

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
Mark A. Harris,) AWG Docket No. 10-0277
)
)
Petitioner)

Final Decision and Order

This matter is before me upon the request of the Petitioner, Mark A. Harris, for a hearing in response to efforts of Respondent, USDA’s Rural Development Agency, to institute a federal administrative wage garnishment against him. On June 10, 2010, I issued an Order requiring the parties to exchange information concerning the amount of the debt.

I conducted a telephone hearing on July 26, 2010. Rural Development was represented by Mary Kimball who testified on behalf of the agency. Mr. Harris was present and represented by Daniel Blumberg, Esq. of Arlington, Texas. The witnesses were sworn.

Rural Development filed a copy of its Narrative along with exhibits RX-1 through RX-6 on June 25, 2010. Mr. Harris filed his Narrative and accompanying documents on July 23, 2010. Mr. Harris acknowledged that he received a copy of Rural Development’s Exhibits. Ms. Kimball acknowledged receiving Mr. Harris’ Narrative and exhibits.

During the hearing, Ms. Kimball stated a number of times that Mr. Harris had made substantial progress on paying the debt. At the conclusion of the hearing, Ms. Kimball indicated that her supervisor came into her office during the hearing and stated that because of the amount of money paid by Mr. Harris, USDA Rural Development

would cancel the remaining debt. Based on Ms. Kimball's statement, I conclude that Mr. Harris owes nothing on the USDA Farmers Home Administration loan. With no balance due on the debt, garnishment of Mr. Harris's pay is not necessary. Furthermore, the ongoing garnishment of Mrs. Harris' pay to repay this loan will cease. Any amounts "in the pipeline," including amounts collected while this order is being implemented, shall not be returned to Mr. and Mrs. Harris.

Summary of the Facts Presented

1. On December 19, 1997, Mark Harris and Cindy Harris assumed a USDA Farmers Home Administration loan in the amount of \$70,000.00. The loan assumption was used to purchase a residence at 107 Brentwood, Kimberly, Idaho 83341. RX-1.

2. Mr. Harris defaulted on the loan and a short sale was held on May 15, 2001. The amount owed on the loan at the time of the sale was \$66,468.08 in principal, \$11,763.48 in interest, and \$6,555.64 in fees, for a total amount due of \$84,787.20. RX-3.

3. USDA received \$53,900.00 from the sale of the house. As of June 17, 2010, receipts from Treasury were \$14,802.32 leaving a balance due USDA on the loan from Mr. Harris of \$16,804.88. Subsequent receipts, through today, leave a balance due USDA of less than \$14,000.00. Narrative, RX-3, RX-6, Testimony of Ms. Kimball.

4. Mr. Harris' wife, Cindy Harris, also signed the loan assumption and is responsible for any amount owed to USDA. RX-1. Cindy Harris' pay is being garnished in the amount of approximately \$220.00 per week. Testimony of Mr. Harris.

Findings, Analysis, and Conclusions

1. The Secretary of Agriculture has jurisdiction over the parties, Mr. Harris and USDA Rural Development Agency; and over the subject matter, which is administrative wage garnishment.

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

3. Rural Development Agency stated during the hearing that, based on Mr. and Mrs. Harris having made substantial payments on the debt, it would cancel the remaining debt. I accept Rural Development Agency's suggested solution and find that Mr. and Mrs. Harris do not owe USDA any remaining balance on the loan assumed for the purchase of the property in Kimberly, Idaho.

Order

Mark and Cindy Harris do not owe any balance on the December 19, 1997 loan assumption used to purchase a residence at 107 Brentwood, Kimberly, Idaho 83341. USDA Rural Development, and those collecting on its behalf, shall not proceed with garnishment. In addition, any garnishment of the pay of Cindy Harris shall cease. This matter is dismissed with prejudice.

Copies of this Decision and Order shall be served upon the parties and counsel for Mr. Harris by the Hearing Clerk's Office.

Done at Washington, D.C.
this 27th day of July 2010

STEPHEN M. REILLY
Hearing Official