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UNITED STATES DEPARTMENT OF AGRICULTURE

2010 JUL 23 AM 10:30

BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	AWG Docket No. 10-0244
)	
Kenneth A. Sanchez,)	
)	
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 an assumed Single Family Housing Loan and a new loan given by Respondent to Petitioner Kenneth A. Sanchez and to his former wife, Brenda S. Sanchez. Petitioner, Kenneth A. Sanchez, 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 the loans assumed and given to Petitioner and his former wife to finance the purchase of a home located at 915 N. 5th St., Payette, ID 83661. The loans were evidenced by an Assumption Agreement and a Promissory Note both dated March 9, 1998. The home went back to another lender holding a first mortgage on it when it was foreclosed upon on June 29, 2004. Prior to and after the foreclosure, the amount owed to Respondent, USDA, Rural Development, was \$33,093.32. Since the foreclosure, \$6,114.46 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 debt is \$26,978.86 plus potential fees to Treasury of \$7,554.08, or \$34,532.94 total.

Mr. Sanchez is employed as a Highster Operator earning \$ [REDACTED] an hour or [REDACTED] gross per month. His net monthly income is approximately \$ [REDACTED]. He is divorced from Brenda S. Sanchez. He has 9 grandchildren and helps care for one of them. He has filed and testified to the accuracy of a Consumer Debtor Financial Statement that shows his monthly expenses to be: rent- [REDACTED] gasoline- [REDACTED], electricity- [REDACTED] natural gas- [REDACTED] food- [REDACTED] medical expenses- [REDACTED] clothing- [REDACTED] water- [REDACTED], car insurance- [REDACTED] phone- [REDACTED] and baby sitter/housekeeper- [REDACTED]. These expenses total \$ [REDACTED] and when deducted from his monthly income, Mr. Sanchez has no disposal income, and nothing may presently be subject to wage garnishment.


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 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 Sanchez will give consideration to contacting a Legal Aid attorney to help him decide whether he should file for bankruptcy or to help him to 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:

July 23, 2010


Victor W. Palmer
Administrative Law Judge

OFFICE OF ADMINISTRATIVE LAW JUDGES
Hearing Clerk's Office

Document Distribution Form

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Document(s): Decision and order

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