

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	[AWG]
Ruben Mendoza)	Docket No. 12-0460
)	
Petitioner)	Decision and Order

Appearances:

none, for Ruben Mendoza, the Petitioner; 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 was held as scheduled on August 8, 2012. Ruben Mendoza (“Petitioner Ruben Mendoza”) did not participate; Petitioner Ruben Mendoza had no notice of the hearing: the Hearing Clerk’s attempts to reach him by mail failed; USDA Rural Development’s attempt to deliver copies to him by UPS failed. The address used was the same address that the U.S. Department of the Treasury used to send to Petitioner Ruben Mendoza, in February 2010, the “Notice of Intent to Initiate Administrative Wage Garnishment Proceedings”. The address was for the home that had been lost to foreclosure in 2002 - - perhaps not the current address for Petitioner Ruben Mendoza.

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

Summary of the Facts Presented

3. The hearing was prompted by a copy of Petitioner Ruben Mendoza’s divorce decree from 1999 having been FAXed in May 2012 to the U.S. Department of the Treasury, from USDA Rural Development in Amarillo, Texas. A copy of this Decision will be forwarded to that office, for forwarding to Petitioner Ruben Mendoza. In the divorce decree, Petitioner

Ruben Mendoza's co-borrower (his former wife, Loretta Mendoza, also known as Loretta Sandoval) was awarded the "real property commonly known as 1012 W. Grand, Dimmitt, Castro County, Texas **and any indebtedness on the real property.**" Emphasis added. Petitioner Ruben Mendoza has no doubt grown weary of payments being taken from him to pay the debt that the divorce decree made his former wife's responsibility.

4. Legally, USDA Rural Development (the U.S. Department of the Treasury collects for USDA Rural Development) could collect the entire debt from Petitioner Ruben Mendoza. Because of the divorce decree, Petitioner may have recourse against his co-borrower, Loretta Mendoza, also known as Loretta Sandoval, to be reimbursed for amounts he has paid on the debt. Petitioner Ruben Mendoza may want to consult with an attorney about that; he may want to pursue that.

5. When Petitioner Ruben Mendoza entered into the borrowing transaction in 1990 with his co-borrower, Loretta Mendoza, certain responsibilities were fixed, as to each of them. The debt is Petitioner Ruben Mendoza and his co-borrower's joint-and-several obligation. The divorce decree did not change the fact that each of them is liable to USDA Rural Development. So far, it appears that all the collections have been taken from Petitioner Ruben Mendoza and none from his former wife the co-borrower.

6. Beginning in 2007, through 2012, Petitioner Ruben Mendoza's income tax refunds and stimulus money were intercepted and applied to reduce the debt. *See* RX 6, p. 1. These **offsets** of Petitioner Ruben Mendoza's **income tax refunds** or other **Federal monies** payable to the order of Mr. Mendoza had reduced the loan (the loan that in 1990 was the larger of the 2 loans), to a remaining balance of \$136.61 as of June 21, 2012. RX 6, pp. 1-2.

7. Beginning in 2010, through 2012, Petitioner Ruben Mendoza's wages have been garnished to reduce the debt. *See* RX 6, pp. 5-7. These wage garnishments of Petitioner Ruben Mendoza's **disposable pay** had reduced the loan (the loan that in 1990 was the smaller of the 2 loans), to a remaining balance of \$2,138.95 as of June 21, 2012. RX 6, pp. 5-8.

8. Adding together the remaining balances of both loans, as of June 21, 2012, Petitioner Ruben Mendoza owed to USDA Rural Development a balance of **\$2,275.56** in repayment of two United States Department of Agriculture / Farmers Home Administration loans made in 1990 for a home in Texas, the balance of which is now unsecured ("the debt"). [Petitioner Ruben Mendoza's co-borrower (his former wife, Loretta Mendoza, also known as Loretta Sandoval) owed this, too.] *See* USDA Rural Development Exhibits RX 1 through RX 6, especially RX 6, plus Narrative, Witness & Exhibit List (filed June 22, 2012), which are admitted into evidence, together with the testimony of Michelle Tanner.

9. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$2,275.56** would increase the current balance by \$637.16, to \$2,912.72. *See* RX 6 plus USDA Rural Development Narrative.

10. Petitioner Ruben Mendoza is responsible and able to negotiate the repayment of the debt with Treasury's collection agency.

Discussion

11. I encourage **Petitioner Ruben Mendoza and Treasury's collection agency to negotiate promptly** the repayment of the debt. Petitioner Ruben Mendoza, this will require **you** to telephone Treasury's collection agency after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner Ruben Mendoza, you may choose to offer to Treasury's collection agency to compromise the debt for an amount you are able to pay, to settle the claim for less. You may ask that **the debt be apportioned between you and your co-borrower**. Petitioner Ruben Mendoza, you may choose to have someone on the line with you when you call.

Findings, Analysis and Conclusions

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

13. Petitioner Ruben Mendoza had no notice of the hearing that I held on August 8, 2012, and he is entitled to another hearing before an administrative law judge at the U.S. Department of Agriculture, if he requests one from the U.S. Department of the Treasury.

14. Petitioner Ruben Mendoza may want to contact Michelle Tanner of USDA Rural Development in St. Louis, Missouri to request that the documents be sent to him again. [These documents are the USDA Rural Development Exhibits RX 1 through RX 6 plus Narrative, Witness & Exhibit List (filed June 22, 2012).] Michelle Tanner's contact information is below.

Order

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

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties, and a **courtesy copy sent to USDA Rural Development in Amarillo, Texas**, attn. Melissa Torrez (contact information below).

Done at Washington, D.C.
this 9th day of August 2012

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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