

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWG Docket No. 10-00135
)
Michael Neff)
)
Petitioner)

Final Decision and Order

This matter is before me upon the request of the Petitioner, Michael Neff, for a hearing in response to efforts of Respondent to institute a federal administrative wage garnishment against him. On March 18, 2010, I issued a Pre-hearing Order requiring the parties to exchange information concerning the amount of the debt.

I conducted a telephone hearing at the scheduled time on June 1, 2010. USDA Rural Development Agency (RD) was represented by Mary Kimball who testified on behalf of the RD agency.

Petitioner was present and was self represented.

The witnesses were sworn in. RD had filed a copy of a Narrative along with exhibits RX-1 through RX-6 on May 3, 2010 with the OALJ Hearing Clerk and certified that it mailed a copy of the same to Petitioner. Mr. Neff stated that he received RD's Exhibits and witness list.

Petitioner owes \$14,940.01 on the USDA RD loan as of today, and in addition, potential fees of \$4,183.20 due the US Treasury pursuant to the terms of the Promissory Note.

Findings of Fact

1. On December 21, 1991, Petitioner, Michael Neff obtained a USDA RD home

mortgage loan for property located at #2 Crest Drive, Cheshire, MA 012**. ¹ Petitioner was a signor to a Promissory Note for \$95,000. RX-1 @ p.3 of 3.

2. The Petitioner's loan became delinquent and on September 28, 2001 the property was sold in a short sale with the amount of funds received from the sale of \$82,773.93. RX-3, RX-4. After the funds of the sale were posted, Petitioner owed \$15,515.32. RX -4.

3. Petitioner is liable on the debt under the terms of the Promissory Note.

4. Treasury received additional offset payments totally \$575.21. Narrative, RX-4 @ p. 2 of 2. The balance remaining is \$14,940.01. Narrative, RX-4.

5. The potential fees due U.S. Treasury pursuant to the Loan Agreement are \$4,183.20. Narrative, RX-6.

6. Petitioner stated that he is currently unemployed.

7. Petitioner's testimony was that he was told that he would owe nothing after the short sale but was unable to show documentation which contradicts RX-3.

Conclusions of Law

1. Petitioner Michael Neff is indebted to USDA's Rural Development program in the amount of \$14,940.01.

2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$4,183.20.

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

4. Petitioner is under a duty to inform USDA's Rural Development of his current address,

¹Complete address maintained in USDA records.

employment circumstances, and living expenses.

5. RD is not entitled to garnish the wages of Petitioner at this time.

Order

The requirements of 31 C.F.R. ¶ 288.11(i) & (j) have been met. Garnishment of Petitioner's wages is suspended at this time.

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

JAMES P. HURT
Hearing Official

June 15, 2010