

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0257

In re: MICHELLE MORGAN,

Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Michelle Morgan (“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 February 23, 2012, Petitioner requested a hearing before the Office of Administrative Law Judges (“OALJ”).

A hearing was scheduled to commence on April 11, 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 (“Hearing Clerk”). Respondent filed a Narrative, together with supporting documentation (“RX-1 through RX-8”). Petitioner filed a Consumer Debtor Financial Statement (“PX-1”).

The hearing commenced as scheduled, at which time Petitioner represented herself and Michelle Tanner of the New Program Initiatives Branch of USDA-RD, Saint Louis, Missouri, represented Respondent.

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 26, 2008, the Petitioner received a home mortgage loan in the amount of \$106,040.00 from lender First Bank (“Lender”) for the purchase of real property located in Clewiston, Florida, evidenced by Promissory Note. RX-1.
2. Before executing the promissory note for the loan, on April 14, 2006, Petitioner 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 fell into default and a foreclosure sale was held on May 26, 2010, at which time the Lender acquired the property. RX-2; RX-3; RX-4.
5. The Lender listed the property for sale and accepted an offer of \$65,000.00. RX 5; RX-7.
6. At the time of that sale, the amount due on Petitioner’s loan was \$124,890.99, comprised of principal, interest, fees, and costs of foreclosure and sale. RX-6.
7. USDA-RD credited the account with \$68,623.93, and paid the Lender a loss claim of \$56,267.06. RX-6.
8. On January 9, 2012, the account was referred to the U.S. Department of Treasury (“Treasury”) for collection, in the amount of \$56,267.06 plus potential additional fees of \$15,754.78. RX-8.
9. Petitioner was advised of intent to garnish her wages to satisfy the indebtedness.
10. Petitioner timely requested a hearing.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.

2. Respondent USDA-RD has established the existence of a valid debt from Petitioner to USDA-RD.
3. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met.
4. Wage garnishment would constitute a hardship to Petitioner at this time, as she is the sole source of income for her and her dependent child. Treasury may review Petitioner's circumstances in five years to determine whether hardship continues.
5. USDA-RD/Treasury may NOT administratively garnish Petitioner's wages.
6. Petitioner is advised that if she acquires the ability to negotiate a lump sum payment, she may be able to enter into a compromise settlement of the debt with the representatives of Treasury.
7. Petitioner is further advised that such an agreement may lower anticipated fees for collecting the debt. In addition, Petitioner may inquire about whether she may enter into an arrangement to make installment payments to Treasury in lieu of garnishment.
8. Pursuant to prevailing law, USDA-RD has no authority to compromise a debt which has been referred to Treasury for collection.
9. The toll free number for Treasury's agent is **1-888-826-3127**.
10. 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.
11. 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 would constitute a hardship and may NOT be undertaken.
2. Treasury may continue to collect the debt through offset of any funds due to Petitioner from the United States.
3. Treasury may review Petitioner's financial condition in five (5) years to determine whether hardship continues.
4. Until the debt is satisfied, Petitioner shall give to USDA-RD or those collecting on its behalf at Treasury, 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 12th day of April, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge