

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0248

In re: TIMOTHY FAIRLEY,

Petitioner

DECISION AND ORDER

This matter is before the Administrative Law Judge upon the request of Timothy Fairley for a hearing to address the existence or amount of a debt alleged to be due, and if established, the terms of any repayment prior to imposition of an administrative wage garnishment. On July 1, 2010, a Prehearing Order was entered to facilitate a meaningful conference with the parties as to how the case would be resolved, to direct the exchange of information and documentation concerning the existence of the debt and setting the case for a telephonic hearing on August 12, 2010.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on July 9, 2010. The Petitioner failed to contact the office as directed by the prehearing order and failed to file anything with the Hearing Clerk. As nothing was received from the Petitioner and he failed to contact the office as directed in the prehearing order, the request for hearing will be considered waived and the issues before me will be decided upon the record.

On the basis of the record before me, nothing further having been received from the Petitioner, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. On May 22, 2007, Timothy Fairley and Lyndsey Pruitt applied for and received a home mortgage loan guarantee from the United States Department of Agriculture (USDA) Rural Development (RD) (Exhibit RX-1) and on July 2, 2007 obtained a home mortgage loan for property located in Wright City, Missouri from J.P. Morgan Chase Bank, N.A. (Chase)) for \$95,800.00.
2. In 2008, the Petitioner defaulted on the mortgage loan and foreclosure proceedings were initiated. RX-3.
3. Chase submitted a loss claim and on April 21, 2009, USDA paid Chase the sum of \$62,378.07 for accrued interest, protective advances, liquidation costs and property sale costs. RX-2-4.
4. Treasury offsets totaling \$4,649.00 exclusive of fees have been received. RX-5.
5. The remaining unpaid debt is in the amount of \$57,729.07, exclusive of potential Treasury fees. RX-5.

Conclusions of Law

1. Timothy Fairley, is indebted to USDA Rural Development in the amount of \$57,729.07, exclusive of potential Treasury fees for the mortgage loan guarantee extended to him.
2. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.

3. The Respondent is entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, the wages of the Timothy Fairley, shall be subjected to administrative wage garnishment at the rate of 15% of disposable pay, or such lesser amount as might be specified in 31 C.F.R. § 285.11(i).

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

Done at Washington, D.C.
August 12, 2010

PETER M. DAVENPORT
Chief Administrative Law Judge

Copies to: Timothy Fairley
Mary Kimball
Dale Theurer

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