

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0100

In re:

ERNST DAMESSOUS,

Petitioner

Decision and Order

This matter is before the Office of Administrative Law Judges for the United States Department of Agriculture (“OALJ”) upon the December 21, 2010 request of Ernst Damessous (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due to the United States Department of Agriculture, Rural Development (“USDA-RD”); and if established, the terms of any repayment prior to imposition of an administrative wage garnishment. By Order issued February 7, 2011, the parties were directed to exchange information and documentation concerning the existence of the debt. In addition, the matter was set for a telephonic hearing to commence on March 23, 2011 and deadlines for filing documents with the Hearing Clerk’s Office were established. The parties were further instructed to provide contact information for participation in the hearing. Copies of the Order were sent to Petitioner’s address of record.

On February 28, 2011, USDA-RD filed a Narrative, together with supporting documentation identified as RX-1 through RX-7. Copies were sent to Petitioner at his address of record, noted in his petition. Petitioner did not file any documents, nor did Petitioner provide contact information as directed. No document mailed to Petitioner’s was returned as undeliverable. However, since a page of Petitioner’s petition was not filed with the Hearing Clerk, I determined that due process would be best served by allowing Petitioner the opportunity

to explain his failure to comply with previous Orders. By Order issued March 23, 2011, I directed Petitioner to show good cause why he failed to provide a number where he could be contacted for the telephonic hearing. As of this date, Petitioner has failed to file a statement of good cause. Accordingly, I find it appropriate to make a Decision 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. Petitioner Ernst Damessous obtained loans from USDA-RD loans in the amount of \$155,500.00 and \$16,500.00 for the purchase of his primary residence in Lehigh Acres, Fl.
2. Petitioner executed promissory notes and mortgage dated September 29, 2006 as evidence of indebtedness for the loans. RX 1 and RX 2.
3. The loans were accelerated on February 6, 2008. RX 4
4. USDA-RD initiated foreclosure proceedings, which concluded on June 8, 2009 with a judgment of foreclosure. RX 5.
5. A foreclosure sale was held on July 9, 2009, at which time USDA-RD acquired the property for \$27,990.00, which was credited against the balance due on the loans of \$191,422.55 (\$191,422.55 in principal; \$16,841.50 in interest; and \$5,103.65 in fees).
6. The balance due was then \$163,432.55 plus \$70.00 in fees.
7. The amount of \$1,215.00 was applied against the balance by the U.S. Department of Treasury (“Treasury”).
8. The remaining balance of \$162,287.55 was referred to Treasury for collection. RX 6.
9. The outstanding balance on the loans is \$207,728.07, consisting of the debt of \$162,287.55 plus potential fees due to Treasury of \$45,440.52.

10. At the time this collection action was initiated, Petitioner was employed.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Petitioner is indebted to USDA Rural Development in the amount of \$162,287.55 plus potential Treasury fees in the amount of \$45,440.52.
3. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met.
4. USDA Rural Development has established that the Petitioner was given notice of the debt and an opportunity to cure any default.
5. As Petitioner is employed, wage garnishment may be effected.
6. USDA-RD is entitled to administratively garnish the wages of the Petitioner.
7. In addition, Treasury may implement any and all other appropriate collection action.

Order

1. The Administrative Wage Garnishment may proceed at this time at the rate of 15% of Petitioner's Monthly Disposable Income.
2. Petitioner is advised that this Decision and Order does not prevent payment of the debt through offset of any federal money payable to Petitioner.
3. Petitioner is further advised that a debtor who is considered delinquent on debt to the United States may be barred from obtaining other federal loans, insurance, or guarantees. See, 31 C.F.R. § 285.13.
4. Until the debt is satisfied, Petitioner shall give to USDA RD or those collecting on its behalf, notice of any change in his address, phone numbers, or other means of contact. Petitioner may direct questions to RD's representative Mary Kimball, c/o:

USDA New Program Initiatives Branch
Rural Development Centralized Servicing Center
4300 Goodfellow Blvd. F-22
St. Louis, MO 63120
314-457-5592
314-457-4426 (facsimile)

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

So ORDERED this 6th day of April, 2011 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge