

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0120

In re: FRED M. WHITMORE,

Petitioner

DECISION AND ORDER

This matter is before the Administrative Law Judge upon the request of Fred M. Whitmore 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 11, 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 March 31, 2010. The Petitioner has not responded. In his request for a hearing, the Petitioner indicated only that he had never been given a statement even after numerous requests. Efforts to contact him by telephone have not been successful.

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 March 21, 1996 Fred M. Whitmore and Denise M. Whitmore assumed a Farmers Home Administration loan having a balance of \$97,168.51 previously made to Daniel J. Caulfield and Judy L. Caulfield secured by a home mortgage on property located at 565 Cedar Street, Spring City, Pennsylvania. RX-1. A subsequent loan was obtained on the same date in the amount of \$7,380.00 RX-2.
2. In 2002, the Whitmores defaulted on their loans and the property was sold at a foreclosure sale on April 30, 2002. The combined balance from both notes at the time of sale amounted to \$137,058.35. The proceeds realized from that sale were in the amount of \$68,598.10, leaving a balance due of \$68,460.25. RX-3.
3. USDA has received payments totaling \$18,495.47 (after deduction of Treasury fees of \$427.97). RX-4.
4. The remaining unpaid debt is in the amount of \$49,964.78, exclusive of potential Treasury fees . RX-4.

Conclusions of Law

1. Fred M. Whitmore is indebted to USDA Rural Development in the amount of \$49,964.78 (exclusive of potential Treasury fees) for the mortgage loans extended to and assumed by 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 Fred M. Whitmore 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 20, 2010

PETER M. DAVENPORT
Acting Chief Administrative Law Judge

Copies to: Fred M. Whitmore
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