

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0217

In re: TOBBY E. BURGESS,

Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Toby E. Burgess (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due to the U.S. Department of Agriculture, Rural Development (“USDA-RD”; “Respondent”), and if established, the propriety of imposing administrative wage garnishment. By Order issued on February 21, 2012, the parties were directed to file and exchange information and documentation and the matter was set for a hearing to commence by telephone on March 14, 2012.

On February 23, 2012, Respondent filed a Narrative, together with supporting documentation. Petitioner did not file any documents, nor provide an update telephone number. At the time the hearing was scheduled, attempts were made to contact the Petitioner, but they failed. Testimony was given by Respondent’s representative, Michelle Tanner, of the New Program Initiatives Branch of USDA-RD, Saint Louis, Missouri.

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

FINDINGS OF FACT

1. On March 24, 1995, the Petitioner together with his wife Maria Burgess¹ assumed an existing loan in the amount of \$60,497.00 and obtained an addition loan in the amount of

¹ Maria Burgess filed Bankruptcy and her indebtedness for this loan was discharged. RX-8

\$33,600.00 from USDA-RD for the purchase of residential property located in Sutter, California.

RX 1.

2. On April 12, 1999, Petitioner sold the home through assumption for \$88,000.00. RX-3-RX-7.

3. At the time of the sale, Petitioner's loan account amounted to \$99,107.18, consisting of principal and interest. RX-2.

4. Additional fees related to the sale of the property were added to the outstanding balance. RX-2.

5. After application of the proceeds of the sale, there remained an unpaid amount of \$11,491.16. RX-2.

6. USDA-RD offered to compromise the balance due on the account, but Petitioner did not apply for that relief. RX-6.

7. Thereafter, the account was referred to Treasury for collection as required by law. RX-7.

8. In addition to the uncollected amount of debt of \$11,491.16, Treasury's potential fees of \$3,217.52 are added for a total potential indebtedness of \$14,708.68. RX-9.

9. Treasury, through its agent, issued a notice to Petitioner of intent to garnish his wages, and Petitioner timely filed a petition for a hearing.

10. Petitioner challenged the validity of the debt but failed to provide information about his whereabouts for participation in a hearing.

11. Following Notice of Hearing, a hearing was held on March 14, 2012,

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.

2. Petitioner is indebted to USDA RD in the amount of \$11,491.16, exclusive of potential Treasury fees for the mortgage loan extended to him.

3. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met.
4. The Respondent is entitled to administratively garnish the wages of the Petitioner at this time, because there is no evidence that garnishment would represent a hardship.
5. 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 at this time.

Petitioner is encouraged to negotiate 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 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 16th day of March, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge