

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0283

In re: Staci L. Wickland

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 April 10, 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-5 on April 10, 2012. On April 25, 2012, at the time set for the hearing, both parties were available. Ms. Michelle Tanner represented RD. Ms. Wickland was represented by Brian Webb, Esq. The parties were sworn.

Following the hearing, on May 2, 2012 RD forwarded a correction to the interest portion of the debt due from Petitioner. RX 4 and RX-5 (Revised 5/2/2012). Petitioner is a full time parent and is unemployed because the available employment in her local area did not pay the cost of her child care.

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 January 27, 1999, Petitioner obtained a loans for the mortgage on a primary home in the amount of \$51,240.00, from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase her home on a property located in Caldwell, Idaho. RX-1.
2. The Borrower became delinquent. The loan was accelerated for foreclosure on July 24, 2009. Narrative, RX-2 @ p. 1 of 8.
3. The home was sold in a “short sale” on January 28, 2010 for \$28,395.48. Narrative, RX-3 @ p. 1 of 24, 12 of 24.
4. Prior to the sale the Borrower owed \$48,016.05 for principal, plus \$2,515.92 for interest, plus \$375.00 for fees, plus \$21.88 for interest on fee banance, plus \$39.96 for late charges for a total of \$50,968.81 to pay off the RD loan. Narrative, RX-4 @ 1 of 2 (Rev 5/2/2012).
5. Treasury collected \$5,939.00 under the tax offset program (TOP) toward the balance due. RX-4 @ 1 of 2 (Rev 5/2/2012).
6. Treasury collected an additional \$2851.38. RX-5 @ p. 1 of 3 (Revised 5/2/2012).
7. After application of the short sale and TOP proceeds, the borrower owed \$16,634.33. RX-4 @ 1 of 2 (Rev 5/2/2012).
8. The remaining amount due of \$16,634.33 was transferred to Treasury for collection on May 2, 2012. RX-5 @ p. 2 of 3 (Revised 5/2/2012).

9. The potential Treasury collection fees are \$4,657.61. RX-5 @ p. 2 of 3 (Revised 5/2/2012).

10. Ms. Wickland is not employed.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$16,634.33 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 \$4,657.61.
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.

May 9, 2012

Copies to: Brian Webb, Esq.
Michelle Tanner
Dale Theurer

James P. Hurt
Hearing Official

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