

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0353

In re: PAULA MOORE,
Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Paula Moore (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due, and if established, the propriety of imposing administrative wage garnishment. By Order issued on August 30, 2011, the parties were directed to provide information and documentation concerning the existence of the debt. In addition, the matter was set for a telephonic hearing to commence on September 29, 2011 and deadlines for filing documents with the Hearing Clerk’s Office were established.

The Respondent filed a Narrative, together with supporting documentation¹ on September 1, 2011. Petitioner filed a Consumer Debtor Financial Statement on September 15, 2011. The hearing commenced as scheduled. At the hearing, Petitioner represented herself and testified on her own behalf. Testimony was received from Mary E. Kimball, Accountant for the New Program Initiatives Branch of Rural Development, USDA Rural Development (“USDA RD”), located in Saint Louis, Missouri.

¹ References to Respondent’s exhibits herein shall be denoted as “RX-#”.

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 borrowed \$51,000.00 for the purchase of real estate in Charleston, Arkansas from the United States Department of Agriculture's RD and executed a Promissory Note and a Real Estate Mortgage on July 22, 1996. RX-1; RX 2.
2. RD established the two loans in two separate accounts, #97889 and #97876 for the purposes of loan servicing. RX-3.
3. On March 22, 2000, Petitioner's account was reamortized with a balance due of \$53,636.46. RX 5.
4. Petitioner received a monthly payment supplement from RD. RX 5.
5. Petitioner failed to make monthly payments, was considered in default on the loan, and Notice of Acceleration was issued by RD on August 23, 2000, which action was upheld upon appeal to USDA's Appeal Division. RX 4; RX 5.
6. The property sold at short sale on April 2, 2002, at which time Petitioner owed \$63,034.19 (\$53,636.46 in principal and \$7,979.70 in interest, plus \$1,418.03 in fees. RX-6; RX 7.
7. The real property sold for \$57,000.00; USDA-RD received \$52,545.75. RX 7.
8. After the proceeds of the sale were applied, the remaining debt was \$10,488.44. RX 7.
9. The debt was referred by law to the U.S. Department of Treasury ("Treasury") and is currently documented as \$10,488.44, plus potential fees of \$2,936.76 for a total of \$13,425.20. RX-7.
10. Treasury, through its agent, issued a notice to Petitioner of intent to garnish her wages.

11. Petitioner timely requested a hearing, which was held by telephone on September 29, 2011.
12. After hearing an explanation for how the debt arose, Petitioner did not contest the validity of the debt.
13. Petitioner credibly testified that she believed that there was no balance on the debt to USDA RD.
14. Petitioner credibly testified that she did not receive any information from USDA RD regarding debt settlement despite advising the agency of her new address, and filing a forwarding mail order with the United States Postal Service.
15. Petitioner lives with her adult daughter, who works and attends nursing school
16. Petitioner was collecting disability payments (SSI) and did not work until five months ago.
17. Because Petitioner had not worked, she was unaware of the status of the instant debt at the Department of the Treasury.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. Petitioner is indebted to USDA RD in the amount of \$10,488.44, exclusive of potential Treasury fees for the mortgage loans extended to her.
3. Garnishment of Petitioner's wages is excluded pursuant to 31 C.F.R. §285.11(j) because Petitioner has not been continuously employed for at least twelve (12) months.
4. The Respondent is not entitled to administratively garnish the wages of the Petitioner.
5. Treasury shall remain authorized to undertake any and all other appropriate collection action.

ORDER

For the foregoing reasons, the wages of Petitioner shall **NOT** be subjected to administrative wage garnishment at this time.

Petitioner is encouraged in the interim to negotiate and discuss the liability for the debt with the representatives of Treasury. The toll free number for Treasury's agent is **1-888-826-3127**.

Petitioner is advised that this Decision and Order does not prevent payment of the debt through offset of any federal money payable to Petitioner.

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.

Until the debt is satisfied, Petitioner shall give to USDA RD or those collecting on its behalf, notice of any change in her address, phone numbers, or other means of contact.

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

So Ordered this _____ day of September, 2011 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge