

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0424

In re: Jason Bratsch,

Petitioner

DECISION AND ORDER

This matter is before me upon the request of Jason Bratsch 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 25, 2010. Mr. Bratsch filed his documentation on November 8, 2010 with Rural Development and it was forwarded to the Hearing Clerk.

On November 29, 2010 at the scheduled time, both parties were available for the conference call. The parties were sworn. Following the hearing, Mr. Bratsch forwarded additional financial documents relating to his income and deductions beginning in 2011. Also on March 7, 2011 RD forwarded documentation showing the nexus between Wells Fargo Bank, NA (original lender) and US Bank Home Mortgage (final loan servicer).

RX-7 – RX-10. 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 April 15, 2005, Jason Bratsch, the Petitioner (and his wife, Stacy) received a home mortgage loan guarantee in the amount of \$79,000.00 from Wells Fargo Bank for property located at 6## Ro***** Street, Starbuck, MN 56####.¹ The Petitioner and his wife signed a Housing Loan Guarantee on January 17, 2005 which acknowledged that if (FmHA), United States Department of Agriculture (USDA), now Rural Development paid a loss claim on the loan to the lender, Petitioners would reimburse the Agency (USDA) for that amount. (RD) RX-1.
2. The borrowers defaulted on the loan on October 1, 2006 At the time of the default, the amount due on the principal balance was \$76,955.76. Narrative.
3. The property was appraised on March 19, 2008 for \$79,000. There was a BPO appraisal on March 30, 2008 for \$52,900.00. There was a RHS Liquidation Appraised Value of \$55,000 on October 21, 2008. RX – 2 @ p. 4 of 8.
4. The property was finally sold for \$46,000.00 on March 18, 2009 RX-4 @ 1 of 6.
5. Based on the RHS Liquidation value, on July 23, 2009 RD paid \$37,094.27 to U.S. Bank, N.A. as a loss claim. RX – 2 @ p. 7 of 8.
6. Treasury offsets totaling \$9,787.00 exclusive of Treasury fees have been received. RX-3.

¹ Complete address maintained in USDA files.

7. The remaining unpaid debt is in the amount of \$27,307.27 (\$37,094.27 - \$9,787.00) exclusive of potential Treasury fees. RX-3 @ p. 1 of 3.
8. The remaining potential treasury fees are \$7,646.04. RX-6
9. Mr. Bratsch has been employed for over one year.
10. Mr. Bratsch submitted his financial statements under oath which included his bi-monthly wages and monthly expenses. He also submitted three pay stubs showing that for the 10/31/2010 through 12/11/2010 period he averaged 57 working hours for the two week periods. Based upon the available financial information, I performed a Financial Hardship calculation using a full 40 hours work-week, standardized tax tables and his stated monthly expenses.

Conclusions of Law

1. Jason Bratsch is jointly and severally indebted to USDA Rural Development in the amount of \$27,307.27 for the mortgage loan extended to him.
2. Jason Bratsch is jointly and severally indebted to the US Treasury for potential fees in the amount of \$7,646.04.
3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
4. The Respondent is **not** entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, the wages of Jason Bratsch shall be subjected to administrative wage garnishment at this time.

After one year, RD may re-assess Mr. Bratsch'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.
March 14, 2011

JAMES P. HURT
Hearing Officer

Copies to:

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