

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
Michael C. Cordill,) AWG Docket No. 10-0439
)
Petitioner)

Final Decision and Order

This matter is before me upon the request of the Petitioner, Michael C. Cordill, 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 September 27, 2010, I issued a Pre-hearing Order setting the time for a hearing and requiring the parties to exchange information concerning the amount of the debt.

Rural Housing filed a copy of its Narrative along with exhibits RX-1 through RX-5 on October 21, 2010. Mr. Cordill filed a copy of his Consumer Debtor Financial Statement on October 20, 2010.

I conducted a telephone hearing on November 1, 2010. Rural Housing was represented by Mary Kimball who testified on behalf of the agency. Because Mr. Cordill could not leave his workplace, Mr. Cordill’s wife, Jawanna Cordill, represented Mr. Cordill. The witnesses were sworn. Ms. Cordill acknowledged receipt of Rural Housing’s Narrative and Exhibits. Rural Housing acknowledged receipt Mr. Cordill’s Consumer Debtor Financial Statement.

On March 14, 1994, Mr. Cordill assumed a USDA Farmers Home Administration loan in order to purchase his residence in Cedar Bluff, Virginia. The loan assumption was for \$41,667.60. In order to complete the sale Mr. Cordill also borrowed an additional \$10,480.00 from the Farmers Home Administration. (Narrative, RX-1, RX-2).

By 1998, Mr. Cordill became delinquent on the loan. Rural Development foreclosed on the loan, holding a foreclosure sale on December 18, 1998, at which it received \$37,326.94 for the property. At the time of the sale, Mr. Cordill owed a total of \$57,245.16 on the loan. This comprised of \$50,716.17 in principal, \$5,720.16 in interest and \$808.83 in fees. The sale proceeds were applied to the account and with additional fees of \$650.00 and additional receipts of \$456.40 the amount owed is \$20,112.12. In addition, there are potential fees due Treasury of \$5,631.39 for a total amount due of \$25,743.51. (RX-4, RX-5).

Based on the testimony during the hearing and the record before me, I conclude that Mr. Cordill owes \$20,112.12 on the USDA Rural Development loan. In addition, there are potential fees of \$5,631.39 due the US Treasury for the cost of collection.

In determining if garnishment is appropriate, I examined Mr. Cordill's Consumer Debtor Financial Statement. Based on Ms. Cordill's testimony and the Consumer Debtor Financial Statement, Mr. Cordill has made significant improvements in his financial condition. The one potential difficulty is that Mr. Cordill pays almost [REDACTED] per month in child support for the four sons that live with him. Ms. Cordill indicated that there are current legal proceedings to modify the current child support situation. While this is

important background information, it does not alleviate Mr. Cordill's obligation to repay the amount owed on the foreclosed mortgage.

Examining the Consumer Debtor Financial Statement, I determine that garnishment is appropriate. Based on Mr. Cordill's income and expenses, including an anticipated decrease in child support payments, I find that garnishment is appropriate, up to 10% of Mr. Cordill's's disposable pay. However, as recommended by Rural Development, in order to allow the legal process regarding the child support modification to be completed, I am delaying commencement of garnishment until July 1, 2011. During this delay, I encourage Mr. Cordill and the collection agency to work together to establish a repayment schedule rather than proceeding with garnishment. Shortly after receiving this decision, Mr. Cordill should contact the US Treasury at 1-888-826-3127 to discuss a compromise settlement or payment schedule for the debt.

Findings of the Facts

1. On March 14, 1994, Mr. Cordill assumed a \$41,667.60 USDA Farmers Home Administration loan in order to purchase his residence in Cedar Bluff, Virginia. In addition Mr. Cordill borrowed an additional \$10,480.00 from the Farmers Home Administration to complete the sale.

2. In 1998, Mr. Cordill became delinquent on the loan and Rural Development foreclosed on the loan.

3. Rural Development held a foreclosure sale on December 18, 1998, at which it received \$37,326.94 for the property.

4. At the time of the sale, Mr. Cordill owed a total of \$57,245.16 on the loan (\$50,716.17 in principal, \$5,720.16 in interest and \$808.83 in fees). Additional fees of \$650.00 and additional receipts of \$456.40 brought the amount due to \$20,112.12. In addition, there are potential fees due Treasury of \$5,631.39 for a total amount due of \$25,743.51.

Conclusions of Law

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

2. Petitioner Michael C. Cordill is indebted to USDA's Rural Development Agency, Rural Housing Service program in the amount of \$20,112.12.

3. In addition, Mr. Cordill is indebted for potential fees due to the US Treasury for the debt collection in the amount of \$5,631.39.

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

5. I conclude that Mr. Cordill disposable pay supports garnishment, up to 10% of his disposable pay (within the meaning of 31 C.F.R. § 285.11); and Mr. Cordill has no circumstances of financial hardship (within the meaning of 31 C.F.R. § 285.11).

Order

Until the debt is fully paid, Mr. Cordill shall give notice to USDA Rural Development Agency, Rural Housing Service 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 garnish up to 10% of Mr. Cordill's disposable pay. Garnishment may not commence prior to July 1, 2011.

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

Done at Washington, D.C.
this 5nd day of November 2010

STEPHEN M. REILLY
Hearing Official