

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0301

In re: BRANDON MILLER,
Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the Petition filed on March 19, 2012 by Brandon Miller (“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 May 16, 2012..

On April 23, 2012, Respondent filed a Narrative, together with supporting documentation, identified as exhibits RX-1 through RX-11. Petitioner submitted correspondence and a Consumer Debtor Financial Statement with his petition. PX-1. All documents are hereby admitted to the record.

At the date and time that the hearing was scheduled, Petitioner did not respond to telephone calls. Accordingly, 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 23, 2008, Petitioner and his wife obtained a loan from JP Morgan Chase Bank (“Lender”) in the amount of \$111,734.00 to finance the purchase of property in Lehigh Acres, Florida, as evidenced by a Promissory Note. RX-2.

2. Before obtaining the Note, Petitioner signed a single family loan guarantee on June 7, 2008, certifying that if USDA-RD paid a loss claim to the lender, he would reimburse USDA-RD for the loss. RX-1.
3. The loan fell into default, and according to a certificate of title filed by the Clerk of the Court for Lee County, the property was sold to Homesales Inc. at a foreclosure sale held on October 4, 2010. RX-4
4. USDA-RD generated documents suggest that the sum paid at foreclosure sale was \$10,100.00. RX-6 at page 5.
5. The property was then offered for sale at a price of \$50,000.00 upon a property disposition plan approved by USDA-RD in November 2010. RX-4.
6. On February 5, 2011, the property sold to a third party for \$42,500.00. RX-5.
7. At the time of the foreclosure sale, the amount due on the account was \$134,382.37, consisting of principal, interest, fees and advances. RX-6; RX-7.
8. USDA-RD paid the Lender a loss of \$83,393.39. RX-6; RX-7.
9. The loss was established as a debt due from Petitioner. RX-9.
10. Petitioner did not compromise the debt with USDA-RD pursuant to notification dated August 13, 2011. RX-8.
11. Petitioner's account was referred to the U.S. Department of Treasury ("Treasury") for collection as required by law. RX-8.
12. The account at Treasury now amounts to \$81,463.39, plus potential fees of \$22,809.75. RX-10.
13. Petitioner asserts that he should not be held accountable due to predatory lending practices by the Lender.
14. Petitioner's Consumer Debtor Financial Statement reflects that he has no dependents.
15. Petitioner's income exceeds expenses.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. Petitioner is indebted to USDA-RD in the amount of \$81,463.39, 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. Petitioner's claims of predatory lending practices are not a defense to the instant action, which is limited to the propriety of wage garnishment to collect a valid debt to the United States.
5. 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.
6. There is no evidence of hardship as defined by law or regulation.
7. The Respondent is entitled to administratively garnish the wages of the Petitioner at the regulatory and statutory maximum of 15%.
8. 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 17th day of May, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge