

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
Suzane M. Stafford,) AWG Docket No. 10-0421
)
Petitioner)

Final Decision and Order

This matter is before me upon the request of the Petitioner, Suzane M. Stafford, 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 her. On September 27, 2010, I issued a Pre-hearing Order setting the date for the hearing and requiring the parties to exchange information concerning the amount of the debt.

Rural Development filed a copy of its Narrative along with exhibits RX-1 through RX-6 on October 16, 2010. Ms. Stafford filed her Narrative and documents on October 21, 2010. Both Rural Development and Ms. Stafford supplemented their original filings prior to the hearing.

I conducted a telephone hearing on October 28, 2010. Rural Development was represented by Mary Kimball who testified on behalf of the agency. Ms. Stafford represented herself. The witnesses were sworn.

Ms. Stafford acknowledged that she received a copy of Rural Development’s Narrative and Exhibits. Ms. Kimball acknowledged receipt of Ms. Stafford’s Narrative and exhibits.

On January 30, 1981, Ms. Stafford and her then husband, Barry Moore, borrowed \$35,750.00 from USDA Farmers Home Administration to purchase their residence in Lamesa, TX. (RX-1, RX-2). In 1992, Ms. Stafford divorced her husband and subsequently remarried, moving to Lubbock, TX. In March 1992, Farmers Home Administration released Mr. Moore from any liability for the loan.

Prior to the foreclosure, Ms. Stafford made numerous attempts to resolve the delinquency.¹ In an attempt to refinance/restructure the loan, Ms. Stafford contacted the local Farmers Home Administration office, in Lamesa, Texas, numerous times during 1992 and 1993. Because of a restructuring she was told they could not assist her and she needed to contact the Ft. Stockton office. More than a dozen calls to the Ft. Stockton office went unreturned. When she finally talked to the appropriate person at Ft. Stockton, he would not discuss refinancing telling her that she needed to sell the house. Ms. Stockton found two prospective buyers, each of whom was rejected by Farmers Home Administration.

According to Rural Development's Narrative, Farmers Home Administration foreclosed on the loan and sold the house at a foreclosure sale on April 1, 1997. Other than the statement in the narrative, there is nothing in the record to substantiate the details of the sale. Furthermore, according to a credible statement by Ms. Stafford, Rural

¹Ms. Stafford's testimony was very credible. Furthermore, her testimony was consistent with documents entered into evidence that were created in the 1990s, contemporaneous with the events in question. Rural Development, on the other hand, provided no evidence to refute Ms. Stafford's testimony.

Development failed to inform her of the results of the sale. The first communication that Ms. Stafford received after the foreclosure was a notice of “Amount of past due debt owed to Rural Housing Service” informing her that she owed \$14,458.86. This letter, dated October 20, 1997, also informed her that the debt will be submitted to the Treasury Offset Program. The letter included information for requesting a review of the decision within 60 days. On November 15, 1997, Ms. Stafford requested a review. Her request asked for an explanation of how the amount of the debt was determined and she requested copies of the appropriate documents – a right identified in the notice of the amount of the debt.

On March 17, 1998, Ms. Stafford again wrote to Rural Housing, noting that she had yet to receive a response from Rural Housing and again requesting details concerning the amount of the debt. Ms. Stafford received no further communication from Rural Housing until 2001, when she received another notice of “Amount of past due debt owed to Rural Housing Service,” now indicating that she owed \$25,312.57.

When Ms. Stafford got into financial difficulty, she did what a reasonable person would do. She attempted to contact the local Farmers Home Administration office, she sought assistance in refinancing/restructuring the debt, she even found buyers for the property. When notified that she still had a debt due, she followed the instructions in the letters from Rural Housing, she contacted Rural Housing within the time allocated, she asked questions, asked for documentation and suggested a repayment agreement. Rural Development, in essence, ignored her efforts to resolve this. I find this troubling.

Rural Development has “the burden of going forward to prove the existence or the amount of the debt.” (31 C.F.R. § 285.11(f)(8).) The evidence provided by Rural Development demonstrates that a debt existed. (Promissory Note, RX-1). Rural Development presented no evidence (other than unsupported statements in the Narrative and in exhibit RX-4) that support Rural Development’s claim that the current debt is \$19,004.83. The evidence problem I have is that the amounts noted in exhibit RX-4 “Detailed Explanation of the Debt,” which is the main exhibit to support the amount of the debt, do not correlate with the amounts claimed in the Rural Development letters sent to Ms. Stafford. As an example, in its post-foreclosure letter to Ms. Stafford, dated October 20, 1997, Rural Development states that she owes \$14,458.86. However, exhibit RX-4 indicates the amount due post-foreclosure is \$20,226.51. Without explanation or entry on RX-4, the amount jumps to \$25,312.57 in the April 30, 2001 letter to Ms. Stafford. In addition, other inconsistencies in the documentation before me raise concerns about the accuracy of Rural Development’s claim.

Without evidence to support their claim, such as a deficiency judgment from a Texas court and documents from Rural Development’s file, I find that Rural Development failed to meet its burden to prove the amount of the debt. Therefore, I have the task of determining the amount of the remaining debt. I find that the various collections through Treasury and any other sources that have collected from Ms. Stafford have paid the debt in full and as the date of my order, Ms. Stafford owes nothing on this loan. Therefore, wage garnishment is not appropriate.

Order

Because I find that Ms. Stafford's loan is paid in full, USDA Rural Development Agency, Rural Housing Service, and those collecting on its behalf, are not authorized to proceed with garnishment of Ms. Stafford'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 17th day of November 2010

STEPHEN M. REILLY
Hearing Official