

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0358

In re: WILLIE DODD SHARP,

Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Willie Dodd Sharp (“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 8, 2011. Petitioner filed a Consumer Debtor Financial Statement on September 27, 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 and Conclusions of Law and Order shall be entered:

FINDINGS OF FACT

1. On February 27, 1996, the Petitioner obtained a loan from the USDA RD in the amount of \$55,500.00 for the purchase of real property in Cleveland, Tennessee and signed a Promissory Note and Deed of Trust for Tennessee as evidence of the loan. RX-1; RX-2.
2. Petitioner's account became delinquent, and on August 27, 2000, the delinquent balances were added to the principal of her loan, thereby reamortizing Petitioner's loan. RX 3.
3. Petitioner subsequently defaulted on the loan and Notice of Acceleration was issued by RD on June 21, 2001. RX 4.
4. A foreclosure sale was held on December 1, 2001 which yielded \$41,256.00 that was applied against the balance of Petitioner's loan. RX 5.
5. At the time of the sale Petitioner owed \$63,673.88, comprised of principal, interest, escrow and fees. RX 5.
6. After the proceeds from the sale and other credits were applied, Petitioner's account balance was \$22,429.00. RX 5; RX-6.
7. A total of \$4,658.76 has been applied against the debt through offset since Petitioner's account was referred to the U.S. Department of Treasury ("Treasury"). RX 4.
8. Petitioner's debt is currently documented as \$17,771.12,, plus potential fees of \$4,975.91 for a total of \$22,747.03. RX-6.
9. In July, 2011, Treasury, through its agent, issued a notice to Petitioner of intent to garnish her wages.

10. Petitioner timely requested a hearing, which was held by telephone on September 29, 2011.

11. After hearing an explanation for how the debt arose, Petitioner did not contest the validity of the debt.

12. Petitioner credibly testified that she is currently employed part-time, earning [REDACTED] per hour.

13. Petitioner has no expectation of improvement in her financial situation for the foreseeable future.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.

2. Petitioner is indebted to USDA RD in the amount of \$14,357.27, exclusive of potential Treasury fees for a loan to purchase real property.

3. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have not been met because Petitioner's wages are excluded from garnishment, pursuant to 5 U.S.C. § 1673(a)(2).

4. 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 advised that if she acquires the ability to negotiate a lump sum payment, she may be able to enter into a compromise settlement of 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