

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0036

In re: Raymond B. Orthman,
Petitioner

Decision and Order

This matter is before the Administrative Law Judge upon the request of Petitioner 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 November 24, 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 January 13, 2011.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on December 14, 2010. The Petitioner has filed a letter which was received by the Hearing Clerk's Office on December 14, 2010 in which he indicates that he was a victim of fraud, sposed [sic] by agents of the United States Government. Documentation as to the Petitioner's financial condition in the form of an Application for Settlement of Indebtedness was contained with the Respondent's Narrative. As the financial information provided indicates that the Petitioner is employed at minimal wages, there is sufficient information in the record to dispose of the issues before me without the need of further proceedings.

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 August 3, 1983, the Petitioner and Rose Orthman, his wife, received a home mortgage loan in the amount of \$27,500.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) for property located in Summit, Montana. RX-1.
2. Following default by the Petitioner in 1999, the property was sold in a short sale. USDA received \$6,540.70 from the sale, leaving a balance due of \$17,574.43. RX-5.
3. Treasury offsets totaling \$8,680.71 exclusive of Treasury fees have been received. RX-5.
4. The remaining unpaid debt is in the amount of \$8,893.72 exclusive of potential Treasury fees. RX-6.
5. The Petitioner is employed at minimal wages and is under a financial hardship at the current time.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Petitioner is indebted to USDA Rural Development in the amount of \$8,893.72 exclusive of potential Treasury fees exclusive of potential Treasury fees for the mortgage loan extended to him.
3. The Petitioner has made significant progress in liquidating this debt, but is under a financial hardship at this time.

4. The Respondent is **NOT** entitled to administratively garnish the wages of the Petitioner; however, the debt may remain at Treasury for any and all other appropriate collection action.

Order

For the foregoing reasons, the wages of Petitioner shall **NOT** be subjected to administrative wage garnishment.

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

January 13, 2011

Peter M. Davenport
Chief Administrative Law Judge

Copies to: Raymond B. Orthman
Mary Kimball
Dale Theurer

Hearing Clerk's Office
U.S. Department of Agriculture
1400 Independence Avenue SW
Room 1031, South Building
Washington, D.C. 20250-9203
202-720-4443
Fax: 202-720-9776