

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 11-0151
)	
Martha Enciso Pierson,)	
)	
Petitioner)	Decision and Order

On May 10, 2011, at 2:30 PM, EDT, I held a hearing on a Petition to Dismiss an administrative wage garnishment proceeding to collect a debt allegedly owed to Respondent, USDA, Rural Development, for losses it incurred under a mortgage loan it gave to Petitioner to purchase a house. Petitioner represented herself, and USDA Rural Development was represented by Mary Kimball. Petitioner, her former husband, Russell Pierson, and Mary Kimball were each duly sworn. Various exhibits were offered by Ms. Kimball that were received in evidence (RX-1 through RX-8). Exhibits offered by Petitioner were also received in evidence (PX-1 through PX-16).

Respondent sustained financial loss on the mortgage loan it gave to Petitioner to purchase a house located at 529 Highway N, Montgomery City, MO. The loan, dated December 12, 2007, was in the amount of \$136,400.00 (RX-1 and RX-2). The payments on the mortgage were not met and a short sale was held on June 18, 2010, at which time the house sold for \$118,000.00. After selling expenses, USDA received \$110,940.24 from the sale (Exhibit RX-5). Prior to the sale, Petitioner owed USDA \$138,641.07 for principal, accrued interest, and fees. Since the sale, \$4,462.00 has been collected by the United States Treasury Department. The amount that is presently owed on the debt is \$23,006.68 plus potential fees to Treasury of \$6,441.87 or \$29,448.55 total (RX-6).

Petitioner is employed by Dairy Queen in Food Service and presently receives [REDACTED] bi-weekly net. Her usual monthly household expenses are: rent-[REDACTED]; gasoline-[REDACTED] gas-[REDACTED] food-[REDACTED] medicine-[REDACTED] clothing-[REDACTED] water-[REDACTED] car repairs \$ [REDACTED] miscellaneous-[REDACTED], or [REDACTED] total. I have concluded that the garnishment of any part of Petitioner's bi-weekly paychecks during the next six (6) months would cause Petitioner undue financial hardship within the meaning and intent of the provisions of 31 C.F.R. § 285.11.

USDA, Rural Development has met its burden under 31 C.F.R. §285.11(f)(8) that governs administrative wage garnishment hearings, and has proved the existence and the amount of the debt owed by the Petitioner. On the other hand, Petitioner has shown that she would suffer undue financial hardship if any amount of money is garnished from her disposable income at any time during the next six (6) months.

Under these circumstances, the proceedings to garnish Petitioner's wages are suspended and may not be resumed for six (6) months from the date of this Order.

Dated:

Victor W. Palmer
Administrative Law Judge