

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 10-0360
)	
Amy Owens,)	
)	
Petitioner)	Decision and Order

On October 18, 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 a loan guarantee of a mortgage given by the JP Morgan Chase Bank to Petitioner, Amy Owens and to her former husband, Nathaniel Owens. Respondent was represented by her attorney, Ken Bernard. Respondent, USDA Rural Development, was represented by Mary Kimball. Petitioner, Amy Owens, and Mary Kimball who testified for Respondent, were each duly sworn.

Petitioner admitted the existence of the debt she owes for payment of the loss Respondent sustained on its guarantee of a loan given to Petitioner and her former husband to finance the purchase of a home located at 6450 Mountain View Street, Joshua Tree, CA 92252. The loan guarantee was evidenced by a Promissory Note in the amount of \$141,780.00, dated August 29, 2005 (RX-1). The payments on the loan were not met and a foreclosure sale was held on July 15, 2008. The house sold for \$55,000 when a balance of \$138,121.24 was still owed the bank, and USDA, Rural Development paid the bank \$96,730.95, on March 26, 2009, under its guarantee of the mortgage. Since the sale, \$4,376.00 has been collected by the U. S. Treasury Department. The amount that is

presently owed on the debt is \$92,354.95 plus potential fees to Treasury of \$25,859.39, or \$118,214.34 total (RX-5).

Petitioner and Nathaniel Owens are divorced, and Petitioner is now a single mother of two children. Petitioner is employed as a surgery scheduler by the Inland Valley Hospital, Wildomar, California. Petitioner is paid on an hourly basis and usually earns [REDACTED] per month, but may earn less. Petitioner has filed and testified to the accuracy of a Consumer Debtor Financial Statement that shows her monthly family expenses to be approximately [REDACTED]. Therefore, there is no disposable income that may presently be subject to wage garnishment. I have concluded that the collection of any part of the debt during the next six (6) months 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 she would suffer undue financial hardship if any amount of money is garnished from her disposable income at any time during the next six (6) months. During that time, Mrs. Nelson through her attorney shall 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:

Victor W. Palmer
Administrative Law Judge