

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0313

In re: Lee Roy Copeland,

Petitioner

Decision and Order

This matter is before the Administrative Law Judge upon the request of Lee Roy Copeland 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 August 27, 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 matter for a telephonic hearing on November 2, 2010.

A Narrative, together with supporting documentation was filed on September 27, 2010. The Petitioner filed extensive documentation which was filed with the Hearing Clerk on October 18, 2010. Included in the documentation is a Deed to Secure Debt for Georgia which recites that “The debt (as evidence [sic] by the Promissory Notes listed on this Deed to Secure Debt) and secured by this Deed to Secure Debt being satisfied due to payment in full or a voluntary conveyance and the borrower has been released from the liability of those Promissory Notes.” The documentation filed by the Petitioner indicates that the Petitioner’s ex-wife received possession and title to the property by virtue of a quitclaim deed in the divorce proceedings with the Petitioner being given a hold harmless

provision in the divorce decree. The ex-wife is deceased. The Petitioner was not a party to the ex-wife's subsequent conveyance and there is no evidence in the file that he was afforded either notice of the pending sale or an opportunity to cure any default.

On the basis of the entire record before me, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. On July 31, 2006, the Petitioner and his then wife assumed a home mortgage loan in the amount of \$23,800.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) for property located in Cartersville, Georgia and on the same date obtained a loan from FmHA in the amount of \$10,800.00. RX-1, 2.
2. The Petitioner and his wife divorced in 1983 and pursuant to the terms of the Property Settlement Jennifer M. Copeland was given title to the property by quitclaim deed and required to hold the Petitioner harmless from any obligation thereon. R-2, 3.
3. The property was conveyed by Jennifer M. Copeland to James A. Davis on September 30, 1997.
4. The record is devoid of evidence that the Petitioner was given notice of the sale or opportunity to cure any default then existing.
5. On November 14, 1997, Mark A. Rice, a Community Development Manager executed on behalf of USDA a Deed to Secure Debt for Georgia which recites that "The debt (as evidence [sic] by the Promissory Notes listed on this Deed to Secure Debt) and secured by this Deed to Secure Debt being satisfied due to payment in full or a voluntary

conveyance and the borrower has been released from the liability of those Promissory Notes.”

6. The amount of \$5,808.09 together with the related Treasury fees were improperly collected from the Petitioner and should be repaid.

Conclusions of Law

1. Lee Roy Copeland is not indebted to USDA Rural Development in any amount for the mortgage loans extended to him, having been released from such obligation by the Deed to Secure Debt for Georgia.

2. The Petitioner is entitled to be repaid all amounts improperly collected from him on account of the debt sought to be collected by USDA.

Order

For the foregoing reasons, the administrative wage garnishment proceeds are **ORDERED TERMINATED** and all amounts collected from him including Treasury fees on account of the debt alleged to be due shall be repaid.

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

Date: November 2, 2010

Peter M. Davenport
Chief Administrative Law Judge

Copies to: M. Faye McCord, Esquire
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