

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0133

In re: JACQUELINE McCANN,

Petitioner

DECISION AND ORDER

This matter is before the Administrative Law Judge upon the request of Jacqueline McCann 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 March 24, 2010. Through her counsel, A. Clark Cannon, Esquire of Geneva, New York, Petitioner filed her documentation with the Hearing Clerk on April 7, 2010. A telephonic hearing was conducted on May 18, 2010. In the materials filed by the Petitioner are pleadings from the divorce proceedings between the Petitioner and her former husband, whose current whereabouts are not known. Although the divorce decree provided that the former husband was to assume responsibility for the mortgage

debt, he defaulted on the loan and a valueless lien was approved on October 24, 2001 at which time the obligation from the loan was \$33,387.68. Ms. McCann has also provided information concerning her current medical problems which require ongoing care and subsequent to the hearing provided information concerning her income and current monthly expenses.

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 10, 1978, the Petitioner and her then husband Theodore McCann received a home mortgage loan in the amount of \$24,500.00 from the Farmers Home Administration of United States Department of Agriculture (USDA) (now Rural Development (RD)) for property located at 11 Logan Street, Waterloo, New York. RX-1.
2. The Petitioner and her husband divorced in 1997. The divorce decree provided that the former husband was to assume responsibility for the mortgage debt; however, he defaulted on the loan and a valueless lien was approved on October 24, 2001 at which time the obligation from the loan was \$33,387.68. Narrative, page 1, RX-3.
3. Theodore McCann's whereabouts are unknown.
4. The mortgage loan was a joint and several obligation and Jacqueline McCann was never released from the obligation.
5. Treasury offsets totaling \$2,123.75 exclusive of fees have been received. RX-3.
6. The remaining unpaid debt is in the amount of \$31,137.85, exclusive of potential Treasury fees. RX-4.

Conclusions of Law

1. Jacqueline McCann is indebted to USDA Rural Development in the amount of \$31,137.85, exclusive of potential Treasury fees for the mortgage loan extended to her.
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 Jacqueline McCann 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 27, 2010

PETER M. DAVENPORT
Acting Chief Administrative Law Judge

Copies to: A. Clark Cannon, Esquire
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