

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0177

In re: ASHLEY SINGLETON,
a/k/a ASHLEY COBB,

Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Ashley Singleton, a/k/a Ashley Cobb (“Petitioner”) 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 Agency (“Respondent”; “USDA-RD”); and if established, the propriety of imposing administrative wage garnishment. On January 13, 2012, Petitioner requested a hearing. By Order issued January 27, 2012, a hearing was scheduled to commence on March 1, 2012, and the parties were directed to provide information and documentation to the Hearing Clerk for the Office of Administrative Law Judges for the United States Department of Agriculture.

On February 10, 2012, Respondent filed a Narrative, together with supporting documentation (“RX-1 through RX-9”) and on February 28, 2012, Petitioner filed a Consumer Debtor Financial Statement (“PX-1”).

Hearing commenced as scheduled. Petitioner represented herself, and Respondent was represented by Ms. Michelle Tanner of the New Program Initiatives Branch of USDA-RD, Saint Louis, Missouri.

In her filings and at the hearing, Petitioner asserted that through a divorce decree, her ex-husband had been ordered to assume responsibility for all debts related to the promissory note for the purchase of the home loan at issue in this matter. I advised Petitioner that unless her

husband had formally assumed responsibility for the debt by reaffirming the promissory note in his own name, she remained obligated for any indebtedness relating to the purchase of the real property. I suggested that Petitioner consult her divorce attorney to discuss this matter. I also advised her to seek legal advice about resolving the indebtedness.

On the basis of the entire record before me, the following Findings of Fact, Conclusions of Law, and Order shall be entered:

FINDINGS OF FACT

1. On November 30, 2007, the Petitioner and her ex-husband received a home mortgage loan in the amount of \$131,632.00 from First Tennessee Home Loans for the purchase of real property located in Morristown, Tennessee, evidenced by Promissory Note. RX-2; RX-3.
2. Before executing the promissory note for the loan, on October 17, 2007, Petitioner and her ex-husband requested a Single Family Housing Loan Guarantee from the USDA-RD, which was granted. RX-1.
3. By executing the guarantee request, Petitioner certified that she would reimburse USDA RD for the amount of any loss claim on the loan paid to the lender or its assigns. RX-1.
4. The loan was subsequently assigned to Tennessee Housing Development, Service of U.S. Bank. RX-2.
5. Petitioner left the property when she separated from her husband in November, 2009, and pursuant to the terms of the divorce decree, Mr. Cobb assumed liability for the debt related to the housing loan. PX-1.
6. The debt fell into default and a foreclosure sale was held on December 15, 2009, whereupon the property reverted to the lender at its bid of \$112,200.00. RX-3; RX-6; RX-8.

7. On April 8, 2010, the property was sold to a third party for the amount of \$108,000.00. RX-4; RX-5.
8. At the time of foreclosure, the amount due on the loan was \$149,578.25, and an additional amount of \$10,567.85 was added to the account for protective advances, attorney fees, appraisal and property inspection fees, and lender closing costs, which was paid by USDA-RD. RX-6.
9. The balance from the proceeds from the sale of the real property, amounting to \$97,432.15, was applied to the loan account. RX-6.
10. USDA-RD paid a loss of \$39,269.77, which remains the amount of the debt due on the account. RX-9.
11. USDA-RD offered to settle the debt with Petitioner, who forwarded the debt compromise offer to her ex-husband's attorney. RX-7; Petitioner's testimony.
12. No debt settlement occurred, and the loan was referred to the U.S. Department of Treasury ("Treasury") for collection on June 6, 2011, as mandated by law. RX-8.
13. As of February 7, 2012, the debt at Treasury is \$39,269.77, with potential additional fees of \$10,995.54 for a total of \$50,265.31. RX-9.
14. Petitioner was advised of intent to garnish her wages to satisfy the indebtedness.
15. Petitioner timely requested a hearing, which was held on March 1, 2012.
14. Petitioner contended that wage garnishment against her salary would represent a substantial financial hardship.
15. Petitioner is a full-time student and her income is derived from part-time work limited by contract to 15 hours per week at an hourly rate of [REDACTED]
16. Petitioner's net pay is less than [REDACTED] per month.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. Petitioner is indebted to USDA-RD in the amount of \$39,269.77 exclusive of potential Treasury fees for the mortgage loan extended to her.
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 encouraged in the interim to consult counsel regarding the resolution of this debt, including the option of negotiating repayment 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 by the Hearing Clerk's Office.

So Ordered this 5th day of March, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge