

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0051

In re: Diana Ruiz,

Petitioner

DECISION AND ORDER

This matter is before me upon the request of Diana Ruiz 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, I issued a Prehearing Order 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 RX-1 through RX-10 on December 16, 2010. Following the oral hearing, on January 12, 2011, Ms. Ruiz filed two letters (which I now label as PX-1 and Financial Statements with 2009 tax returns (12 pages) which I now label as PX-2.

On January 4, 2011 at the scheduled time, both parties were available for the conference call. The parties were sworn. Ms. Ruiz stated that she had written to RD very soon after the loan was approved (September 1998) and before the monies were

distributed that she did not want to be a signatory to the loan. However, due to the RD document retention policies in effect, those documents (if they existed), were destroyed. PX-1.

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 16, 1998, Juan Reta and Diana Ruiz (Petitioner) received a home mortgage loan in the amount of \$60,140.00 from USDA FmHA for an unimproved lot located in Cameron County, TX 33####.¹ RX-1, RX-2.
2. The borrowers defaulted on the loan on August 10, 2000 were sent a Notice of Acceleration on February 1, 2002. RX-4 thru RX- 8.
3. Prior to the sale, borrowers owed \$53,340.01 in principal, \$9,718.13 in accrued interest and \$5,959.01 in fees for a total of \$69,017.15. RX-9.
4. A foreclosure sale was held on December 3, 2002 and RD netted \$34,017.77 from the sale. RX-9.
5. Post sale Treasury offsets in the amount of \$8,989.34 were received and applied to the account. RX- 9.
6. The remaining unpaid debt is in the amount of \$26,010.04 exclusive of potential Treasury fees. RX-9, Narrative.
7. The remaining potential treasury fees are \$7,282.81. RX-10.
8. Ms. Ruiz has been employed for more than one year.

¹ Complete address maintained in USDA files.

9. Ms. Ruiz submitted financial statements under oath.
10. I performed a Financial Hardship calculation which is attached.²

Conclusions of Law

1. Diana Ruiz is jointly and severally indebted to USDA Rural Development in the amount of \$26,010.04 for the mortgage loan extended to her.
2. Diana Ruiz is jointly and severally indebted to the US Treasury for potential fees in the amount of \$7,282.81.
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.

Order

For the foregoing reasons, the wages of Diana Ruiz NOT shall be subjected to administrative wage garnishment for a period of one year.

After one year, her financial situation may be reviewed to determine if wage garnishment is appropriate.

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

Done at Washington, D.C.
February 8, 2011

JAMES P. HURT
Hearing Officer

² The Financial hardship calculations are not posted on the OALJ website.

Copies to:

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