

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
Anthony Norris,) AWG Docket No. 10-0389
)
Petitioner)

Final Decision and Order

This matter is before me upon the request of the Petitioner, Anthony Norris, for a hearing in response to efforts of Respondent, USDA’s Rural Development Agency, Rural Housing Service, to institute a federal administrative wage garnishment against him. On August 26, 2010, I issued a Pre-hearing Order requiring the parties to exchange information concerning the amount of the debt.

I conducted a telephone hearing on September 30, 2010. Rural Housing was represented by Mary Kimball who testified on behalf of the agency. Mr. Norris represented himself. Mr. Norris’ wife Kathleen attended the hearing and was a witness. All witnesses were sworn.

Rural Housing filed a copy of its Narrative along with exhibits RX-1 through RX-5 on September 3, 2010. Mr. Norris filed his Narrative on September 22, 2010. In addition to his Narrative, Mr. Norris filed his Consumer Debtor Financial Statement and exhibits relating to the purchase and sale of the property. Mr. Norris acknowledged that he received a copy of Rural Housing’s Narrative and Exhibits. Ms. Kimball acknowledged receipt of Mr. Norris Narrative and exhibits.

On May 11, 2007, Mr. Norris borrowed \$107,000 from Huntington National Bank to purchase his residence in Dowling, Michigan. In order to obtain the loan, Mr. Norris requested that the United States Department of Agriculture, Rural Development Agency, Rural Housing Service provide a loan guarantee to Huntington Bank on his behalf. In the Request for Single Family Housing Loan Guarantee, Form 1980-21 (RX-1), Mr. Norris agreed “that if the Agency pays a loss claim on the requested loan to the lender, I will reimburse the Agency for that amount.” (RX-1 at p. 2.)

Mr. Norris defaulted on the loan on December 1, 2007. At that time the principal balance of the loan was \$106,452.83. Interest and fees, including payment of taxes and insurance, brought the total amount due to \$123,697.40. On July 14, 2009, Huntington Bank sold the property for \$48,000.00.¹ Fees for the foreclosure and sale amounted to \$27,021.24. Additional credits applied to the debt amounted to \$13,431.46, leaving a total amount due of \$89,287.18. (RX-2, RX-3) On November 9, 2009, Rural Housing paid Huntington Bank \$89,287.18 on the loan guarantee. The Loan Guarantee, signed by Mr. Norris, requires him to repay that amount to USDA. In addition, there are potential fees of \$25,000.41 due the US Treasury for the cost of collection.

¹The significant price decline in approximately two years raises concerns about the fairness of the foreclosure. However, taking into account the difficult economic times, particularly in the State of Michigan, as well as Ms. Kimball’s assurances that she had seen the appraisals on the house somewhat quell my angst concerning the decrease. Mrs. Norris acknowledges a general decrease in real estate values in the area.

Based on the testimony during the hearing and the record before me, I conclude that Mr. Norris owes \$89,287.18 on the loan guarantee as well as the potential fees of \$25,000.41 due the US Treasury for the cost of collection, for the total amount due of \$114,287.59.

In determining the percentage of garnishment, if any, to be authorized for collection, I examine the petitioner's Consumer Debtor Financial Statement. This gives me the opportunity to determine if a financial hardship exists that would preclude garnishment at this time; or, if the petitioner's financial condition indicates that I should limit the garnishment to a percentage below the maximum 15% authorized by the statute. Based on Mr. Norris' Consumer Debtor Financial Statement, I conclude that no financial hardship exists that would preclude garnishment. Furthermore, it is my determination that Mr. Norris' disposable pay supports garnishment. However, I find that based on the amount of Mr. Norris' disposable and his family's living expenses that garnishment is appropriate, up to 8% of Mr. Norris's disposable pay.

I encourage Mr. Norris 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 8% of Mr. Norris' disposable pay.

Findings of the Fact

1. On May 11, 2007, Anthony Norris borrowed \$107,000 from Huntington National Bank to purchase his residence in Dowling, Michigan.

2. The United States Department of Agriculture, Rural Development Agency, Rural Housing Service provided Huntington Bank a loan guarantee so that Mr. Norris could obtain the mortgage. Mr. Norris agreed “that if the Agency pays a loss claim on the requested loan to the lender, I will reimburse the Agency for that amount.” (RX-1 at p. 2.)

3. Mr. Norris defaulted on the loan on December 1, 2007. At that time the principal balance of the loan was \$106,452.83. Interest and fees, including payment of taxes and insurance, brought the total amount due to \$123,697.40.

4. After selling the property and calculating fees costs and various credits, Huntington Bank made a claim for a guarantee payment in the amount of \$89,287.18. On November 9, 2009, Rural Housing paid the loan guarantee claim.

Conclusions

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

2. Petitioner Anthony Norris is indebted to USDA’s Rural Development Agency, Rural Housing Service program in the amount of \$89,287.18.

3. Mr. Norris is indebted for potential fees to the US Treasury in the amount of \$25,000.41 for the cost of collection, for the total amount due of \$114,287.59.

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

5. Mr. Norris provided a Consumer Debtor Financial Statement. Based on the information in that statement, I conclude that Mr. Norris' disposable pay supports garnishment, up to 8% of Mr. Norris' disposable pay (within the meaning of 31 C.F.R. § 285.11).

Order

Until the debt is fully paid, Mr. Norris shall give notice to USDA Rural Development Agency, Rural Housing Service or those collecting on its behalf, of any changes in his 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, Rural Housing Service, and those collecting on its behalf, are authorized to proceed with garnishment, up to 8% of Mr. Norris 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 5th day of October 2010

STEPHEN M. REILLY
Hearing Official