

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0097

In re: Rebecca Ruff,
Petitioner

Decision and Order

This matter is before the Administrative Law Judge upon the request of the 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 February 8, 2011, 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 case for a telephonic hearing on March 16, 2011.

The Respondent complied with the Prehearing Order and a Narrative was filed, together with supporting documentation on February 17, 2011. The Petitioner has neither filed any material subsequent to the Request for Hearing nor otherwise complied with the Prehearing Order. Nothing further having been received from the Petitioner, and there being no compliance with the Prehearing Order, the Petitioner will be deemed to have waived the right to a hearing and the matter will be decided upon the record before me.

On the basis of the record before me, nothing further having been received from the Petitioner, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. On July 7, 2005, Rebecca Ruff received a home mortgage loan from JP Morgan Chase Bank, N.A. in the amount of \$37,000.00 for the purchase of property located in Kings Mountain, North Carolina. RX-1.
2. On June 29, 2005, prior to obtaining the loan, the Petitioner had executed a Loan Guarantee Agreement with Rural Development (RD), USDA in which she agreed to repay to RD any loss incurred in connection with the above loan. RX-2
3. In 2008, the Petitioner defaulted on the mortgage loan and the residence was ultimately sold for \$17,000.00. RX-5.
4. The record is silent as to whether there was any foreclosure action or deficiency judgment obtained.
5. Thereafter, although the Narrative indicates otherwise, the records reflects that RD paid Chase Home Finance LLC, an entity not then the holder of the note, the sum of \$23,504.37 on the Loan Guarantee. RX-3, 4.
6. Subsequent adjustments resulted in a tax refund of \$55.29, a reduction of attorney's fees from \$800.00 to the \$600.00 (the state allowed maximum) and a further reduction of property preservation [sic] from \$1,875.00 to \$125.00. RX-3.
7. USDA referred this alleged debt of \$23,504.37 to Treasury. RX-7.
8. There is no indication that any amounts have been received via the Treasury Offset Program.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. The Agency has failed in its burden of proof of establishing a debt in this matter.
3. USDA paid an entity under the guarantee agreement that was not then the holder of the note entitled to make such a loss claim.

Order

For the foregoing reasons, no debt being established, the wages of the Petitioner may **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.

March 16, 2011

Peter M. Davenport
Chief Administrative Law Judge

Copies to: Rebecca Ruff
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