

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 10-0102
)	
Jill Privee)	
)	
)	
Petitioner)	Revised Decision and Order

The prior “Decision and Order” issued in this proceeding is herewith set aside and replaced by this “Revised Decision and Order”.

Pursuant to a Hearing Notice, I held a hearing in this proceeding by telephone, on April 15, 2010, at 11:00 AM Eastern Time. Petitioner, Jill Privee, and Respondent’s representatives, Gene Elkin and Mary E. Kimball, participated and were sworn. Ms. Kimball introduced, identified and authenticated records regularly maintained by USDA, Rural Development that were received as Exhibits RX-1 through RX-5. Petitioner introduced, identified and authenticated various documents that were received as PX-1 through PX-6. At issue is the nonpayment of a debt owed to USDA, Rural Development on a home mortgage loan on property that Mrs. Privee had owned with her former husband, Michael J. Shong.

The evidence received shows that subsequent to their divorce in 1994, Mr. Shong gave up his interest in the property by signing and filing a quit claim deed and that USDA, Rural Development thereupon released him from further liability for the debt. An assumption of \$90,000.00 was completed on July 14, 1999, when the total amount due for principal, interest and for taxes and other expenses paid by USDA, Rural Development was \$124,762.91. After the funds from the assumption were applied, the amount of the debt still

owed was \$34,762.91. Moreover, a payment adjustment was made, on August 2, 1999, for additional interest of \$275.21 and taxes of \$1,769.45. USDA, Rural Development has received payments on the remaining debt from the U.S. Treasury Department, after its deduction of fees for collection, that total \$5,384.39. The balance owed to USDA, Rural Development is \$31,423.18. An additional \$8,798.49 is owed to Treasury for its collection fees.

Mrs. Privee explained her financial circumstances and those of her present husband. Her testimony showed that the collection of the debt by garnishment of any part of her salary at the present time would cause her undue financial hardship.

Findings

The testimony and exhibits received in evidence proved that:

1. On October 16, 1988, petitioner and her then husband, Michael J. Shong, signed a promissory note for \$95,000.00, obligating her to reimburse USDA, Rural Development for any future loss claim, in respect to a home mortgage loan given her and her husband to purchase property located at Lot 4, Pineville Road, Killingly, Connecticut 06233. (RX-1).
2. Petitioner and Mr. Shong were divorced in April, 1994, and he signed and filed a Quit Claim Deed in July, 1995 that resulted in his release from further liability for the debt. (PX-6).
3. The mortgage loan was not paid and the property was conveyed under an assumption agreement dated July 14, 1999 (RX-3) for \$90,000.00. At that time, the amount due to USDA, Rural Development was \$124,762.91. After the funds from the assumption were applied, the amount of the debt still

owed was \$34,762.91. On August 2, 1999, a payment adjustment was made and billed to the account for additional interest of \$275.21 and taxes of \$1,769.45. (RX-4, page 1). USDA, Rural Development has received payments on the remaining debt from the U.S. Treasury Department that total, after its deduction of fees for collection, \$5,384.39. The balance owed to USDA, Rural Development is \$31,423.18. (RX-1, page 2). An additional \$8,798.49 is owed to Treasury for its collection fees, and the curr\$40,221.67. (RX-5).

4. Mrs. Privee lives with her three children ages 21, 15, and 13, all of whom are in school, and her present husband who is in an alcohol recovery program. Mrs. Privee is currently employed in a position that pays her a gross monthly income of about [REDACTED]. Her present husband earns about the same. She itemized their monthly expenses for housing, automobile transportation needed to work, electricity, gas, food, TV, medical expenses, clothing, heating oil and telephone, and they totaled [REDACTED].

Conclusions

1. USDA, Rural Development has proven that Jill Privee is indebted to USDA, Rural Development in the amount of \$31,423.18 plus fees owed to Treasury of \$8,798.49.
2. Based upon the Petitioner's current income and necessary living expenses, administrative wage garnishment of Petitioner's wages would cause her undue financial hardship.

3. Due to the undue financial hardship that it would cause, administrative wage garnishment is not authorized at this time and may not be again considered for six (6) months from the date of this Order.

Order

For the foregoing reasons, administrative wage garnishment of the wages of the Petitioner, Jill Privee, is not authorized at this time, and may not be again instituted for the next six (6) months.

This matter is stricken from the active docket.

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

Dated: _____

Victor W. Palmer
Administrative Law Judge