

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0426

In re: Cheryl E. Mulligan,

Petitioner

DECISION AND ORDER

This matter is before me upon the request of Cheryl E. Mulligan, k/n/a Cheryl E. Greer, 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 September 30, 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 October 29, 2010. Ms. Mulligan, (kna Greer), filed with her Petition portions of her divorce papers (which I now label as PX-1) relating to the Marital Property Settlement Agreement of 1996.

On November 30, 2011 at the scheduled time, both parties were available for the conference call. The parties were sworn. Ms. Mulligan was asked to file/forward financial statements if she would like a Financial Hardship Calculation to be prepared. No post-hearing documents have been received from the Petitioner.

In reviewing the central document of RD's deficiency judgment, (the 12/21/2001 Florida Summary Judgment), I am very perplexed about the facts recited in paragraph 11, thereof, especially in light of the Petitioner's Property Settlement Agreement of 1/11/1996, however, for the purposes of this Administrative Law matter, I cannot look beyond the terms of the Florida Circuit Court judgment.

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 September 1, 1993, Cheryl E. Mulligan, the Petitioner, and her then husband Michael Mulligan assumed a USDA FmHA loan for \$34,399.59 (Account # 2158823). At the same time, they obtained a loan for \$17,800.00 (Account # 2158810) for a primary residence located at 3# Asp** St., Daytona Beach, FL 32###.¹ The Petitioner signed joint and several Promissory Notes and a Mortgage which I now label as RX-1 and RX-2.
2. The borrower defaulted on the loan (see foreclosure notice which I now label as RX -3) and on December 21, 2001, the Circuit Court of Volusia County Florida entered a Summary Judgment foreclosing on the property and entered a deficiency order for \$67,403.02. (see Summary Judgment Order which I now label as RX-5).
3. Thereafter, on February 25, 2002, the property was sold at a foreclosure sale for \$46,500.00. (See RD "Breakdown of Account Activity" which I now label as RX-6).
4. After the foreclosure sale, Treasury offsets totaling \$1,510.65, exclusive of Treasury fees, have been received. RX-6 at P. 2 of 2.
5. The remaining unpaid debt for both accounts is in the amount of \$14,075.14 exclusive of potential Treasury fees. RX-6.

¹ Complete address maintained in USDA files.

6. The remaining potential treasury fees are \$549.84 for account # 2400014950B and \$3,391.20 for account # 2400014940B. (see RD "Cash balance inquiry" which I now label as RX-7).

7. Ms. Mulligan's work status is unknown.

Conclusions of Law

1. Cheryl E. Mulligan, nka Cheryl E. Greer, is indebted to USDA Rural Development in the amount of \$14,075.14 for the mortgage loan extended to her.

2. Cheryl E. Mulligan, nka Cheryl E. Greer, is indebted to the US Treasury for potential fees in the amount of \$3,941.04.

3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.

4. The Respondent is entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, RD is entitled to administratively garnish the wages of Cheryl E. Mulligan, kna Cheryl E. Greer.

This Order shall be effectively immediately, but if within one year, the recitation of facts of the Florida Circuit Court Summary Judgment are determined by Florida law to have contained substantial errors of fact, I will upon the request of either party rehear this matter *ab initio*.

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

Done at Washington, D.C.
January 25, 2010

JAMES P. HURT
Hearing Officer

Copies to:

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