

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0270

In re: NICHOLAS DOMBKOWSKI,
Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the petition of Nicholas Dombkowski (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due to the U.S. Department of Agriculture, Rural Development (“USDA-RD”; “Respondent”), and if established, the propriety of imposing administrative wage garnishment. By Order issued on March 29, 2012, the parties were directed to file and exchange information and documentation and the matter was set for a hearing to commence by telephone on April 26, 2012.

On March 29, 2012, Respondent filed a Narrative, together with supporting documentation, identified as exhibits RX-1 through RX-9. Petitioner did not submit any evidence.

At the date and time that the hearing was scheduled, Petitioner did not respond to telephone calls. Testimony was given by Respondent’s representative, Michelle Tanner, of the New Program Initiatives Branch of USDA-RD, Saint Louis, Missouri and Respondent’s documents were admitted to the record.

On the basis of the entire record before me, the following Findings of Fact and Conclusions of Law and Order will be entered:

FINDINGS OF FACT

1. On July 20, 2007, Petitioner and his wife obtained a loan from JP Morgan Chase Bank (“Lender”) in the amount of \$191,700.00 to finance the purchase of property in Thompson, Connecticut, as evidenced by a Promissory Note. RX-2.

2. Before obtaining the Note, Petitioner signed a single family loan guarantee on June 19, 2007, certifying that if USDA-RD paid a loss claim to the lender, he would reimburse USDA-RD for the loss. RX-1.
3. Petitioner defaulted on the mortgage, and the Lender acquired the property at a foreclosure sale held on April 21, 2009 at a bid of \$214,711.39. RX-4
4. At the time of the sale, Petitioner owed \$239,503.18 loan, which amount includes accumulated fees, interest and the costs of foreclosure. RX-4; RX-3.
5. The property was sold by the Lender after the foreclosure sale for \$132,000.00. RX-6.
6. USDA-RD paid the Lender a loss of \$99,937.94. RX-7.
7. After the proceeds from the sale were applied Petitioner owed \$99,937. 94. RX 5 - RX-7.
8. Petitioner's account was referred to the U.S. Department of Treasury ("Treasury") for collection as required by law. RX-8.
9. The account at Treasury now amounts to \$92,947.91, plus potential fees of \$26,025.42. RX-9.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. Petitioner is indebted to USDA-RD in the amount of \$92,947.91 exclusive of potential Treasury fees for the remaining balance on the mortgage loan extended to him.
3. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met.
4. Pursuant to the regulations pertaining to debt collection by wage garnishment, Petitioner's disposable income supports wage garnishment at the legal maximum percentage. See, 31 C.F.R. §§ 900-904; 31 U.S.C. §3717.
5. There is no evidence of hardship as defined by law or regulation.

6. The Respondent is entitled to administratively garnish the wages of the Petitioner at the regulatory and statutory maximum of 15%.
7. Treasury shall remain authorized to undertake any and all other appropriate collection action.

ORDER

For the foregoing reasons, the wages of Petitioner shall be subjected to administrative wage garnishment 90 days from the date of this Decision and Order.

Petitioner is encouraged to negotiate repayment of the debt with the representatives of Treasury. The toll free number for Treasury's agent is **1-888-826-3127**.

Petitioner is advised that this Decision and Order does not prevent payment of the debt through offset of any federal money payable to Petitioner.

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.

Until the debt is satisfied, Petitioner shall give to USDA-RD or those collecting on its behalf, notice of any change in his address, phone numbers, or other means of contact.

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

So Ordered this 27th day of April, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge