

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0275

In re: CLINT REEVES,

Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Clint Reeves (“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 16, 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.

Respondent filed a Narrative, together with supporting documentation (“RX-1 through RX-11”), which is hereby formally entered into the record. Petitioner filed a Consumer Debtor Financial Statement (“PX-1”), and a copy of a letter from First United Bank (“PX-2”).

The parties’ documents are hereby formally admitted to the record. The hearing commenced as scheduled, and Petitioner testified, representing himself. Michelle Tanner testified on behalf of USDA-RD.

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 August 18, 2004, the Petitioner¹ obtained a home mortgage loan in the amount of \$46,000.00 from First United Bank and Trust Company (“Lender”) for the purchase of real property located in Ada, Oklahoma, evidenced by Promissory Note. RX-2.
2. Before executing the Promissory Note for the loan, on July 8, 2004, 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. On November 16, 2006, Petitioner and the Lender modified the loan to increase the amount due on the account. RX-3.
5. Petitioner subsequently moved from the property, but his wife remained. Petitioner’s testimony.
6. The loan fell into default and was accelerated for foreclosure, but Petitioner’s wife did not communicate with him about the status of the mortgage account. Id.
7. The Lender acquired the property at foreclosure sale on January 4, 2008 for the sum of \$55,508.00. RX-4.
8. The property was sold to a third party on August 21, 2008 for \$37,000.00. RX-5.
9. After the sales proceeds were applied to the balance due on Petitioner’s account, there was a deficiency of \$22,372.29. RX-7; RX-8.
10. USDA-RD paid a loss claim in the amount of \$22,372.29 to Lender. RX-8..
11. Petitioner failed to negotiate a settlement of the loss claim with USDA-RD, and on USDA-RD referred the loss payment to the U.S. Department of Treasury (“Treasury”) as a debt of the Petitioner. RX-9; RX-10; RX-11.

¹ Petitioner’s deceased wife also obtained the loan at issue herein.

12. The debt is at Treasury for collection in the amount of \$22,372.29, plus potential fees of \$6,264.24. RX-11.
13. Petitioner was advised of intent to garnish his wages to satisfy the indebtedness.
14. Petitioner timely requested a hearing and provided evidence of his financial condition.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met.
3. The letter from Lender to Petitioner establishes only that Petitioner is not indebted to Lender, since USDA-RD paid Lender deficiencies pursuant to the guarantee agreement between Petitioner and USDA-RD.
4. Respondent has established the existence of a valid debt due to the United States from Petitioner.
5. There is evidence that garnishment at the statutory maximum would represent a hardship.
6. Respondent is entitled to administratively garnish the wages of the Petitioner at the amount of 10%, beginning **July, 2013** (upon the anticipated payment of Petitioner's vehicle promissory note). See, PX-2.

ORDER

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

Wage garnishment may be effected at not more than 10% beginning July, 2013.

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 by the Hearing Clerk's Office.

So Ordered this 16th day of May, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge