

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	[AWG]
Deborah A. Creagh)	Docket No. 13-0157
)	
Petitioner)	Decision and Order

Appearances:

Deborah A. Creagh, the Petitioner, representing herself (appearing *pro se*); 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 by telephone was held on February 13, 2013. Deborah A. Creagh (“Petitioner Creagh”), participated, representing herself (appeared *pro se*).
2. Rural Development, an agency of the United States Department of Agriculture (USDA), the Respondent (“USDA Rural Development”), also participated, represented by Michelle Tanner.

Summary of the Facts Presented

3. Petitioner Creagh’s Exhibits PX 1 through PX 12 are admitted into evidence; together with her email memo to Treasury dated January 14, 2013; together with her Hearing Request (also an email memo to Treasury) dated December 7, 2012; together with the testimony of Petitioner Creagh and the testimony of her additional witness Jamie Kaye Bugg.
4. USDA Rural Development’s Exhibits RX 1 through RX 6, plus Narrative, Witness & Exhibit List (filed on January 28, 2013), are admitted into evidence, together with the testimony of Michelle Tanner.

5. Petitioner Creagh owed to USDA Rural Development **\$262.62** (as of February 8, 2013) in repayment of a USDA Farmers Home Administration loan borrowed in 1995 for a home in Texas, the balance of which is now unsecured (“the debt”). *See* USDA Rural Development Exhibits, esp. RX 1, RX 6, and Michelle Tanner’s testimony.
6. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$262.62**, would increase the current balance by \$73.53, to \$336.15. Michelle Tanner’s testimony.
7. The amount Petitioner Creagh borrowed from USDA Farmers Home Administration in 1995 was \$53,980.00. RX 1. The loan became delinquent and was reamortized in 1999. Reamortization made the loan current, by adding the delinquent amount to the principal balance. Reamortization did not change the total amount owed, which all became principal. Because of the reamortization, more principal was owed on January 7, 1999 than had been owed at the beginning: \$59,726.52 principal owed. RX 1, pp. 4-5.
8. Payments were not kept current, and the loan was accelerated for foreclosure on October 21, 1999. RX 2. The Notice of Acceleration (and of Intent to Foreclose) shows \$59,696.15 unpaid principal and \$3,755.14 unpaid interest (as of October 21, 1999). RX 2, p. 1. This did not include other costs, such as unpaid insurance and unpaid real estate taxes that had to be advanced by USDA Rural Development.
9. A foreclosure sale was not held, because a short sale was successfully completed on February 18, 2000, yielding \$48,043.94 to reduce the debt. RX 4.
10. Before the short sale proceeds were applied to reduce the debt, the debt amount was \$62,006.59. RX 4.
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|--------------------|---|
| \$ 56,928.29 | unpaid principal |
| <u>\$ 5,078.30</u> | unpaid interest (to February 18, 2000) |
| \$ 62,006.59 | debt before short sale proceeds applied |
| ===== | |
- RX 4.
11. The debt amount would have been even \$4,162.35 higher, except that on February 7, 2000 (a week-and-a-half before the short sale), Petitioner Creagh’s \$4,162.35 income tax refund was intercepted and applied to reduce the debt. RX 4.
12. Proceeds from the short sale (\$48,043.94) were applied to reduce the debt. RX 4. An escrow refund (\$8.89) was applied to reduce the debt. RX 4. This left \$13,953.76 still

to be paid. Then a \$35.00 foreclosure fee was paid. RX 4. This left \$13,988.76 still be paid by Petitioner Creagh.

13. Interest stopped accruing when the short sale proceeds were applied to reduce the debt, in about February 2000. No additional interest has accrued since then, and none will accrue, which made repaying the debt more manageable.

14. Petitioner Creagh missed the opportunity for “debt settlement” with USDA Rural Development, even though USDA Rural Development tried 3 times - - 3 separate mailings - - to give her that opportunity. USDA Rural Development Narrative. RX 3, pp. 11, 13; RX 5. So, \$15,086.86 was referred to Treasury for collection at the end of 2001 [\$13,988.76, plus \$1,244.75 additional interest erroneously added, minus Petitioner Creagh’s \$146.65 income tax refund, which had been intercepted and applied to reduce the debt]. RX 4.

15. When Michelle Tanner prepared the USDA Rural Development’s Exhibits RX 1 through RX 6, plus Narrative, Witness & Exhibit List, she discovered and corrected the \$1,244.75 mistake - - subtracting back out that interest that had been erroneously added. Thank you to Ms. Tanner for her work, and congratulations to Petitioner Creagh on being relieved of that portion of the debt. More importantly, congratulations to Petitioner Creagh on her many, many payments to complete repayment of the debt. RX 6 shows how her pay has diligently reduced the balance, which was **\$262.62** (excluding potential collection fees) as of February 8, 2013.

16. When Petitioner Creagh missed the opportunity for “debt settlement,” and the debt was referred to Treasury, potential collection costs were added to what Petitioner Creagh would have to pay. For example, in order for Treasury to collect enough to forward \$13,842.11 to USDA Rural Development, it could cost Petitioner Creagh as much as \$17,717.90. Treasury would identify the balance as \$17,717.90, because, except for *offsets*, \$1.28 may be required for every \$1.00 that will go to USDA Rural Development. [The potential collection fees needed for \$13,842.11 to become paid-in-full, may require another \$3,875.79 (28%). See paragraph 6.]

Discussion

17. During the hearing Petitioner Creagh was concerned that she had had one other large (in the neighborhood of \$4,000.00) income tax refund that had been intercepted in about 1999 or 2000? - - and she wanted to know that she had been given credit for it. Her records were incomplete because of an apartment fire. When Petitioner Creagh has received from the Internal Revenue Service the documentation showing her refund amounts and dates, she may, if she has further questions, forward that to USDA Rural Development, Michelle Tanner, with her specific inquiry.

Findings, Analysis and Conclusions

18. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Creagh and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.
19. Petitioner Creagh owes the debt described in paragraphs 5 through 16.
20. **Garnishment is authorized, up to 15%** of Petitioner Creagh's disposable pay. 31 C.F.R. § 285.11.
21. I am **not** ordering any amounts already collected prior to implementation of this Decision, whether through *offset* or garnishment of Petitioner Creagh's pay, to be returned to Petitioner Creagh.
22. Repayment of the debt may occur through *offset* of Petitioner Creagh's **income tax refunds** or other **Federal monies** payable to the order of Ms. Creagh.

Order

23. Until the debt is repaid, Petitioner Creagh shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in her mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).
24. USDA Rural Development, and those collecting on its behalf, are authorized to proceed with garnishment **up to 15%** of Petitioner Creagh's disposable pay. 31 C.F.R. § 285.11.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 14th day of February 2013

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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