

**UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE**

Docket No. 12-0179

In re: SALVADOR MEDINA,
Petitioner

Final Decision and Order

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Salvador Medina (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due to the United States Department of Treasury (“Treasury”) through the United States Department of Agriculture, Rural Development Agency (“Respondent”; “USDA-RD”), and if established, the propriety of imposing administrative wage garnishment. By Order issued on January 27, 2012, the parties were directed to submit and exchange information and documentation concerning the existence of the debt. In addition, the matter was set for a telephonic hearing to commence on March 1, 2012 and deadlines for filing documents with the Hearing Clerk’s Office were established. The Respondent filed a Narrative, together with supporting documentation on February 13, 2012 and Petitioner filed a Consumer Debtor Financial Statement on February 21, 2012.

I conducted a telephone hearing at the scheduled time on March 1, 2012. Respondent was represented by Michelle Tanner who testified on behalf of the RD agency. Petitioner, acting as his own representative, participated and testified with the assistance of his daughter, Celestina Medina, who interpreted questions, answers and statements made by the participants.

Petitioner acknowledged that he had received a copy of Respondent’s narrative statement

and exhibits identified. Respondent acknowledged receiving a copy of Petitioner's correspondence, including a Consumer Debtor Financial Statement. I hereby denote that statement as Petitioner's exhibit, PX-1.

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 July 17, 2003, Petitioner Salvador Medina, together with his wife, obtained a home loan mortgage from First State Bank of DeQueen in the amount of \$85,000.00 for the purchase of real property in Nashville, AR, evidenced by an executed promissory note. RX-2.

2. Subsequently, the loan was assigned to Chase Manhattan Mortgage. RX-2.

3. Prior to executing the loan documents, on June 3, 2003, Petitioner and his wife signed a request for Respondent to guarantee the loan. RX-1.

4. Petitioner defaulted on the loan, and foreclosure action ended with sale of the property to the lender on March 16, 2010. RX-4.

6. The lender paid protective advances, which together with the principal balance and interest accrued, resulted in a balance due on the loan in the amount of \$94,031.13, of which \$11,206.69 constituted the cost of liquidation of the property in the form of fees and maintenance. RX-5; RX-6.

7. The foreclosed property was sold to a third party on May 7, 2010 for the sum of \$52,200.00. RX-4.

8. USDA RD paid Chase Manhattan Mortgage \$39,115.73 as the amount of net loss under the guarantee agreement. RX-4; RX-5; RX-7.

9. The balance due on the borrowers' accounts after application of credits and proceeds from the sale of the property was \$39,115.73 when the account was referred to the Department of Treasury ("Treasury") on July 7, 2011. RX-7; RX-8.

10. In addition, potential fees due to Treasury for debt collection pursuant to the Loan Guarantee Agreement are \$10,875.67. RX-9.

11. Mr. Medina is gainfully employed, earning an hourly wage. PX-1.

12. Mr. Medina's monthly wages vary according to whether or not he works a full schedule.

13. Petitioner's schedule of expenses demonstrates disposable monthly income in excess of 15% of net income. PX-1.

14. In determining whether wage garnishment would constitute a hardship, I considered Petitioner's sworn testimony, his financial statement (PX-1), and Treasury Standard Form SF 329C (Wage Garnishment Worksheet).

Conclusions of Law

1. Petitioner Salvador Medina is indebted to USDA's Rural Development program in the amount of \$49,717.37 including potential fees due to Treasury.

2. All procedural requirements for administrative wage garnishment set forth in 31 C.F.R. §285.11 have been met.

3. Wage garnishment at the legally permissible amount would not constitute a hardship.

4. USDA-RD may administratively garnish Petitioner's wages in the amount of 15% percent of his monthly disposable Income.

5. 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 may enter into an arrangement to make installment payments to Treasury in lieu of garnishment. The toll free number for Treasury's agent is **1-888-826-3127**.

6. Petitioner is advised that this Decision and Order does not prevent payment of the debt through offset of any federal money payable to Petitioner, including income tax refunds.

7. 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.

Order

1. Administrative Wage Garnishment may proceed at this time at the rate of 15.0% of Petitioner's Monthly Disposable Income.

2. 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 by the Hearing Clerk's Office.

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

Janice K. Bullard
Administrative Law Judge