

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	[AWG]
Savannah Tice,)	Docket No. 12-0488
)	
f/k/a Savannah Sanders,)	
)	
Petitioner)	Decision and Order

Appearances:

Savannah Tice, once known as Savannah Sanders, the Petitioner, representing herself (appearing pro se); and

Giovanna Leopardi, 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 held on August 15 and 24, 2012. Savannah Tice, once known as Savannah Sanders (Petitioner Tice) participated, accompanied by her grandmother and Terry Wood, Esq. of Adamsville, Tennessee.
2. Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and is represented by Giovanna Leopardi.

Summary of the Facts Presented

3. Petitioner Tice’s Hearing Request dated May 30, 2012, with all attachments, is admitted into evidence, together with the testimony of Petitioner Tice.
4. USDA Rural Development’s Exhibits RX 1 through RX 9, plus Narrative, Witness & Exhibit List, were filed on August 27, 2012, and are admitted into evidence, together with the testimony of Giovanna Leopardi.

5. Petitioner Tice's fiancé Joseph C. Sanders (whom she later married), bought a home in Tennessee in 2005 (before they were married), borrowing \$36,000.00 to pay for it. RX 2. USDA Rural Development's position is that Petitioner Tice owes to USDA Rural Development **\$15,528.37** (as of August 24, 2012), in repayment of a United States Department of Agriculture / Rural Development / Rural Housing Service **Guarantee** (see RX 1, esp. p. 3; RX 9, esp. p. 3) for the loan made to Joseph C. Sanders in 2005 ("the debt"). The loan was made by JP Morgan Chase Bank, N.A. Chase Home Finance, LLC became the holder of or agent for the holder of the indebtedness. RX 3, p. 9.

6. Petitioner Tice's position is that Petitioner Tice owes **nothing** to USDA Rural Development and is **due a refund** for amounts taken from her, because there is no valid debt as to her. [Garnishment of her pay has been ongoing; and her income tax refunds were intercepted (*offset*). See RX 9, pp. 1-2.]

7. Petitioner Tice proved through her testimony that the **Guarantee** form she signed (see RX 1, esp. p. 3) should never have been used. I find that USDA Rural Development documents indicating that Petitioner Tice obtained a mortgage loan are in error; see, for example, RX 1, pp. 4-5.

8. Petitioner Tice testified convincingly that when she and her fiancé Joseph C. Sanders met with Rowena Pope on May 3, 2005 at American Heritage Home Loans, Ms. Pope had them sign *separate Guarantees* because Ms. Pope thought Mr. Sanders might qualify for the loan based on his income alone. He did. Mr. Sanders borrowed the money, bought the house, and then married Petitioner Tice. They were later divorced. He has filed bankruptcy.

9. Petitioner Tice testified that Ms. Pope's comment on May 3, 2005 was to the effect, "no sense in you both being on it."

10. The crossing-out on RX 1, p. 3 of Rowena Pope's signature and date of signing: ~~5/3/05 Rowena Pope~~ - - and the insertion instead, of "6/23/05" and "Josh Mohamed" is of concern, and where RX 1, p. 1 shows a different spelling "Joshua Mohomoed" as the Lender Contact Person. It is reasonable to infer that Rowena Pope, who understood the application process, was no longer in control of the paperwork, which could explain how Petitioner Tice's name was placed by the lender on documents forwarded to USDA Rural Development. See RX 2, p. 5.

11. After careful review of all of the evidence, I agree with Petitioner Tice's position. There is **no valid debt** owed by Petitioner Tice to USDA Rural Development. The **amounts taken from Petitioner Tice's pay and from her income tax refunds shall be returned to her.**]

Findings, Analysis and Conclusions

12. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Tice and USDA Rural Development; and over the subject matter (administrative wage garnishment, which requires determining whether Petitioner Tice owes a valid debt to USDA Rural Development).
13. USDA Rural Development did pay a loss claim on the requested loan to the lender. USDA Rural Development reimbursed the lender \$20,738.65 on October 13, 2009. RX 6, p. 7; RX 7. That amount, \$20,738.65, is what USDA Rural Development seeks to recover from Petitioner Tice under the *Guarantee*. RX 1, esp. p. 3; RX 7; USDA Rural Development Narrative; and testimony. Alas, there is no operative *Guarantee* as to Petitioner Tice; any *Guarantee* was by only Joseph C. Sanders. RX 1, p. 2.
14. Petitioner Tice does **NOT** owe a valid debt to USDA Rural Development; Petitioner Tice does **not** owe the debt described in paragraphs 4, 5 and 13.
15. Garnishment is **not** authorized. *Offset* of Petitioner Tice's **income tax refunds** or other **Federal monies** payable to the order of Ms. Tice is **not** authorized.
16. Any amounts collected from Petitioner Tice, including collections from Treasury (*offsets*, which were intercepted income tax refunds due to Petitioner Tice; plus any amounts collected through garnishment of Petitioner Tice's pay prior to implementation of this Decision) **shall be returned to Petitioner Tice**.
17. Petitioner Tice calculates the amounts that shall be returned to her to include the amounts garnished from her pay (*see* RX 9, pp. 1-2) and

\$2,127.00 for income tax refunds, consisting of
 \$1,077.00 from the 2009 tax return and
 \$1,050.00 from the 2010 tax return.

Order

18. USDA Rural Development shall cancel the debt as to Petitioner Tice.
19. USDA Rural Development, and those collecting on its behalf, shall **return to Petitioner Tice** any amounts already collected through garnishment or *offset*.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties, with a courtesy copy sent also to Terry Wood, Esq.

Done at Washington, D.C.
this 28th day of August 2012

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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