

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	
	)	[AWG]
Pamela F. Bailey n/k/a	)	Docket No. <b>13-0040</b>
Pamela Kelly	)	
	)	
Petitioner	)	<b>Decision and Order</b>

Appearances:

Pamela Kelly, formerly known as Pamela F. Bailey, who represents herself (appears *pro se*), 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 by telephone was held on January 22, 2013. Pamela F. Kelly, formerly known as Pamela F. Bailey, the Petitioner (Petitioner Kelly), who represents herself (appears *pro se*), participated.
2. Rural Development, an agency of the United States Department of Agriculture (USDA), the Respondent (“USDA Rural Development”), participated, represented by Michelle Tanner.

Summary of the Facts Presented

3. Petitioner Kelly’s Hearing Request (dated October 5, 2012), and her accompanying letter (both FAXed October 5, 2012), are admitted into evidence, together with the testimony of Petitioner Kelly.
4. USDA Rural Development’s Exhibits RX 1 through RX 9 (filed on November 16, 2012 , and January 28, 2013), plus Narrative, Witness & Exhibit Lists, are admitted into evidence, together with the testimony of Michelle Tanner.

5. Petitioner Kelly owes to USDA Rural Development **\$208,437.67** (as of November 6, 2012) (*see* RX 6, pp. 1-2) in repayment of a USDA Rural Housing Service loan borrowed in 2006 for a home in Virginia, the balance of which is now unsecured (“the debt”). *See* USDA Rural Development’s Exhibits, esp. RX 1 and RX 6.

6. Potential costs of collection (Treasury fees) in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$208,437.67**, would increase the current balance by \$58,362.55, to \$266,800.22. RX 6, p. 2, plus the Narrative.

7. The amount Petitioner Kelly borrowed in 2006 from USDA Rural Housing Service was \$271,235.00. RX 1.

8. The “next due” date was September 26, 2007; that is, the loan was about 6 months past due, when, on March 19, 2008, the loan was accelerated for foreclosure. RX 2. The loan was accelerated for foreclosure due to “MONETARY DEFAULT”. RX 2. The Notice of Acceleration (and of Intent to Foreclose) shows \$267,480.85 unpaid principal and \$8,979.82 unpaid interest (as of March 19, 2008). RX 2, p. 1. This would not include other costs, such as unpaid insurance and unpaid real estate taxes that may have had to be advanced by USDA Rural Development.

9. The foreclosure sale was held on September 29, 2009. USDA’s bid (opening bid) was \$100,700.00. RX 7, RX 9. Argent Development LLC bid \$100.00 more, \$100,800.00. RX 3, p. 50. After certain of the real estate taxes and foreclosures expenses were subtracted, sale proceeds of \$97,323.48 were applied to reduce the debt on November 12, 2009. RX 3, p. 52. RX 4, p. 2.

10. Before the sale proceeds were applied, the balance was \$304,911.15:

\$267,480.85	unpaid principal
\$ 32,235.10	unpaid interest through foreclosure sale (9/26/2007 - 09/29/2009)
\$ 4,706.09	fees/costs (includes costs, insurance, taxes)
<u>\$ 489.11</u>	interest on fees/costs plus late charges
\$304,911.15	
=====	

RX 5 and Michelle Tanner’s testimony.

11. After the \$97,323.48 sale proceeds were applied, the remaining debt was \$207,587.67. Additional costs of \$552.50 and \$297.50 were added to the debt (RX 3, pp. 62-63), which brought the balance up to **\$208,437.67**. *See* the detail summarized at RX 5.

12. Since the sale proceeds (\$97,323.48) were generated from the foreclosure sale in September 2009, no additional interest has accrued. No additional interest will accrue, which makes repaying the debt more manageable.

13. The balance, **\$208,437.67**, was referred to U.S. Treasury for collection in March 2010. RX 6, p. 1. That remained the balance, through November 6, 2012. RX 6, p. 2. Petitioner Kelly still (as of November 6, 2012) owes the balance of **\$208,437.67** (excluding potential collection fees), and USDA Rural Development may collect that amount from her.

#### Discussion

14. Petitioner Kelly, you may want to telephone Treasury's collection agency to **negotiate** the repayment of the debt. Petitioner Kelly, this will require **you** to telephone the collection agency after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner Kelly, you may choose to offer to the collection agency to compromise the debt for an amount you are able to pay, to settle the claim for less. Petitioner Kelly, you may wish to include someone else with you in the telephone call if you call to negotiate.

#### Findings, Analysis and Conclusions

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

16. Petitioner Kelly owes the debt described in paragraphs 5 through 13.

17. Garnishment **up to 15%** of Petitioner Kelly's disposable pay is **authorized**. 31 C.F.R. § 285.11.

18. I am **not** ordering any amounts already collected prior to implementation of this Decision, whether through **offset** or garnishment of Petitioner Kelly's pay, to be returned to Petitioner Kelly.

19. Repayment of the debt may also occur through **offset** of Petitioner Kelly's **income tax refunds** or other **Federal monies** payable to the order of Ms. Kelly.

#### Order

20. Until the debt is repaid, Petitioner Kelly 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).

21. USDA Rural Development, and those collecting on its behalf, are authorized to proceed with garnishment **up to 15%** of Petitioner Kelly'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 25<sup>th</sup> day of February 2013

s/ Jill S. Clifton

Jill S. Clifton  
Administrative Law Judge

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