

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0088

In re: RICHARD BECKMAN,

Petitioner

DECISION AND ORDER

This matter is before the Administrative Law Judge upon the request of the Petitioner, Richard Beckman, 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 February 17, 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 23, 2010. The Petitioner filed his documentation on March 16, 2010. A telephonic hearing was held on April 13, 2010. Richard Beckman participated without counsel. Mary E. Kimball, Accountant for the New Program Initiatives Branch, USDA Rural Development and Gene Elkin, Legal Liaison for Rural Development represented the Respondent. Diane Green, Secretary to the Acting Chief Administrative Law Judge was also present.

During the hearing, the Petitioner questioned the discrepancy between the amount collected by way of offset and the amount credited to the debt by Rural Development. *Cf.* PX 6 and PX 7, p. 3. Ms. Kimball explained that the difference in the amounts were the result of Treasury fees applied prior to remittance to Rural Development, but agreed to provide the Petitioner with a breakout reflecting the total amount of offset and the Treasury fees associated with each. As Mr. Beckman also questioned the amount of accrued interest, Ms. Kimball was asked to double check that computation and to send that with the breakout to the Petitioner.

The supplemental information was provided in an Additional Narrative and Exhibit List which was sent to the Petitioner by Federal Express on April 16, 2010. The recomputation contained in RX-6 resulted in the interest figure of \$6,378.69 which is a reduction of \$4.24. RX-7 reflected the amount of \$19,434.05 received by USDA from Treasury offset together with their fees of \$474.70.

The original Narrative filed by the Respondent reflects that foreclosure proceedings were brought against the Petitioner with the property selling for less than the amount of the obligation owed. The total amount due prior to the sale was \$46,191.90. Sale proceeds amounted to \$18,992.50. After application of the sale proceeds, the balance owed was \$27,199.40. As indicated, USDA has received offsets totaling \$19,434.05, exclusive of the Treasury fees amounting to \$474.70. After application of all payments, the amount due to USDA is \$7,767.85, exclusive of the potential Treasury fees of \$2,175.00.

It appearing unnecessary for any further hearing, on the basis of the entire record before me, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. On February 9, 1989, the Petitioner and his wife, Joanna Beckman received a home mortgage loan in the amount of \$37,900.00 from the United States Department of Agriculture (USDA) Rural Development (RD) for property located in Terra Alta, West Virginia. RX-1.
2. The property was sold at foreclosure on March 9, 1998 with proceeds realized from that sale in the amount of \$18,992.50, leaving a balance due of \$27,199.40. RX-3.
3. Treasury offsets totaling \$19,434.05, exclusive of the Treasury fees amounting to \$474.70 have been received. RX-3, 7.
4. The remaining unpaid debt is in the amount of \$7,767.85, exclusive of the potential Treasury fees of \$2,175.00. Additional Narrative, RX-4.

Conclusions of Law

1. Richard Beckman is indebted to USDA Rural Development in the amount of \$7,767.85 for the mortgage loan extended to him.
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 Richard Beckman 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 22, 2010

PETER M. DAVENPORT
Acting Chief Administrative Law Judge

Copies to: Richard Beckman
Mary Kimball
Dale Theurer

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