

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 11-0313

In re: Christopher Walters

Petitioner

Decision and Order

This matter is before me upon the request of 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 August 5, 2011, Administrative Law Judge, Victor W. Palmer issued a Prehearing Order 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 matter for a telephonic hearing. I was then assigned to hear the case.

The Rural Development Agency (RD), Respondent, complied with the Discovery Order and a Narrative was filed, together with supporting documentation RX-1 through RX-7 on August 5, 2011. As a clarification to its prior exhibits, RD submitted an Additional Narrative and RX-7 which I now renumber as RX-8 on August 30, 2011. The Petitioner filed a letter with his original Request for Hearing. During the hearing he was invited to forward his recent pay stubs and completed final statement forms. He gave the address where his son would receive the forms on his behalf. Ms. Kimball re-mailed those financial forms. Nothing has been received from Mr. Walters in the past 30 days. The rules relating to these hearings have time-of-completion requirements and that time

has expired. On August 25, 2011, at the time set for the hearing, both parties were available for the hearing. Ms. Kimball represented RD. Mr. Walters was available and represented himself. The parties were sworn.

Petitioner is gainfully employed, but he states that it is a “new job.”

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. On February 23, 2001, Christopher Walters assumed a loan for the purchase of a primary home mortgage loan in the amount of \$36,550.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase his home on a property located in 4## SCR 35-5, Mize, MS 391##¹. RX-1, RX-2.
2. Borrower re-amortized their account on August 22, 2006 bringing the principal amount due to \$37,412.10. Narrative.
3. The borrower became in default and a Notice of Acceleration was mailed on February 2, 2007. RX-3.
4. A foreclosure sale was held on October 25, 2010. RX-4.
5. RD received a net \$17,103.00 from the sale. Narrative, RX-4 @ p. 3 of 9, RX-6.
6. Prior to the foreclosure sale, the principal loan balance for the RD loan prior to the foreclosure was \$37,016.01, plus \$12,499.90 for accrued interest, plus \$3,826.24 for fees and \$52.24 in late fees. After the sale, \$84.60 in escrow fees were posted and the borrower owes \$36,206.79. Narrative, RX-6.

¹ The complete address is maintained in USDA files.

8. RD has received \$939.84 from Treasury plus \$50.52 (pending transfer to RD bringing the amount owed to \$35,216.43 exclusive of potential Treasury fees. Narrative,
9. The remaining potential fees from Treasury are \$9,860.60. RX-7.
10. Mr. Walters states that he has recently started full time employment. Oral Testimony.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$35,216.43 exclusive of potential Treasury fees for the mortgage loan extended to him.
2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$9,860.60.
3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
4. The Respondent is **not** entitled to administratively garnish the wages of the Petitioner at this time.

Order

For the foregoing reasons, the wages of Petitioner shall NOT be subjected to administrative wage garnishment at this time. After eleven months, RD may re-assess the Petitioner's financial position.

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

October 18, 2011

James P. Hurt
Hearing Official

Copies to: Christopher Walters
Mary Kimball
Dale Theurer

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