

**UNITED STATES DEPARTMENT OF AGRICULTURE**  
**BEFORE THE SECRETARY OF AGRICULTURE**

In re:	)	AWG Docket No. 10-0372
	)	
Joseph McFarland,	)	
	)	
Petitioner	)	<b>Decision and Order</b>

Pursuant to a Hearing Notice, I held a hearing in this proceeding by telephone, on November 30, 2010, at 11:30 PM, Eastern Time. Petitioner, Joseph McFarland, and Respondent’s representative, Mary E. Kimball, participated and were sworn. Ms. Kimball introduced, identified and authenticated records regularly maintained by USDA, Rural Development that were received as Exhibits RX-1 through RX-6. Petitioner completed and filed a “Consumer Debtor Financial Statement” that he verified as accurate and it was received in evidence. At issue is the nonpayment of a debt owed to USDA, Rural Development on home mortgage loans on property that Mr. McFarland had owned with his former wife, Joni McFarland, who has been discharged in bankruptcy from paying the remaining debt.

The evidence received shows that the property was sold in a short sale that, after payment of the remaining principal, interest and various expenses, left Mr. McFarland still owing a debt to USDA, Rural Development. Mr. McFarland is employed by [REDACTED] IN, as a saw operator at salary which, after deducting necessary living expenses, would result in undue financial hardship if more than [REDACTED] per week is garnished from his salary.

## Findings

The testimony and exhibits received in evidence proved that:

1. On January 24, 1997, petitioner and his former wife obtained loans in the amount of \$55,211.94 from USDA Farmers Home Administration (now USDA, Rural Development) for the purchase of a home at 318 W. Oak St., Mitchell, IN 47446. (RX-1, RX-2 and RX-3).
2. The mortgage loan was not paid and the property was sold at a short sale, on October 24, 2001. USDA, Rural Development received \$21,221.79 from the sale. At that time, the amount due to USDA, Rural Development for principal, interest and fees was \$78,315.47. After the funds from the short sale were applied, the amount of the debt still owed was \$44,162.43 minus escrow refunds of \$560.20 and \$12,931.25. Since the sale, USDA, Rural Development has received \$3,374.80 from the U.S. Treasury Department. The balance owed to USDA, Rural Development is \$53,158.68 plus an additional \$14,884.43 owed to Treasury for potential collection fees for a total of \$68,043.11 (RX-6).
3. Mr. McFarland pays child support of [REDACTED] per month, or [REDACTED] per week, for his 10 year old son who lives with his former wife. Mr. McFarland is currently employed as a saw operator by Foamcraft, 100 N. Industrial Parkway, Mitchell, Indiana 47446 at an hourly wage of [REDACTED] that is paid weekly. His monthly earnings are [REDACTED]. He pays [REDACTED] per month for rent, child support, gasoline, electric, natural gas, food, clothing, water, telephone and furniture payments. Upon deducting these

expenses from his net monthly income, [REDACTED] remains. Inasmuch as a maximum of 15% may be garnished from disposable income, the amount that may be garnished from his weekly salary may not exceed [REDACTED]

### **Conclusions**

1. USDA, Rural Development has proven that Joseph McFarland is indebted to USDA, Rural Development in the amount of \$53,158.68 plus an additional \$14,884.43 is owed to Treasury for potential collection fees for a total of \$68,043.11.
2. Based upon the Petitioner's current income and necessary living expenses, administrative wage garnishment of Petitioner's wages shall be at the rate of \$14.62 per week. A higher amount of monthly garnishment would cause him undue financial hardship.

### **Order**

For the foregoing reasons, administrative wage garnishment of the wages of the Petitioner, Joseph McFarland may be made provided the sum garnished each week does not exceed [REDACTED]

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

Dated: \_\_\_\_\_

\_\_\_\_\_  
Victor W. Palmer  
Administrative Law Judge