

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	[AWG]
Maria Rosa Hasbum,)	Docket No. 12-0117
)	
Petitioner)	Decision and Order

Appearances:

Maria Rosa Hasbum, the Petitioner, representing herself (appearing *pro se*); and

Michelle Tanner, Appeals Coordinator, United States Department of Agriculture, Rural Development, Centralized Servicing Center, St. Louis, Missouri, for the Respondent (USDA Rural Development).

1. The hearing by telephone was held on February 1, 2012. Maria Rosa Hasbum, the Petitioner (“Petitioner Hasbum”), participated, representing herself (appears *pro se*). Petitioner Hasbum was assisted by Alicia Montes, who interpreted and translated, from English to Spanish and from Spanish to English, during the hearing.

2. Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and is represented by Michelle Tanner.

Summary of the Facts Presented

3. Petitioner Hasbum’s documents filed on January 26, 2012, are admitted into evidence, together with the testimony of Petitioner Hasbum. The documents filed on January 26 include a “Consumer Debtor Financial Statement” signed January 20, 2012; Petitioner Hasbum’s letter dated January 20, 2012, which Alicia Montes helped her write; and accompanying financial documentation, including a Notice from the Social Security Administration documenting her husband’s SSI (Supplemental Security Income). Also admitted into evidence is Petitioner Hasbum’s Hearing Request filed on December 20, 2011, and accompanying documents, including Petitioner Hasbum’s letter dated December 5, 2011.

4. USDA Rural Development's Exhibits RX 1 through RX 5, plus Narrative, Witness & Exhibit List, were filed on January 4, 2012, and are admitted into evidence, together with the testimony of Michelle Tanner.

5. Petitioner Hasbun owes to USDA Rural Development **\$18,434.69** (as of December 29, 2011, *see esp.* RX 5, pp. 4, 6), in repayment of a United States Department of Agriculture / Rural Development / Rural Housing Service loan made in 2003, for a home in Texas. The balance is now unsecured ("the debt").

6. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$18,434.69**, would increase the balance by \$5,161.71 to \$23,596.40. *See esp.* RX 5, p. 6.

7. The amount Petitioner Hasbun borrowed in 2003 was \$63,776.00. RX 1. The loan was paid through only June 18, 2004. A Notice of Default was sent to Petitioner Hasbun on October 22, 2004 (RX 2, p. 2); then a Notice of Acceleration and Intent to Foreclose was sent to Petitioner Hasbun on December 9, 2004, by USDA Rural Development. RX 2, pp. 6-8. When the house was sold on March 7, 2006, nearly 2 years after the last payment was made, the USDA Rural Development debt had grown to \$73,807.69:

\$ 62,593.53	Principal Balance
\$ 6,451.42	Interest Balance prior to sale (nearly 2 years of interest)
\$ 4,762.74	Fee Balance prior to sale (includes unpaid real estate taxes, unpaid insurance premiums, interest on fee balance, NSF fee)
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\$ 73,807.69	Total Amount Due when sale funds were applied on the loan
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RX 5, p. 3 and USDA Rural Development Narrative. *See* RX 3, pp. 7, 9, 10, re: taxes and insurance (E91 for taxes; E 20 for insurance); *see* RX 3, p. 11.

The sale funds of \$51,200.00 were applied to the Amount Due. Interest stopped accruing when the sale funds were applied on the loan, on March 31, 2006. RX 3, p. 9. Collections from Treasury (through *offset*; *see* RX 5, p. 4 for Petitioner Hasbun's income tax refunds and stimulus money that were intercepted and applied to the debt) reduced the debt from \$22,607.69 to **\$18,434.69** unpaid as of December 29, 2011 (excluding the potential remaining collection fees). *See* RX 5 and USDA Rural Development Narrative.

8. Petitioner Hasbun lives with her husband, the co-borrower. Petitioner Hasbun is not employed because her medical conditions forced her to give up even the part-time work she had at the Senior Citizens Center. Petitioner Hasbun's husband is working part-time, and he makes little; even with his earnings, he remains eligible for SSI. To prevent

hardship, potential garnishment to repay “the debt” (*see* paragraph 5) must be limited to **0%** of Petitioner Hasbun’s disposable pay. 31 C.F.R. § 285.11.

9. Petitioner Hasbun is responsible and able to negotiate the disposition of the debt with Treasury’s collection agency.

Discussion

10. I recommend that Petitioner Hasbun be granted a **financial hardship discharge** of the debt. Petitioner Hasbun, this will require **you** to telephone Treasury’s collection agency after you receive this Decision. To be considered (the decision whether to grant you a financial hardship discharge will be made by Treasury’s collection agency), you will be required to provide, timely, all financial documentation requested. The toll-free number for you to call is **1-888-826-3127**. Petitioner Hasbun, if you are not granted a financial hardship discharge (and it is difficult to qualify), you may choose to offer to the collection agency to compromise the debt for an amount you are able to pay, to settle the claim for less. Petitioner Hasbun, you may want to have someone else with you on the line if you call.

Findings, Analysis and Conclusions

11. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Hasbun and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.

12. Petitioner Hasbun owes the debt described in paragraphs 5 through 7.

13. **Garnishment is not authorized.** Garnishment in any amount would cause Petitioner Hasbun financial hardship. 31 C.F.R. § 285.11.

14. I am **NOT** ordering any amounts already collected prior to implementation of this Decision, whether through *offset* or garnishment of Petitioner Hasbun’s pay, to be returned to Petitioner Hasbun.

15. Repayment of the debt may occur through *offset* of Petitioner Hasbun’s **income tax refunds** or other **Federal monies** payable to the order of Ms. Hasbun.

Order

16. Until the debt is repaid, Petitioner Hasbun shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in her mailing address;

delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).

17. USDA Rural Development, and those collecting on its behalf, are **NOT** authorized to proceed with garnishment in any amount. 31 C.F.R. § 285.11.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 16th day of April 2012

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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