

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 13-0138

In re: AMANDA COGBURN,
formerly known as Boen,

Petitioner.

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the January 2, 2013 request of Amanda Cogburn, formerly known as Amanda Boen (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due to the United States Department of Agriculture, Rural Development (“USDA-RD”), and if established, the propriety of imposing administrative wage garnishment. By Order issued on January 11, 2013, the parties were directed to provide information and documentation concerning the existence of the debt and the matter was set for a telephonic hearing to commence on January 31, 2013.

On January 9, 2013, Respondent filed a Narrative, together with supporting documentation¹ identified as RX-1 through RX-10. That evidence was admitted to the record. On January 25, 2013, Petitioner filed a Consumer Debtor Financial Statement, identified as PX-1, and on January 29, 2013 filed supplemental documentation, identified as PX-2. Those exhibits are admitted to the record.

At the hearing, Petitioner represented herself and testified. Michelle Tanner represented USDA-RD and testified.

On the basis of the entire record before me, the following Findings of Fact, Conclusions of Law and Order will be entered:

¹ References to Respondent’s exhibits herein shall be denoted as “RX-#”.

FINDINGS OF FACT

1. On December 10, 2009 the Petitioner received a home mortgage loan in the amount of \$117,300.00 from Arvest Mortgage (“Lender”) to purchase residential real property located in Bentonville, Arkansas. RX-2.
2. Pursuant to an agreement with the Lender, USDA-RD had agreed to indemnify the Lender for any losses it experienced as the result of a default on the loan by Petitioner.
3. Prior to executing the promissory note and mortgage, Petitioner signed a Request for Single Family Housing Loan Guarantee, Form 1980-21 on November 7, 2009. RX-1.
4. Form 1980-21 establishes an agreement whereby Petitioner committed herself to repay USDA-RD for any losses incurred by the Lender due to Petitioner’s default on the loan.
5. Petitioner defaulted on the loan and her account was accelerated. RX-3.
6. Lender was the highest bidder (\$83,725.00) at a foreclosure sale held on December 16, 2010. RX-3.
7. The home was subsequently sold to a third party for \$78,900.00. RX-5.
8. At the time of the sale, the amount due on the loan was \$129,865.00, consisting of principal, interest, recoverable costs and late charges. RX-6: RX-7.
9. After application of the sale proceeds, USDA-RD paid to the Lender \$48,759.83 as a loss claim. RX-6; RX-7.
10. USDA-RD offered to compromise the debt, but Petitioner could not comply with the terms of the offer and did not sign a compromise agreement. RX-9.
11. USDA-RD entered the outstanding balance on the account as a debt due from Petitioner, and referred to the United States Department of Treasury (“Treasury”) for collection pursuant to law. RX-10.

12. Petitioner is currently working, but has had employment for only four (4) months.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.

2. Petitioner is indebted to USDA Rural Development in the amount of \$48,759.83 exclusive of potential Treasury fees for the mortgage loan extended to her and her co-borrower

3. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met.

4. The Petitioner has not been employed for the minimal amount of time necessary by statute to be subject to wage garnishment.

5. No wage garnishment may be implemented at this time.

6. Treasury shall remain authorized to undertake any and all other appropriate collection action.

ORDER

For the foregoing reasons, Petitioner shall **NOT** be subjected to administrative wage garnishment.

Petitioner is encouraged to negotiate repayment of the debt with the representatives of Treasury. The toll free number for Treasury's agent is **1-888-826-3127**.

Petitioner is also encouraged to consult an attorney or debt collection expert regarding this debt.

Petitioner is advised that this Decision and Order does not prevent payment of the debt through offset of amounts due from the government.

Petitioner is further advised that a debtor who is considered delinquent on debt to the United States may be barred from obtaining other federal loans, insurance, or guarantees. See, 31 C.F.R. § 285.13.

Until the debt is satisfied, Petitioner shall give to USDA-RD or those collecting on its behalf, notice of any change in her address, phone numbers, or other means of contact.

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

So Ordered this 2nd day of February in Washington, D.C.

Janice K. Bullard
Administrative Law Judge