

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0372

In re: Michelle Martinez,
Petitioner

Corrected Decision and Order

This matter is before the Administrative Law Judge upon the request of Michelle Martinez 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 May 15, 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 case for a telephonic hearing on July 26, 2012.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on June 12, 2012. The Petitioner failed to provide any material to the Hearing Clerk, did not comply with the instructions contained in the Prehearing Order, and refused delivery of the Narrative and related exhibits sent to her by Rural Development. Accordingly, it will be deemed that the Petitioner has waived her right to a hearing and the issues before me will be decided on the basis of the record.

On the basis of the record before me, nothing further having been received from the Petitioner, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. On June 4, 2007, Michelle Martinez applied for and received a home mortgage loan guarantee from Rural Development (RD), United States Department of Agriculture (USDA). RX-1.
2. On July 10, 2007, Petitioner obtained a home mortgage loan for the purchase of property located in Coalinga, California from J.P. Morgan Chase Bank, N.A. (Chase) for \$180,540.00. RX-2.
3. In 2010, the Petitioner defaulted on the mortgage loan and foreclosure proceedings were initiated. A foreclosure sale was conducted on August 6, 2010 and Chase acquired the property with a bid of \$59,500.00. RX-3.
4. Chase submitted a loss claim and USDA paid Chase the sum of \$151,864.89 for principal, accrued interest, protective advances, liquidation costs and property sale costs. RX-6, 7.
5. After receipt of Treasury offsets, the remaining unpaid debt is in the amount of \$148,667.01, exclusive of potential Treasury fees.

Conclusions of Law

1. Michelle Martinez, is indebted to USDA Rural Development in the amount of \$148,667.01 for the mortgage loan guarantee extended to her.
2. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
3. The Respondent is entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, the wages of Michelle Martinez shall be subjected to administrative wage garnishment at the rate of 15% of disposable pay, or such lesser amount as might be specified in 31 C.F.R. § 285.11(i).

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

July 26, 2012

Peter M. Davenport
Chief Administrative Law Judge

Copies to: Michelle Martinez
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