

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0074

In re: JAMES PEELER,

Petitioner

DECISION AND ORDER

This matter is before the Administrative Law Judge upon the request of the Petitioner, James Peeler, for a hearing to address the existence or amount of a debt alleged to be due, and if established, the terms of any repayment prior to imposition of an administrative wage garnishment. On January 20, 2010, a Prehearing Order was entered to facilitate a meaningful conference with the parties as to how the case would be resolved and to direct the exchange of information and documentation concerning the existence of the debt.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on February 1, 2010. The Petitioner filed schedules of his income and expenses and his assets and liabilities but failed to provide a working telephone number at which he might be reached. At the time he requested a hearing, the Petitioner indicated that he had spoken with someone at Treasury and that he had been informed that the debt had been forgiven. Nothing further having been received from the

Petitioner, the request for hearing will be considered waived and the issues before me will be decided upon the record.

The Narrative filed by the Respondent reflects that foreclosure proceedings were brought by the lender against the Petitioner and the property was sold in a foreclosure sale. USDA however was not a party to that action and the debt that is being sought to be collected arises under the Request for Single Family Housing Loan Guarantee signed by the Petitioner by which he/she agreed to reimburse the agency in the event a loss claim was paid on the loan. As a result of the foreclosure action, USDA Rural Development was obligated to pay the lender the sum of \$39,958.89 for accrued interest, protective advances, liquidation costs and property sale costs. Potential Treasury fees amount to \$11,188.49 making the total amount due at this time \$51,147.38.

On the basis of the record before me, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. On October 12, 2007, James Peeler applied for and received a home mortgage loan guarantee from the United States Department of Agriculture (USDA) Rural Development (RD) (Exhibit RX-1) and on November 6, 2007 obtained a home mortgage loan for property located at 1935 Bluebird Drive, Pleasant View, Tennessee from (J.P. Morgan Chase Bank, N.A. (Chase)) for \$135,660.00. RX-2.
2. In 2008, the Petitioner defaulted on the mortgage loan and foreclosure proceedings were initiated. RX-2.
3. Chase submitted a loss claim and USDA paid Chase the sum of \$39,958.89 for accrued interest, protective advances, liquidation costs and property sale costs. RX-2, 3.

4. The remaining unpaid debt is in the amount of \$51,147.38. RX-6.

Conclusions of Law

1. James Peeler is indebted to USDA Rural Development in the amount of \$51,147.38 for the mortgage loan guarantee extended to him. RX-6.
2. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
3. The Respondent is entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, the wages of the James Peeler shall be subjected to administrative wage garnishment at the rate of 15% of disposable pay, or such lesser amount as might be specified in 31 C.F.R. § 285.11(i).

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

Done at Washington, D.C.
April 14, 2010

PETER M. DAVENPORT
Acting Chief Administrative Law Judge

Copies to: James Peeler
Mary Kimball
Dale Theurer

Hearing Clerk's Office
U.S. Department of Agriculture
1400 Independence Avenue SW
Room 1031, South Building
Washington, D.C. 20250-9203
202-720-4443
Fax: 202-720-9776