

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0287

In re: Mindy Fulford
k/n/a Mindy Tucker
Petitioner

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 27, 2012. Petitioner filed her Narrative on April 25, 2011 and additional payroll documents on May 16, 2012, which I now label as PX-1 and PX-2, respectively. On May 1, 2012, at the time set for the hearing, both parties were available. Ms. Michelle Tanner represented RD. Ms. Fulford was self represented. The parties were sworn.

Petitioner has remarried and has been employed for more than one year. On June 14, 2012, I held a follow up telephone hearing to clarify certain expense items.

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 February 23, 1996, Petitioner and Robert Fulford, Jr. obtained two loans for the assumption of a mortgage on a primary home in the amount of \$4,100.00 and \$41,946.16, respectively from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase her home on a property located in Fitzgerald, Georgia. RX-1 @p. 1 of 14..
2. The borrowers became delinquent. The loans were accelerated for foreclosure on June 6, 2004. Narrative, RX-2 @ p. 5 of 14.
3. The home was sold in a “short sale” on October 15, 2004 for \$28,000.00. Narrative, RX-4 @ p. 7 of 8.
4. Prior to the sale the borrowers owed \$38,126.14 for principal, plus \$1,642.82 for interest, plus \$417.74 for fees for a total of \$40,186.70 to pay off the RD loan # 841268. Narrative, RX-4 @ 8 of 8.
5. Prior to the sale the borrowers owed \$3,363.18 for principal, plus \$144.92 for interest for a total of \$3,508.10 to pay off the RD loan # 841255. Narrative, RX-4 @ 8 of 8.
6. After application of the short sale proceeds, the borrower owed \$15,789.94 for both loans. RX-4 @ p. 8 of 8.

7. Treasury has collected an additional \$4,464.38 towards the debt. RX-4 @ 8 of 8.
8. The remaining amount due of \$11,325.56 was transferred to Treasury for collection on April 25, 2012. RX-5 @ p.3 of 7.
9. The potential Treasury collection fees are \$3,171.16. RX-5 @ p. 3 of 7.
10. Ms. Fulford is now remarried (Mindy Tucker) and has been employed for more than one year.
11. Mindy (Fulford) Tucker is jointly and severally liable for the debt.
12. Ms. Tucker's present husband and his 18 year old son contribute to the household income. There are six persons in her household including four children.
13. Ms. Tucker raised an issue of financial hardship. Testimony.
14. Ms. Tucker family unit has a outstanding debt for furniture for the next six months.
15. I performed a Financial Hardship Calculation for the family unit using Ms. Tucker's gross income less deductions and the net income statements for the other two wage earners in the household.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$11,325.56 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 \$3,171.16.
3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.

4. The Respondent is entitled to administratively garnish the wages of the Petitioner at this time at the rate of 7.5% for the following six months and thereafter at 15% of the monthly disposable income from her income only.

Order

For the foregoing reasons, the wages of Petitioner shall 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.

June 20, 2012

James P. Hurt
Hearing Official

Copies to: Mindy (Fulford) Tucker
Michelle Tanner
Dale Theurer

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