

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 10-0185
)	
Scott L. Wood,)	
)	
Petitioner)	Decision and Order


On June 29, 2010, I held a hearing on a Petition to Dismiss the administrative wage garnishment proceeding to collect the debt allegedly owed to Respondent, USDA, Rural Development for a loss it incurred under a Single Family Housing Loan. Petitioner, Scott L. Wood, and his attorney, James W. Malys, were duly sworn as were Mary Kimball and Gene Elkin, who represented and testified for Respondent. Respondent proved the existence of the debt owed by Petitioner, Scott L. Wood, for payment of the loss Respondent sustained on the \$ 29,780.00 loan that had been made to Petitioner to finance the purchase of a primary residence located at 322 Bissell Ave., Oil City, PA 16301. The loan was evidenced by a Promissory Note dated March 14, 1995. Mr. Wood defaulted on the loan and a short sale was held on April 14, 2000. Prior to the sale, Mr. Wood owed \$32,486.78 for principal, \$4,084.32 in accrued interest and \$128.35 in fees, for a total of \$36,699.45. After the sale of the property, USDA, Rural Development was still owed \$15,865.16. Since the sale, \$3,391.28 has been collected by the U. S. Treasury Department in offsets from income tax refunds that Petitioner otherwise would have received. The amount that is presently owed on the debt is \$12,334.65 plus potential fees to Treasury of \$3,453.70, or \$15,788.35 total. Mr. Wood is employed as a machinist earning \$3,514.00 a month. Withholding for income tax, rent, car payments, child

support, food, medicine and other monthly expenses leave him with virtually no disposal income. He may need to file for bankruptcy, but would prefer to settle the debt. The present collection of any part of the debt would cause Petitioner undue, financial hardship within the meaning and intent of the provisions of 31 C.F.R. § 285.11.

USDA, Rural Development has met its burden under 31 C.F.R. §285.11(f)(8) that governs administrative wage garnishment hearings, and has proved the existence and the amount of the debt owed by the Petitioner. On the other hand, Petitioner showed that he would suffer undue financial hardship if any amount of money is garnished from his disposable income at any time during the next six (6) months. During that time, Mr. Wood shall either make efforts to file for the protections of the bankruptcy laws, or contact Treasury to discuss a settlement plan to pay the debt.

Under these circumstances, the proceedings to garnish Petitioner's wages are suspended and may not be resumed for six (6) months from the date of this Order.

Dated:



Victor W. Palmer
Administrative Law Judge