

**UNITED STATES DEPARTMENT OF AGRICULTURE**  
**BEFORE THE SECRETARY OF AGRICULTURE**

AWG Docket No. 10-0146

In re: TIMOTHY MARTENS

Petitioner

**DECISION AND ORDER**

This matter is before the Administrative Law Judge upon the request of Timothy Martens 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 March 10, 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 April 7, 2010. The Petitioner did contact the Office of Administrative Law Judges to provide a telephone number but did not file anything further with the Hearing Clerk. When he was contacted for the hearing on May 19, 2010, he declined to participate. At the time he requested a hearing, the Petitioner indicated he had been unaware that if he was foreclosed upon that he would owe. 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 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 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 \$32,593.17 for accrued interest, protective advances, liquidation costs and property sale costs. The amount due has been reduced by Treasury Offsets amounting to \$220.71 leaving \$32,126.76 due at this time. This amount does not include Potential fees assessed by the Treasury which are estimated at \$8,995.49 which amounts to \$41,122.25 due at the current time.

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 November 12, 2004, Timothy Martens 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 29, 2004 obtained a home mortgage loan for property located at 306 W. Hirschler, Moundridge, Kansas from J.P. Morgan Chase Bank, N.A. (Chase) for \$84,500.00.
2. In 2006, 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 \$32,593.17 for accrued interest, protective advances, liquidation costs and property sale costs. RX-2-4.

4. Treasury offsets totaling \$220.71 (\$306.38 less Treasury fees of \$85.87) have been received. Narrative, p 2.

5. The remaining unpaid debt is in the amount of \$41,122.25.

### **Conclusions of Law**

1. Timothy Martens is indebted to USDA Rural Development in the amount of \$32,126.76 for the mortgage loan guarantee extended to him.

2. After reduction by Treasury offsets and the addition of potential Treasury fees the remaining unpaid debt is in the amount of \$41,122.25.

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

4. The Respondent is entitled to administratively garnish the wages of the Petitioner.

### **Order**

For the foregoing reasons, the wages of Timothy Martens 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.  
May 19, 2010

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**PETER M. DAVENPORT**  
Acting Chief Administrative Law Judge

Copies to: Timothy Martens  
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Dale Theurer

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