

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0307

In re: Jessica Rogers
a/k/a Jessica Burrows
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 April 5, 2012. On/about April 9, 2012, Ms. Rogers filed her Narrative and her Financial Statement which I now label as PX-1 and PX-2, respectively. On April 19, 2012, at the time set for the hearing, both parties were available. Ms. Michelle Tanner represented RD. Ms. Rogers 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 October 31, 2008, Petitioner and Thomas Willis obtained a loan for the purchase of a primary home mortgage loan in the amount of \$83,640.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase their home on a property located in Talladega, Alabama, WV. RX-2.
2. Prior to signing the loan, the borrowers signed RD form 1980-21 (Loan Guarantee). RX- 1 @ p. 2 of 3.
3. The Borrowers became delinquent. The loan was accelerated for foreclosure on/about March 12, 2010. Narrative, RX-3 @ p. 1 of 3.
4. At the foreclosure sale of May 4, 2010, the property was purchased by a JP Morgan Chase for \$69,700.00. Narrative, RX-3 @ page 2 of 3.
5. The property was subsequently appraised on May 13, 2010 for \$31,000 "AS IS." RX-4 @ p. 1 of 8.
6. The property was sold on September 27, 2010 for \$36,500.00. RX-5 @ p. 3 of 5.
7. The borrower owed \$79,300.18 for principal, plus \$6,948.53 for interest, plus \$91.15 for protective advancements, for a total of \$86,339.86 to pay off the RD loan. Narrative, RX-7.
8. In addition, under the loan guarantee program, borrower owes an additional \$6,055.06 for fees and expenses for a grand total of \$92,394.92. RX-7.
9. USDA RD paid JP Morgan Chase \$51,901.78 for their loss under the loan guarantee program. Narrative, RX-7.

10. The remaining amount due of \$51,901.78 was transferred to Treasury for collection on April, 3, 2012. Narrative, RX-10 @ p. 2 of 3.
11. The potential Treasury collection fees are \$14,532.50. Narrative, RX-10 @ p. 2 of 3.
12. Mr. Rogers has been employed for less than one year. Her new job began six months ago as a home visiting health care nurse where she drives long distances to her clientele. PX-1, 2, Testimony.
13. Ms. Rogers has recently remarried. Her new husband is not employed outside their home and is a full time care-giver for his grandmother. Ms. Rogers, her minor child, her new husband and his grandmother live rent-free in his grandmother's house.
14. RD was permitted to ask open-ended questions concerning the grandmother's social security contribution to the household income. RD agreed that the grandmother's social security income was offset by the various household expenses and her out of pocket medical expenses – hence it will not be included in any future Financial Hardship Calculation.
15. Thomas Willis, the other borrower, filed Chapter 7 bankruptcy.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$51,901.78 exclusive of potential Treasury fees for the mortgage loan extended to her and under the loan guarantee program.

2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$14,532.50.
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 seven months, 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 24, 2012

James P. Hurt
Hearing Official

Copies to: Jessica Rogers
Michelle Tanner
Dale Theurer

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