

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0300

In re: Tonya Lumpkin
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 26, 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-10 on March 26, 2012. On April 17, 2012, at the time set for the hearing, both parties were available. Ms. Michelle Tanner represented RD. Ms. Lumpkin was assisted by co-borrower Lee Livingston. The parties were sworn.

Petitioner is unemployed.

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 April 25, 2008, the Borrowers obtained a loan for the purchase of a primary home mortgage loan in the amount of \$79,000.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase her home on a property located in Bastrop, Louisiana. RX-2.
2. At the same time, the borrower signed RD form 1980-21 (Loan Guarantee). RX-1 @ p. 2 of 2.
3. The Borrowers became delinquent in less than two months. The loan was accelerated for foreclosure on April 16, 2009. Narrative, RX-6 @ p. 6 of 21.
4. Co-borrower Lee Livingston filed two Chapter 13 bankruptcies since the borrowers defaulted and the loan was delinquent for 319 days. RX-6 @ p. 6 of 21 and RX-9 @ p. 2 of 5.
5. At the foreclosure sale of February 17, 2010, JP Morgan Chase purchased the home for \$68,850.00. RX-3 @ p. 2 of 3.
6. JP Morgan Chase then listed the home for re-sale "AS IS" on April 19, 2010 for \$38,000.00. RX-6 @ p. 7 of 21.
7. The property was purchased for \$32,400.00 on July 16, 2010. RX-6 @ p. 7 of 21.
8. The property was not re-sold in the allowable six month time period. Narrative, RX-6 @ p. 7 of 21.
9. The Borrower owed \$103,139.79 for principal interest, and protective advancements to pay off the RD loan. Narrative, RX-7.

10. USDA RD paid JP Morgan Chase for their loss in the amount of \$60,024.25 under the loan guarantee program. Narrative, RX-7.
11. Treasury intercepted \$6639.00 and credited it toward this account. RX-10 @ p. 2 of 5.
12. The remaining amount due of \$53,402.25 was transferred to Treasury for collection on March 27, 2012. RX-10 @ p. 4 of 5.
13. The potential Treasury collection fees are \$14,952.88. RX-10 @ p. 4 of 5.
14. Petitioner is unemployed.

Conclusions of Law

1. Petitioner is jointly and severally indebted to USDA Rural Development in the amount of \$53,402.25 exclusive of potential Treasury fees for the mortgage loan extended to her.
2. In addition, Petitioner is jointly and severally indebted for potential fees to the US Treasury in the amount of \$14,952.88.
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: Tonya Lumpkin
Michelle Tanner
Dale Theurer

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