

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0325

In re: Karen Wade,

Petitioner

Decision and Order

This matter is before the Administrative Law Judge upon the request of Karen Wade 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 9, 2010. Due to a building evacuation, the hearing on November 9, 2010 had to be postponed and was re-scheduled for November 22, 2010.

The Respondent complied with the Prehearing Order and a Narrative was filed, together with supporting documentation on September 22, 2010. On October 12, 2010 Counsel for Karen Wade emailed her documentation for filing with the Hearing Clerk and a hard copy was received on October 19, 2010.

In the Narrative filed by the Petitioner, she asserts that the residence was bid in for the amount of the loan and that the loss claim paid in this action was paid to an entity other than Chemical Bank, the original lender identified on the Loan Guarantee. There

being no evidence in the record of any assignment of the note, I find that the Agency has failed in its burden of proof in establishing the debt.

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 March 3, 2003 Karen Wade and Frank Wade, then her husband, applied for and received a home mortgage loan guarantee from Rural Development (RD), United States Department of Agriculture (USDA), (Exhibit RX-1) and on April 11, 2003 obtained a home mortgage loan for property located St. Louis, Missouri from Chemical Bank.
 2. In 2008, the Petitioner defaulted on the mortgage loan and foreclosure proceedings were initiated. The property was sold at foreclosure on or about November 12, 2008 with the property bid in for the amount of the indebtedness. PX-9.
 3. The record does not contain Chemical Bank's note or any assignment thereof.
 4. Treasury offsets totaling \$8,151.00 exclusive of Treasury fees have been received.
- Narrative, p 1.

Conclusions of Law

1. USDA Rural Development has failed to meet its burden of proof in establishing a debt in this case.
2. No debt having been established, the wages of the Petitioner may **NOT** be subjected to administrative wage garnishment.
3. All amounts collected from Karen and Frank Wade should be refunded to the individual from whom the amounts were collected.

Order

For the foregoing reasons, the administrative wage garnishment proceedings against Karen Wade are **ORDERED TERMINATED**. All amounts previously collected shall be refunded to the party from whom collected.

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

Peter M. Davenport
Chief Administrative Law Judge

Date: November 22, 2010

Copies to: James C. Higgs, Esquire
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