

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0371

In re: CARL ROWAN,
Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the timely request of Carl Rowan (“Petitioner”), filed on August 29, 2011, 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”; “Respondent”), and if established, the propriety of imposing administrative wage garnishment. By Order issued on September 22, 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 October 18, 2011 and deadlines for filing documents with the Hearing Clerk’s Office were established.

On October 5, 2011, Respondent, represented by Mary E. Kimball, Accountant for the New Program Initiatives Branch of Rural Development, USDA-RD, located in Saint Louis, Missouri, filed a Narrative together with supporting documentation¹. Petitioner did not file written submissions.

The hearing commenced as scheduled, but Petitioner did not attend. Petitioner’s mother answered the phone at the number provided by Petitioner, and Ms. Rowan appeared to be knowledgeable about the substance of the hearing. The Order and notice of hearing that were

¹ References to Respondent’s exhibits herein shall be denoted as “RX-1 through RX-7”.

sent to Petitioner were not returned as undeliverable. Ms. Rowan asserted that Petitioner was not working, but she did not provide a rationale for Petitioner's absence. Ms. Rowan stated that her son had signed over the real property that is the subject of the alleged debt involved in this matter to his ex-wife as part of divorce proceedings. This assertion was also made by Petitioner in his petition for a hearing. I asked Ms. Rowan to advise her son that the hearing was held in his absence. Ms. Kimball was present on behalf of Respondent, and confirmed that the filed submissions represented the basis for the debt.

Based upon Petitioner's assertions in his petition and Respondent's submissions, in addition to the oral statements made at the hearing, the following Findings of Fact and Conclusions of Law and Order shall be entered:

FINDINGS OF FACT

1. On November 13, 1991 the Petitioner and his wife at the time received a direct loan from USDA RD in the amount of \$33,000.00 for the purchase of real property in Buckhannon, West Virginia, evidenced by a Promissory Note and Real Estate Deed of Trust. RX-1; RX-2.
2. USDA-RD established an account for the debt of Petitioner and his ex-wife. RX-3.
3. The account became delinquent and on March 25, 2000, USDA-RD sent a notice of acceleration to the Petitioner. RX-4.
4. A short sale of the real property was held on July 25, 2000 and yielded \$24,578.72, which was applied against the account balance of \$33,977.02, consisting of \$31,373.14 principal, \$2,420.74 interest, and \$183.14 fees. RX 5.
5. The balance on the loan after sale proceeds were applied was \$9,398.30.

6. Petitioner and his ex-wife were offered an opportunity to compromise the debt before it was referred to the U.S. Department of Treasury (“Treasury”) for collection as required by law.

RX 7.

7. The account was referred to Treasury, and \$4,932.93 was received from Treasury through tax refund offsets and applied to the balance of the account. RX 5.

8. The uncollected balance of \$4,465.37 plus potential fees of \$1,250.30 for a total indebtedness of \$5,715.67 is at Treasury for collection. RX 6.

9. Treasury, through its agent, issued a notice to Petitioner of intent to garnish his wages, and Petitioner timely requested a hearing, which was held by telephone on October 18, 2011.

10. Petitioner did not attend the hearing, but his mother stated that he is not currently working and has a back injury.

11. Petitioner did not submit any information about his income, expenses, or employment status.

12. Petitioner has not provided any justification for why his wages, if any, should not be garnished.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.

2. Petitioner is indebted to USDA RD in the amount of \$4,465.37, exclusive of potential Treasury fees, for a loan he acquired to purchase real property.

3. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met.

4. The distribution of property pursuant to Petitioner's divorce does not absolve him from liability for the indebtedness arising from his failure to satisfy his real property loan from USDA RD.
5. Petitioner's wages, if any, are subject to garnishment.
6. Respondent is entitled to administratively garnish the wages of the Petitioner.
7. Treasury shall remain authorized to undertake any and all other appropriate collection action.

ORDER

For the foregoing reasons, the wages of Petitioner shall be subjected to administrative wage garnishment if Petitioner is working.

Petitioner is advised that if he acquires the ability to negotiate a lump sum payment, he may be able to enter into a compromise settlement of the debt with the representatives of Treasury. Petitioner is further advised that such an agreement may lower anticipated fees for collecting the debt. In addition, Petitioner may inquire about whether he can enter into an arrangement with his ex-wife and Treasury to mutually satisfy the debt. 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 his 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 October, 2011 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge