

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0272

In re: RONALD HAYNES,

Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Ronald Haynes (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due to the United States Department of Agriculture, Rural Development Agency (“Respondent”; “USDA-RD”); and if established, the propriety of imposing administrative wage garnishment. On March 5, 2012, Petitioner requested a hearing. By Order issued March 29, 2012, a hearing was scheduled to commence on May 15, 2012, and the parties were directed to provide information and documentation to the Hearing Clerk for the Office of Administrative Law Judges for the United States Department of Agriculture.

On April 3, 2012, Respondent filed a Narrative, together with supporting documentation (“RX-1 through RX-11”). Petitioner had filed documents with his Petition, and I hereby designate that evidence as “PX-1”. On May 11, 2012, Petitioner’s attorney moved for a Decision and Order on the Record. By Order entered May 15, 2012, I granted Petitioner’s motion and canceled the hearing.

Petitioner’s and Respondent’s evidence is hereby formally entered into the record

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

FINDINGS OF FACT

1. On January 31, 2008, the Petitioner received a home mortgage loan in the amount of \$96,900.00 from lender JP Morgan Chase Bank (“Lender”) for the purchase of real property located in Kershaw, South Carolina, evidenced by Promissory Note. RX-2.
2. Before executing the Promissory Note for the loan, on November 6, 2007, Petitioner requested a Single Family Housing Loan Guarantee from the USDA-RD, which was granted. RX-1.
3. By executing the guarantee request, Petitioner certified that he would reimburse USDA RD for the amount of any loss claim on the loan paid to the Lender or its assigns. RX-1.
4. The loan fell into default and the loan was accelerated for foreclosure. RX-4.
5. Foreclosure was initiated by an assignee of the Lender, Chase Home Finance LLC (Chase). PX-1.
6. Chase warranted to the Court that it specifically waived a deficiency judgment on any balance on the loan. PX-1.
7. By judgment issued May 1, 2009 by the Master in Equity for Kershaw County, South Carolina, a decree of foreclosure specifically stating that the Lender and its assigns did not seek a deficiency. PX-1.
8. By Order of the Master in Equity for Kershaw County, South Carolina, recorded on August 17, 2009, the foreclosed property was sold to Homesales, Inc. for \$79,719.00. RX-3.
9. USDA-RD and Chase devised a property disposition plan that valued the property for less than the sale price to Homesales Inc. RX-4.
10. USDA-RD paid a loss claim in the amount of \$57,941.21 to JP Morgan Chase Bank in March, 2010, through its servicing lender Chase Home Finance LLC. RX-7.

11. USDA-RD referred the loss payment to the U.S. Department of Treasury (“Treasury”) as a debt of the Petitioner.
12. Petitioner was advised of intent to garnish his wages to satisfy the indebtedness.
13. Petitioner timely requested a hearing, but subsequently requested a Decision on the Record.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. The Lender and its assignee specifically waived a deficiency for the difference between the foreclosure sale proceeds and the amount due on Petitioner’s mortgage account in the jurisdiction of Kershaw County, South Carolina.
3. By waiving a deficiency, Lender and Chase put Petitioner on notice that Petitioner’s debt to Lender was satisfied, as recorded by the Court entering judgment of foreclosure.
4. Petitioner shall not be held responsible for USDA-RD’s failure to exercise due diligence when paying an unsubstantiated deficiency which was not duly established in law.
5. Respondent has failed to establish the existence of a valid debt from Petitioner to USDA-RD.¹
2. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have not been met because Respondent has failed to establish the existence of a valid debt.
3. Petitioner’s account at Treasury shall be abolished and canceled.
4. Any amounts debited at Treasury against the alleged indebtedness shall be returned to Petitioner.
5. Respondent is not entitled to administratively garnish the wages of the Petitioner.

¹ It is clear that USDA-RD would be able to pursue an action against the Lender and its assignee for the payment of a deficiency which the Lender warranted did not exist.

6. Treasury has no authority to undertake any collection action as Petitioner is not indebted to the United States.

ORDER

For the foregoing reasons, the wages of Petitioner shall **NOT** be subjected to administrative wage garnishment at this time.

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

So Ordered this 28th day of March, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge