

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 10-0195
)	
Sarah B. Nedeau,)	
)	
Petitioner)	Decision and Order

On July 22, 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 losses it incurred under a Single Family Housing Loan. Petitioner, Sarah B. Nedeau, and Mary Kimball who testified for Respondent, were each duly sworn. Gene Elkin, attorney for Respondent, also participated in the hearing. Respondent proved the existence of the debt owed by Petitioner for payment of the loss Respondent sustained on an \$84,500.00 loan that had been made to Petitioner to finance the purchase of a home located at 62 High Street, Kennebunk, ME 04043, and its loss on a \$6,300.00 second loan. The loans were evidenced by Promissory Notes dated July 8, 1988 and December 4, 1990, respectively. Ms. Nedeau needed to move from the home to care for her ailing mother and agreed to a short sale that was held on February 13, 1998. Prior to the sale, the amount owed to Respondent, USDA, Rural Development, was \$86,176.45. After the sale of the property, USDA, Rural Development was still owed \$7,310.43. Since the sale, \$823.46 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 combined debts is \$6,486.97 plus potential fees to Treasury of \$1,816.35, or \$8,303.32 total. Ms. Nedeau is employed as a Legal Assistant earning [REDACTED] per

month. She has filed and testified to the accuracy of a Consumer Debtor Financial Statement that shows her monthly expenses to be: rent-██████0, gasoline-██████ electricity-██████, natural gas-██████, food-██████ computer cable-██████, health care-██████, clothing-██████, car insurance-██████, phone-██████ and miscellaneous-██████. When these expenses are deducted from her monthly income, Ms. Nedeau's disposal income is ██████ a month. Only 15% of that amount, or ██████5, may be subject to wage garnishment.

There were some communication problems at the time of the short sale which caused Petitioner to be unaware of the need to then pay the second loan which she states she would have done. For that reason, Respondent has agreed to recall the lower loan of approximately \$1,800.00 from collection by Treasury.

Wage garnishment may adversely affect Petitioner's ability to retain her present employment. In light of the fact that Petitioner's credit rating has been adversely affected by the nonpayment of these loans, she cannot obtain a new loan to settle this matter. Instead she shall undertake to save money over the next six months to obtain a sum that she may use to settle the remaining debt with Treasury.

I have concluded that 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 she would suffer undue financial hardship if any amount of money is garnished from her

disposable income at any time during the next six (6) months. During that time, Ms. Nedeau shall 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