

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0238

In re: Cassie Wagner
f/k/a Cassie Swanson
Petitioner

Decision and Order

This matter is before me upon the request of Petitioner for a hearing to address the existence or amount of a debt alleged to be due, and if established, the terms of any repayment prior to imposition of an administrative wage garnishment. On March 15, 2012, I issued a Prehearing Order to facilitate a meaningful conference with the parties as to how the case would be resolved, to direct the exchange of information and documentation concerning the existence of the debt, and setting the matter for a telephonic hearing.

The Rural Development Agency (RD), Respondent, complied with the Discovery Order and a Narrative was filed, together with supporting documentation RX-1 through RX-12 on March 9, 2012. On April 18, 2012, at the time set for the hearing, both parties were available. Ms. Michelle Tanner represented RD. Ms. Wagner was self represented. The parties were sworn.

Petitioner has been employed for less than one year.

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 August 8, 2007, Petitioner (Borrower) obtained a loan for the purchase of a primary home mortgage loan in the amount of \$64,668.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase her home on a property located in Cambridge Illinois. RX-1.
2. Prior to signing the loan, Borrower signed RD form 1980-21 (Loan Guarantee). RX-2 @ p. 1 of 5.
3. The Borrower became delinquent. The loan was accelerated for foreclosure. Narrative.
4. At the foreclosure sale of May 9, 2009, JP Morgan Chase purchased the home for \$50,150.00. JP Morgan Chase then had the property appraised for re-sale "AS IS" on November 18, 2009 for \$54,000.00. RX-5 @ p. 1 of 7.
5. On March 1, 2010, the property was determined to have a liquidation value of \$31,500. (RX-6). It was not re-sold in the allowable six month time period. Narrative, RX-7 @ p. 1 of 9.
6. The Borrower owed \$79,610.47 for principal, interest, and protective advancements to pay off the RD loan. Narrative, RX-11 @ p. 1 of 5.
7. USDA RD paid JP Morgan Chase for their loss in the amount of \$44,498.92 less an administration adjustment of \$2,196.05 due to their negligence under the loan guarantee program. Narrative, RX-7 @ p. 9 of 9.
8. Treasury has collected an additional \$1374.00 towards the debt. RX-11 @ p. 2 of 5.

9. The remaining amount due of \$40,718.92 was transferred to Treasury for collection on March 7, 2012. RX-11 @ p. 3 of 5.
10. The potential Treasury collection fees are \$11,401.30. RX-11 @ p. 3 of 5.
11. Ms. Wagner became employed in April 2012.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$40,718.92 exclusive of potential Treasury fees for the mortgage loan extended to her.
2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$11,401.30.
3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
4. The Respondent is NOT entitled to administratively garnish the wages of the Petitioner at this time.

Order

For the foregoing reasons, the wages of Petitioner shall NOT be subjected to administrative wage garnishment at this time. After one year, RD may re-assess the Petitioner's financial position.

Copies of this Decision and Order shall be served upon the parties by the Hearing Clerk's Office.

April 20, 2012

James P. Hurt
Hearing Official

Copies to: Cassie Wagner
Michelle Tanner
Dale Theurer

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