

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0336

In re: Alden G. Young,  
Petitioner

**Decision and Order**

This matter is before the Administrative Law Judge 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 20, 2012, a Prehearing Order was entered 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 on June 28, 2012.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on May 16, 2012. The only material filed by the Petitioner was attached to his Request for Hearing. That material indicates that the Petitioner believes that he should not be responsible for the debt as his ex wife was awarded the secured property in their divorce. The extract from the divorce decree and the separation agreement entered into between the parties does support the fact that the ex wife did receive the property and that she was ordered to hold the Petitioner harmless from further liability.

While the divorce proceedings bound only the parties to that action and would not have affected the right of Rural Development to proceed against a borrower who was not

released from liability, examination of the record reflects that in this case Rural Development subsequently reamortized the indebtedness without the participation of the Petitioner and thus is precluded from further attempts to collect the debt from him.

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 December 2, 1994, the Petitioner and his then wife, assumed loans to Wendall and Andrea Brann in the amount of \$68,362.99 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) for property located in Jefferson, Maine. On the same date, the Youngs also obtained an addition loan in the amount of \$17, 070.00. All of the prior loans were secured by a mortgage on the said property. RX-1.
2. On May 13, 1998, a Divorce Decree was entered in District Six, Division of Knox, State of Maine District Court dissolving the marriage between the Petitioner and Tracy Young (later Nash and Finley). As part of the Decree, the ex wife was awarded the residence subject to the above indebtedness and was directed to hold the Petitioner harmless from further liability on the property. Subsequent contempt proceedings in the same Court reflect that the ex wife was directed to make reasonable efforts to get Petitioner's name removed from the mortgage on the residence. Attachment to Request for Hearing.
3. In January of 2007, Rural Development, without the participation of the Petitioner, reamortized the loans in the name of the ex wife only. RX-1.

4. Later that year, the loan was accelerated due to monetary default and the property was sold at a foreclosure sale on October 28, 2008 with proceeds realized from that sale in the amount of \$89,270.00 leaving a balance due of \$23,605.31. Foreclosure expenses of \$3,210.00 were added to the amount due making the total amount allegedly due \$26,815.31. RX-7.

5. Payments totaling \$573.00 exclusive of Treasury fees have been received. RX-8.

6. The remaining unpaid debt is in the amount of \$26,276.31 exclusive of potential Treasury fees. RX-8.

### **Conclusions of Law**

1. The 2007 reamortization of the loans without the participation of the Petitioner in the name of the ex wife released the Petitioner from further liability to Rural Development.

2. Petitioner is no longer indebted to USDA Rural Development.

3. There being no indebtedness owed by the Petitioner, the Respondent is NOT entitled to administratively garnish his wages.

### **Order**

1. For the foregoing reasons, the wages of Petitioner may NOT be subjected to administrative wage garnishment and Rural Housing is **ORDERED** to recall the debt from Treasury as it pertains to the Petitioner.

2. Pursuant to the Finding that no debt is owed, Rural Development may not issue a 1099 reflecting forgiveness of the alleged indebtedness.

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

June 28, 2012

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Peter M. Davenport  
Chief Administrative Law Judge

Copies to: Alden G. Young  
Michelle Tanner  
Dale Theurer

Hearing Clerk's Office  
U.S. Department of Agriculture  
1400 Independence Avenue SW  
Room 1031, South Building  
Washington, D.C. 20250-9203  
202-720-4443  
Fax: 202-720-9776