

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0044

In re: Teresa Minoletti,

Petitioner

DECISION AND ORDER

This matter is before me upon the request of Teresa Minoletti 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 December 6, 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.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on December 20, 2010. Ms. Minoletti filed her documentation on December 27, 2010 with Rural Development and it was forwarded to the Hearing Clerk. I now label her exhibits as PX-1 (financial schedules), PX-2 (Short sale deed), PX-3 (Hearing request form), PX-4 (HUD-1 form), PX-5 (handwritten letter 3 pages 8/10/10), PX-6 (handwritten letter 4 pages 12/22/10).

On January 4, 2011 at the scheduled time, both parties were available for the conference call. The parties were sworn. Following the hearing, Ms. Minoletti forwarded a bi-weekly pay-stub to RD and it was forwarded to the hearing Clerk.

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 January 14,1992, Theresa Minoletti, the Petitioner assumed a USDA FmHA loan for \$46,390.00 At the same time, she obtained a loan for \$4,610.00 for a primary residence located at 6## Meadow***** Rd, Gaston, SC 29####.¹ The Petitioner signed a Promissory Note and a mortgage. RX-1, RX-2.

2. The borrower defaulted on the loan and on September 20, 2001, Ms. Minoletti entered into a short sale of her residence for \$42,500.00 with a net amount to RD of \$37,000.00. PX-4.

3. As an accommodation to Ms. Minoletti, RD released the property from the underlying lien and thus the loan secured by the real property became an unsecured loan with a balance due of \$16,307.71. (RX-4). Grantee's deed (dated September 20, 2001) states in bold letters, " THE GRANTEE INTENDS TO OBTAIN, BY COMPROMISE, RELEASE OF THESE LIENS, BUT WILL NOT SATISFY THIS DEBT." PX-2. (Emphasis in original).

4. Treasury offsets totaling \$7,676.74, exclusive of Treasury fees, have been received. RX-4.

5. The remaining unpaid debt is in the amount of \$8,630.97 exclusive of potential Treasury fees. RX-4.

¹ Complete address maintained in USDA files.

6. The remaining potential treasury fees are \$2,416.67. RX-5.
7. Ms. Minoletti has been employed for over one year.
8. Ms. Minoletti submitted her financial statements under oath which included her gross bi-weekly salary and monthly expenses.
9. Based upon the available financial information, I performed a Financial Hardship calculation using standard Federal and State Income Tax rate for head of Household. The result of the calculation is attached².

Conclusions of Law

1. Teresa Minoletti is indebted to USDA Rural Development in the amount of \$8,630.97 for the mortgage loan extended to her.
2. Teresa Minoletti is indebted to the US Treasury for potential fees in the amount of \$2,416.67.
3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
4. The Respondent is not entitled to administratively garnish the wages of the Petitioner for a period of one year. After one year, RD may review the then existing financial statements and assess the legal entitlement to garnish her wages.

² The Financial Hardship Calculation will not be posted on the OALJ website.

Order

For the foregoing reasons, the wages of Teresa Minoletti shall not be subjected to administrative wage garnishment for a period of one year.

After one year, RD may re-assess Ms. Minoletti's financial position.

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

Done at Washington, D.C.
January 13, 2010

JAMES P. HURT
Hearing Officer

Copies to:

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