

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0437

In re: Paula Ware
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 June 12, 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-10 on June 8, 2012. Petitioner filed a letter with her Request for Hearing dated April 25, 2012 and later she filed her Financial Statement and payroll documents on July 17, 2012, which I now label as PX-1, PX-2, and PX-3, respectively. On July 20, 2012, at the time re-set for the hearing by agreement of the parties, both parties were available. Ms. Giovanna Leopardi represented RD. Ms. Ware was self represented. The parties were sworn.

Petitioner has been employed for more than one year by a local government, but her employment is only part-time in a community where the average wage is low. She

stated she had no health insurance and owes the local hospital for a prior medical incident which is paying off for the next thirty months.

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 March 25, 2005, Petitioner obtained a loan for a mortgage on a primary home in the amount of \$134,640.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase her home on a property located in Columbia, Alabama. RX-2 @ p. 3 of 5.
2. Prior to signing the loan, the borrower signed RD form 1980-21 (Loan Guarantee) RX-1 @ p. 2 of 4.
3. The borrower became delinquent. The loan was accelerated for foreclosure and a judicial sale was duly advertised in the Shelby County, Alabama legal notices. RX-3 @ 2 of 6.
4. The home was sold at a judicial sale on January 26, 2010 for \$118,640.72. Narrative, RX-3 @ p. 4 of 6.
5. Prior to the sale the borrower owed \$125,980.64 for principal, plus \$8,172.57 for interest, plus \$833.01 for fees for a total of \$134,986.22 to pay off the RD loan. RX-7.
6. After application of the judicial sale proceeds, the borrower owed \$47,198.41. RX-7.

7. Treasury has collected an additional \$371.76 (net amount) towards the debt. RX-10 @ 1 of 2.
8. The remaining amount due of \$46,826.65 was transferred to Treasury for collection on June 6, 2012. RX-10 @ p.2 of 2.
9. The potential Treasury collection fees are \$13,111.46. RX-10 @ p. 2 of 2.
10. Ms. Ware is now living in Oregon and working part time as a local government employee and has no health insurance.
11. Ms. Ware raised an issue of financial hardship. Testimony.
12. Ms. Ware has an outstanding debt for hospital treatment and she is paying it off in installments of \$25.00 per month.
- 13.** I performed a Financial Hardship Calculation for Ms. Ware gross income¹.
Considering her expenses on PX-2, there was no need to further refine the calculation to arrive at net income.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$46,826.65 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 \$13,111.46.
3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
4. The Respondent is not entitled to administratively garnish the wages of the Petitioner at this time.

¹ The Financial Hardship calculation is not posted on the OALJ website.

Order

For the foregoing reasons, the wages of Petitioner shall not 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.

July 23, 2012

James P. Hurt
Hearing Official

Copies to: Giovanna Leopardi
 Paula Ware
 Dale Theurer

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