

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0319

In re: WILLIAM HEATH JAMES,
Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the Petition filed on March 26, 2012 by William Heath James (“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 April 3, 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 22, 2012.

On May 11, 2012, Respondent filed a Narrative, together with supporting documentation, identified as exhibits RX-1 through RX-10. Petitioner submitted correspondence with his petition. PX-1. All documents are hereby admitted to the record.

The hearing commenced as scheduled, and Petitioner represented himself and testified. Michele Tanner of the New Program Initiatives Branch of Rural Development, USDA, Saint Louis, Missouri represented Respondent and testified.

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 February 28, 2007, Petitioner obtained a loan from JP Morgan Chase Bank (“Lender”) in the amount of \$101,530.00 to finance the purchase of real property in Teague, Texas, as evidenced by a Promissory Note. RX-2.

2. Before obtaining the Note, Petitioner signed a single family loan guarantee on February 10, 2007, 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 on December 7, 2010, the Lender acquired the property at a foreclosure sale for the amount of \$89,250.00. RX-3.
4. The property was then offered for sale at a price of \$58,500.00, based upon a property disposition plan approved by USDA-RD. RX-4.
5. On April 25, 2011, the property sold to a third party for \$50,500.00. RX-5.
6. At the time of the foreclosure sale, the amount due on the account was \$117,523.54, consisting of principal, interest, fees and advances. RX-6; RX-7.
7. USDA-RD paid the Lender a loss of \$61,954.91. RX-6; RX-7.
8. The loss was established as a debt due from Petitioner. RX-8.
9. On January 18, 2012, Petitioner's account was referred to the U.S. Department of Treasury ("Treasury") for collection as required by law. RX-10.
10. The account at Treasury now amounts to \$60,927.61, which includes credit for Petitioner's 2011 income tax refund, which was used to offset the debt. RX-10
11. In addition to the principal of the debt, potential fees of \$17,059.73 may be collected by Treasury. RX-10.
12. Petitioner credibly testified about his income and expenses, and advised that his wife is currently not working.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. Petitioner is indebted to USDA-RD in the amount of \$60,927.61, 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 credibly testified that the Lender refused to accept his offer to pay his delinquency, but that is not sufficient to establish that the debt was improper.
5. Pursuant to the regulations pertaining to debt collection by wage garnishment, Petitioner's disposable income supports wage garnishment at the legal maximum percentage of 15%. See, 31 C.F.R. §§ 900-904; 31 U.S.C. §3717.
6. Garnishment shall be suspended for a period of ninety (90) days from the date of this Order to allow Petitioner to attempt to resolve the debt.
7. The Respondent is entitled to administratively garnish the wages of the Petitioner at the regulatory and statutory maximum of 15% **after July 23, 2012**.
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 22nd day of May, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge