

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	
Christopher Looper,)	AWG Docket No. 10-0190
)	
Petitioner)	
In re:)	
)	
Laura A. Looper,)	AWG Docket No. 10-0191
)	
Petitioner)	

Final Decision and Order

These matters are before me upon the request of the Petitioners, Christopher and Laura A. Looper, for a hearing in response to efforts of Respondent, USDA’s Rural Development Agency, to institute a federal administrative wage garnishment against them.¹ The cases were originally assigned to the docket of Administrative Law Judge Jill S. Clifton. On June 17, 2010, the cases were reassigned to me. Also, on June 17, 2010, I issued a Pre-hearing Order requiring the parties to exchange information concerning the debt. Rural Development had already provided its information under an order issued by Judge Clifton on May 3, 2010. Rural Development’s information included a Narrative and exhibits RX-1 through RX-5. Mr. And Mrs. Looper filed their Consumer Debtor Financial Statement on August 11, 2010.

¹Christopher Looper and Laura A. Looper each are a petitioner in distinct case with its own case number. Because Christopher Looper and Laura A. Looper are married and there is one loan, signed by each of them, I issue a single decision covering both cases. The discussion of the facts is identical for each case. I address the garnishment of Mr. Looper’s and Mrs. Looper’s wages separately.

I conducted a telephone hearing on July 30, 2010. Rural Development was represented by Gene Elkin and Mary Kimball who testified on behalf of the agency. Mr. Looper presented his case as well as his wife's case. The witnesses were sworn. Mr. Looper acknowledged that he received a copy of Rural Development's Narrative and Exhibits.

Based on the testimony during the hearing and the record before me, I conclude that Mr. and Mrs. Looper owe \$6,962.77 on the USDA Rural Housing loan. In addition, there are potential fees of \$1,949.58 due the US Treasury for the cost of collection. During the hearing, Mr. Looper questioned whether the \$6,962.77 was the correct amount due. Ms. Kimball offered to have a "Life of the Loan" statement generated. I received this statement of August 20, 2010. After a careful examination of this statement, I conclude that Rural Development correctly calculated the amount due.

Mr. Looper has been continually employed for at least the last 12 months.² Furthermore, Mr. Looper did not demonstrate any circumstances of financial hardship. Based on Mr. Looper's income and expenses as stated on his Consumer Debtor Financial Statement, Mr. Looper's disposable pay supports garnishment, up to 15% of his disposable pay. Furthermore, Mr. Looper has no circumstances of financial hardship, therefore, I find that garnishment up to 15% of his disposable pay is appropriate.

²The Consumer Debtor Financial Statement indicates that Mr. Looper has been with his current employer for approximately one month. His testimony at the hearing indicated that his move to this employer was voluntary and that he has been continually employed for more than 12 months.

The Consumer Debtor Financial Statement filed by Mr. and Mrs. Looper indicates that Mrs. Looper length of employment is only four months. Prior to that Mrs. Looper was not employed. Mrs. Looper does not meet the 12-month employment requirement for garnishment. Therefore, garnishment of Mrs. Looper's wages is not authorized at this time. Rural Development may re-visit this question in eight months from the date of this decision.

I encourage Mr. and Mrs. Looper and the collection agency to work together to establish a repayment schedule rather than immediately proceeding with garnishment, even though this Decision authorizes garnishment, up to 15% of Mr. Looper's disposable pay.

Summary of the Facts Presented

1. On June 19, 1996, Christopher and Laura A. Looper applied for and received a home mortgage loan from USDA Farmers Home Administration in the amount of \$69,530.00. The loan was used to purchase a residence at 341 Tom Welch Road, Crossville, TN.

2. Mr. and Mrs. Looper became delinquent on the mortgage. To avoid foreclosure, the Loopers allowed another couple to assume the loan for \$82,000.00. On October 11, 2002, when the loan assumption took place, Mr. and Mrs. Looper owed \$89,548.00 on the loan.

3. Rural Development received Treasury offset payment totaling \$585.35. Applying the \$82,000 (minus expenses and fees) from the assumption and the treasury

payment leaves a balance due of \$6,962.77. The potential fees due to the U.S. Treasury pursuant to the Loan Agreement are \$1,949.58. The total amount due at Treasury is \$8,912.35. Narrative, RX-5.

Findings, Analysis and Conclusions

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

2. Petitioners Christopher Looper and Laura A. Looper are indebted to USDA's Rural Development Agency in the amount of \$6,962.77.

3. In addition, Mr. and Mrs. Looper are indebted for potential fees to the US Treasury in the amount of \$1,949.58.

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

5. Mrs. Looper has been continually employed for approximately four months. This is not sufficient time of continuous employment, under 31 U.S.C. § 3720D(b)(6), to allow me to authorize garnishment of her disposable pay. Therefore, there shall be no garnishment of Laura A. Looper's wages at this time. Rural Development may revisit the question in eight months.

6. Mr. Looper has been continuously employed for more than 12 months. I conclude that Mr. Looper's disposable pay supports garnishment, up to 15% of Mr.

Looper's disposable pay (within the meaning of 31 C.F.R. § 285.11); and Mr. Looper has no circumstances of financial hardship (within the meaning of 31 C.F.R. § 285.11).

Order

Until the debt is fully paid, Mr. and Mrs. Looper shall give notice to USDA Rural Development Agency or those collecting on its behalf, of any changes in their mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).

USDA Rural Development Agency, and those collecting on its behalf, are authorized to proceed with garnishment, up to 15% of Mr. Looper's disposable pay.

USDA Rural Development Agency, and those collecting on its behalf, are not authorized to proceed with garnishment of Mrs. Looper's disposable pay.

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

Done at Washington, D.C.
this 23rd day of August 2010

STEPHEN M. REILLY
Hearing Official