

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0158

In re: EDWARD HARVEY,

Petitioner

DECISION AND ORDER

This matter is before the Administrative Law Judge upon the request of Edward Harvey for a hearing to address the existence or amount of a debt alleged to be due, and if established, the terms of any repayment prior to imposition of an administrative wage garnishment. On March 29, 2010 a Prehearing Order was entered to facilitate a meaningful conference with the parties as to how the case would be resolved and to direct the exchange of information and documentation concerning the existence of the debt.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on April 29, 2010. The Petitioner filed his documentation on April 23, 2010. The materials filed by the petitioner relate only to his financial condition and indicate that he is currently unemployed.

The Narrative filed by the Respondent reflects that the property was sold in a foreclosure sale with less being realized from the sale than the amount of the obligation owed. The total amount due prior to the sale was \$79,609.63. Sale proceeds amounted to \$32,234.55. After application of the sale proceeds, the balance owed was \$47,013.09.

Following the sale additional expenses were received which increased the amount owed by \$969.50. USDA has received payments totaling \$4,391.43 (after deduction of Treasury fees), leaving the current balance owed of \$43,591.16, exclusive of potential Treasury fees.

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

Findings of Fact

1. On December 20, 1990, the Petitioner and his then wife, AE Kyong Harvey, assumed a home mortgage loan in the amount of \$54,340.79 from the United States Department of Agriculture (USDA) Rural Development (RD) for property located at 1350 Rigbie Hall Court, Belcamp, Maryland. RX-1. On the same day, they also executed a Promissory Note in the amount of \$18,900.00 for the balance of the purchase price of the residence. RX-2.
2. The property was sold at a foreclosure sale on March 1, 1999 with proceeds realized from that sale in the amount of \$32,234.55 leaving a balance due of \$47,013.09. Following the sale additional expenses were received which increased the amount owed by \$969.50. RX-4.
3. Treasury offsets totaling \$4,391.43 exclusive of Treasury fees have been received. RX-4.
4. The remaining unpaid debt is in the amount of \$43,591.16, exclusive of potential Treasury fees. RX-4.
5. The Petitioner is unemployed at the present time.

Conclusions of Law

1. Edward Harvey is indebted to USDA Rural Development in the amount of \$43,591.16, exclusive of potential Treasury fees for the mortgage loan extended to him.
2. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met; however, as the Petitioner is unemployed, no action may be taken at this time and not until he has been continuously employed for a twelve month period.
3. The Respondent is **NOT** entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, **NO** action may be taken to subject the wages of the Petitioner to administrative wage garnishment until such time as he has been continuously employed for a twelve month period.

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

Done at Washington, D.C.
May 25, 2010

PETER M. DAVENPORT
Acting Chief Administrative Law Judge

Copies to: Edward Harvey
Mary Kimball
Dale Theurer