

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	[AWG]
Karen M. Ratner,)	Docket No. 12-0331
)	
n/k/a Karen I. Nordling,)	
)	
Petitioner)	Decision and Order

Appearances:

Karen I. Nordling, also known as Karen R. Nordling, formerly known as Karen M. Ratner, the Petitioner, representing herself (appearing *pro se*); and

Michelle Tanner, Appeals Coordinator, United States Department of Agriculture, Rural Development, Centralized Servicing Center, St. Louis, Missouri, for the Respondent (USDA Rural Development).

1. The hearing by telephone was begun on June 13, 2012, resumed on June 20 with little progress, and was completed on July 18, 2012. Karen I. Nordling, also known as Karen R. Nordling, formerly known as Karen M. Ratner (“Petitioner Nordling”), participated, representing herself (appeared *pro se*).

2. Rural Development, an agency of the United States Department of Agriculture (USDA), the Respondent (“USDA Rural Development”), also participated, represented by Michelle Tanner.

Summary of the Facts Presented

3. USDA Rural Development’s Exhibits RX 1 through RX 7, plus Narrative, Witness & Exhibit List (filed on May 4, 2012), are admitted into evidence, together with the testimony of Michelle Tanner.

4. Petitioner Nordling's completed "Consumer Debtor Financial Statement" plus two pay stubs (filed on July 6, 2012), are admitted into evidence, together with the testimony of Petitioner Nordling, together with her Hearing Request (dated February 29, 2012).

5. Petitioner Nordling owes to USDA Rural Development **\$33,977.46** (as of May 3, 2012) in repayment of a USDA Farmers Home Administration loan borrowed in 1996 for a home in Texas, the balance of which is now unsecured ("the debt"). See USDA Rural Development Exhibits, esp. RX 5.

6. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$33,977.46**, would increase the current balance by \$9,513.69, to \$43,491.15. See USDA Rural Development Exhibits, esp. RX 7 (adjusted by \$789.00; see footnote 2).

7. The amount Petitioner Nordling borrowed from USDA Farmers Home Administration in 1996 was \$72,570.00. RX 1. Payments were made until about October 18, 2003. Attempted reamortization in 2004 had to be reversed, because of no response from Petitioner Nordling and USDA Rural Development's realization that she was no longer living in the property. RX 2. The loan was accelerated for foreclosure on June 23, 2005 due to "monetary default and abandoned property." RX 3. The foreclosure sale was held on September 2, 2008. RX 4, esp. p. 2.

8. At the time of the foreclosure sale in 2008, the debt balance was \$127,179.12.

\$ 68,175.29	unpaid principal
\$ 23,693.64	unpaid interest
\$ 35,098.76	fees/costs (taxes, insurance, the debt to the leverage lender ¹ , costs)
<u>\$ 211.43</u>	interest on fees/costs

\$127,179.12

RX 6 and Michelle Tanner's testimony.

The highest bid at the foreclosure sale was \$92,794.00, bid by USDA. The \$92,794.00 was applied to reduce the debt (leaving a balance owed of \$34,385.12). Then an insurance refund of \$407.68 was applied to reduce the debt (leaving a balance owed of **\$33,977.46**).

¹ The leverage lender was paid in full, more than \$15,000.00.

RX 6 and Michelle Tanner's testimony.² Since the foreclosure sale, no additional interest has accrued.

9. Petitioner Nordling still owes the balance of **\$33,977.46** (excluding potential collection fees), as of May 3, 2012, and USDA Rural Development may collect that amount from her.

10. Petitioner Nordling testified that she is married, and that her husband receives military retirement pay. Her husband is **not** responsible to repay the USDA Rural Development debt. The two of them are obligated to pay the Internal Revenue Service (IRS) about \$20,000.00 for back income taxes, and interest continues to accrue. They are making monthly payments. Their household includes her daughter and son-in-law and two children, who were displaced by a huge wildfire. Her daughter works part-time only, and her son-in-law has been unemployed for about a year.

11. Petitioner Nordling's disposable pay (within the meaning of 31 C.F.R. § 285.11) is roughly \$1,400.00 every 2 weeks, roughly \$3,000.00 per month. [Disposable income is gross pay minus income tax, Social Security, Medicare, and health insurance and, here, disability insurance withholding; and in certain situations minus other employee benefits contributions that are required to be withheld.]

12. Garnishment at 15% of Petitioner Nordling's disposable pay could yield nearly \$450.00 per month to repay the USDA Rural Development debt, but garnishment in that amount now would cause Petitioner Nordling and the family who live with her financial hardship (within the meaning of 31 C.F.R. § 285.11). Petitioner Nordling's Consumer Debtor Financial Statement (filed July 6, 2012) shows that her living expenses, including what she spends for others in her household are reasonable, and when her payments on debt are added, amount to about \$2,900.00 per month. If Petitioner Nordling did not have her husband's support, she would now be able to afford only about \$100.00 per month to repay the USDA Rural Development debt.

13. To prevent financial hardship, potential garnishment to repay "the debt" (*see* paragraph 5) must be limited to **5%** of Petitioner Nordling's disposable pay through July 2013; then **up to 10%** of Petitioner Nordling's disposable pay beginning August 2013 through July 2015; then **up to 15%** of Petitioner Nordling's disposable pay thereafter. 31 C.F.R. § 285.11.

14. Petitioner Nordling is responsible and able to negotiate the disposition of the debt with Treasury's collection agency.

² Ms. Tanner subtracted the \$789.00 shown on RX 6 as an additional foreclosure fee billed after the foreclosure.

Discussion

15. Garnishment is authorized. *See* paragraphs 10 through 13. I encourage **Petitioner Nordling and Treasury's collection agency** to **negotiate** the repayment of the debt. Petitioner Nordling, this will require **you** to telephone the collection agency after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner Nordling, you may choose to offer to the collection agency to compromise the debt for an amount you are able to pay, to settle the claim for less. Petitioner Nordling, you may want to have someone else with you on the line if you call.

Findings, Analysis and Conclusions

16. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Nordling and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.

17. Petitioner Nordling owes the debt described in paragraphs 5 through 9.

18. **Garnishment is authorized**, as follows: through July 2013, garnishment **up to 5%** of Petitioner Nordling's disposable pay; beginning August 2013 through July 2015, garnishment **up to 10%** of Petitioner Nordling's disposable pay; and thereafter, garnishment **up to 15%** of Petitioner Nordling's disposable pay. 31 C.F.R. § 285.11.

19. I am **NOT** ordering any amounts already collected prior to implementation of this Decision, whether through *offset* or garnishment of Petitioner Nordling's pay, to be returned to Petitioner Nordling.

20. Repayment of the debt may occur through *offset* of Petitioner Nordling's **income tax refunds** or other **Federal monies** payable to the order of Ms. Nordling.

Order

21. Until the debt is repaid, Petitioner Nordling shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in her mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).

22. USDA Rural Development, and those collecting on its behalf, are authorized to proceed with garnishment **up to 5%** of Petitioner Nordling's disposable pay through July 2013. Beginning August 2013 through July 2015, garnishment **up to 10%** of Petitioner Nordling's disposable pay is authorized; and garnishment **up to 15%** of Petitioner Nordling's disposable pay thereafter. 31 C.F.R. § 285.11.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 20th day of July 2012

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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