RX-1 @ p. 1 of 2.

2. On March 1, 2007, Petitioner defaulted on the note and was sent a Notice of Acceleration and Demand for Payment (Default) on the Promissory Note. Narrative. At the time of the Default Notice, the balance due on the note was \$86,622.58. Narrative, RX-3.

3. The residence was appraised on December 5, 2007 for \$78,000. It was reappraised by a real estate broker on November 24, 2007 for \$77,000. It was originally listed for sale at \$78,900.00. RX-2 @ ps. 3 and 4 of 8. After 430 days of listing, it sold on May 22, 2008 for \$54,000.00. RX-2 @ p. 4 of 8.

4. After the sale, Treasury recovered an additional \$990.74 - thus reducing the amount due from Petitioner to \$34,763.00 RX-3, RX-5.

5. The potential fees due U.S. Treasury pursuant to the Loan Guarantee Agreement are \$9,733.64. Narrative, RX-5.

6. Petitioner stated that he has an unpaid 2008 Federal Tax liability of \$5,000.00. Petitioner pays support for two children who do not live with him.

7. Using the Financial Hardship Calculation program, I used the income and expense schedules submitted under oath by Petitioner. I assumed that the IRS debt of \$5000 could be negotiated to be paid in a 3-year payment schedule. I disallowed Petitioner's 401K retirement

¹Complete address maintained in USDA records.

program. A copy of the Financial Hardship Calculation is attached.

7. Andre Walker is liable for the debt under the terms of the Promissory Note.

Conclusions of Law

1. Petitioner Andre Walker is indebted to USDA's Rural Development program in the amount of \$34,763.00.

2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$9,733.64.

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 his current address, employment circumstances, and living expenses.

5. Using the Financial Hardship Calculation², RD is entitled to garnish Petitioner's wage at 10% of his Monthly disposable Income.

² The Hardship Calculation is not posted on the OALJ Website.

Order

The requirements of 31 C.F.R. ¶ 288.11(i) & (j) have been met. RD may administratively garnish the wages of the Petitioner.

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

JAMES P. HURT
Hearing Official

April 6, 2010