

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWG Docket No. 10-0127
)
R. Scott Gill)
)
Petitioner)

Final Decision and Order

This matter is before me upon the request of the Petitioner, R. Scott Gill, for a hearing in response to efforts of Respondent to institute a federal administrative wage garnishment against him. On March 16, 2010, I issued a Pre-hearing Order requiring the parties to exchange information concerning the amount of the debt.

I conducted a telephone hearing at the scheduled time on April 22, 2010. USDA Rural Development Agency (RD) was represented by Gene Elkin, Esq., and Mary Kimball who testified on behalf of the RD agency.

Petitioner was present and was self represented.

The witnesses were sworn in. RD had filed a copy of a Narrative along with exhibits RX-1 through RX-7 on March 31, 2010 with the OALJ Hearing Clerk and certified that it mailed a copy of the same to Petitioner. Mr. Gill stated that he received RD's Exhibits and witness list.

Petitioner submitted an undated statement consisting of a typed letter (two pages) and three additional pages including a handwritten admission that "the numbers match" which I now label as PX-1 pages 1 thru 5.

Petitioner owes \$27,701.11 on the USDA RD loan as of today, and in addition, potential fees of \$7,756.31 due the US Treasury pursuant to the terms of the Promissory Note.

Findings of Fact

1. On July 7, 1994, Petitioner, R. Scott Gill and Kimberly A. Shacreaw obtained a USDA RD home mortgage loan for property located at 2## S. Ste**** Street, Blairsville, PA, 157**.¹ Petitioner was co-signor to a promissory note for \$48,280. RX-1 @ p. 1 of 3.
2. During the time that the loan was current, on July 3, 1995, RD released co-borrower Kimberly Shacreaw from personal liability on the loan. RX-3.
3. On March 19, 1999, Petitioner, the remaining borrower, was sent a Notice of Default on the loan. RX-4 @ p. 1 of 3.
4. The property was sold in a “short sale” on September 22, 2000 for \$30,000. At the time of the short sale, the balance due on the note was \$61,894.77. Narrative, RX-6.
5. After the sale, Treasury recovered an additional \$4,312.51, plus \$97.90 - thus reducing the amount due from Petitioner to \$27,701.11. Narrative, RX-6, RX-7.
6. The potential fees due U.S. Treasury pursuant to the Loan Agreement are \$7,756.31. Narrative, RX-7.
7. Petitioner is jointly and severally liable on the debt under the terms of the Promissory Note.
8. Petitioner stated that he is currently unemployed as a result of his company closing and he raised issues of financial hardship. Petitioner’s testimony, PX-1.

Conclusions of Law

1. Petitioner R. Scott Gill is indebted to USDA’s Rural Development program in the amount of \$27,701.11.

¹Complete address maintained in USDA records.

2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$7,756.31.

3. All procedural requirements for administrative wage garnishment set forth in 31 C.F.R. ¶ 285.11 have been met.

4. Petitioner is under a duty to inform USDA's Rural Development of his current address, employment circumstances, and living expenses.

5. The administrative wage garnishment by RD against this debtor is suspended at this time.

Order

The requirements of 31 C.F.R. ¶ 288.11(i) & (j) have been met. The Administrative Wage Garnishment against this debtor is suspended at this time.

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

JAMES P. HURT
Hearing Official

April 22, 2010