

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0528

In re: Barbara Greer
f/k/a Barbara Evans
a/k/a Barbara Jeffrey

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 August 2, 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-7 prior to my order on August 1, 2012. At the date and time set for the oral hearing, Ms. Greer was self represented and although she did not have RD's documentation (see above) with her at the time of the hearing, she elected to proceed with the hearing. She acknowledged that she had received RD's Narrative and Exhibits. Ms. Greer f/k/a Evans is now represented by attorney John W. Erramouspe, II Esq. who filed his appearance after the oral hearing. On September 25, 2012, Ms. Greer through her counsel filed a proposal for settlement which was forwarded to RD. At my request, on October 4, 2012,

Ms. Greer filed her financial statements, payroll stub (for herself and Darrin Jeffrey) and explanation of some overtime benefits (soon to be ended) which I now label as PX-1, PX-2, and PX-3, respectively. On September 11, 2012 at the time set for the hearing, both parties were available. Ms. Michelle Tanner represented RD. The parties were sworn.

Petitioner has been employed for more than one year. Ms. Greer is remarried. There are four minor children in the household. She receives child support for three of the minor children. She borrowed money from her mother and has submitted a schedule of regular payments for the past 33 months. She states that layoffs at her work place are expected. She provided net weekly income of Darrin Jeffrey which was used in the Financial Hardship calculation as family monthly disposable income. Ms. Greer has student loans and credit union loans. There are six persons in the household and one automobile. The family unit does not list any credit card balances. There is no automobile monthly payment listed. There are no listed anticipated monthly out-of-pocket medical expenses. Since there are four minor children, I will assume that failure to claim out-of-pocket medical expenses is an oversight and I will, sua sponta, make a monthly allowance in the Financial Hardship calculation. I will utilize only straight time pay rates in my calculation. Petitioner's pay statement shows she is paid bi-weekly - instead of bi-monthly (26 not 24 pay periods per year). She has a deduction for Medical insurance which will be considered, but the deduction for her 401K will not. I utilized a married filing separately tax rate to calculate the Federal income taxes with a standard deduction. I calculated Iowa income tax at 0.039%.

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 April 22, 1998, Petitioner and James Evans obtained a loan for the purchase of a primary home in the amount of \$55,000 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase their home on a property located in Cherokee, Iowa. RX-1 @ p. 3 of 3.
2. The borrowers defaulted on the loan and it was accelerated for foreclosure on November 5, 2001. RX-2 @ p. 1 of 7.
3. As a result of the discovery of the presence of asbestos siding and lead based paint, RD determined that the property was a valueless lien. RX-4.
4. As of July 29, 2002, the Borrowers owed RD for \$49,829.06 as principal, \$722.60 as recoverable fees, plus \$1,550.71 as negative escrow balance for a total of \$52,102.37 to pay off the RD loan. Narrative, RX-5.
5. Since 2002, Treasury recovered substantial portions of the debt through the tax offset program (TOP) such that the debt has been reduced to \$25,518.56. RX-5.
6. The remaining amount due of \$25,518.56 was transferred to Treasury for collection on July 28, 2012. RX-6 @ p.2 of 5.
7. The potential Treasury collection fees were stated to be \$7,145.20 RX-6 @ p. 2 of 5.
8. Ms. (Evans) Greer has been employed for more than one year. There are two income earners in her household. There are four minor children in the home. Ms. Greer is receiving child support for children by prior marriage(s)

9. Petitioner raised the issue of financial hardship and I utilized her financial statements and payroll information to prepare a Financial Hardship Calculation¹.

Conclusions of Law

1. Petitioner is jointly and severally indebted to USDA Rural Development in the amount of \$25,518.56 - exclusive of potential Treasury fees for the mortgage loan extended to her.
2. In addition, Petitioner is jointly and severally indebted for potential fees to the US Treasury in the amount of \$7,145.20.
3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
4. The Respondent is entitled to administratively garnish the wages of the Petitioner at the rate of fifteen percent (15%) of her monthly disposable income

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

5.

Order

For the foregoing reasons, the wages of Petitioner shall be subjected to administrative wage garnishment at the rate of 15% of her monthly disposable income. In the event that the family unit income involuntarily decreases, RD shall recalculate the allowable garnishment proportionally.

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

October 15, 2012

James P. Hurt
Hearing Official

Copies to: John Erramouspe
Michelle Tanner
Dale Theurer

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