

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 10-0401
)	
Eric Lowman,)	
)	
Petitioner)	Decision and Order

Pursuant to a Hearing Notice, I held a hearing in this proceeding by telephone, on November 30, 2010, at 12:00 PM, Eastern Time. Petitioner, Eric Lowman, and Respondent's representative, 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-7. Petitioner did not produce or introduce any documents for receipt as evidence. At issue is the nonpayment of a debt owed to USDA, Rural Development on a home mortgage loan on property that Mr. Lowman had owned.

The evidence received shows that the property was sold in a foreclosure sale that, after payment of the remaining principal, interest and various expenses, left Mr. Lowman still owing a debt to USDA, Rural Development. Mr. Lowman is employed by Shelly's Septic Service at a salary which, after deducting necessary living expenses, would result in undue financial hardship if more than [REDACTED] week is garnished from his salary.

Findings

The testimony and exhibits received in evidence proved that:

1. On June 28, 1996, petitioner obtained a loan in the amount of \$55,890 from USDA Farmers Home Administration (now USDA, Rural Development) for the purchase of a home at 3908 Holly Court, Zellwood, FL. (RX-1).
2. The mortgage loan was not paid and the property was sold in a foreclosure sale, on July 31, 2000, for \$35,500. At that time, the amount due to USDA, Rural Development was \$68,192.76. After the funds from the short sale were applied, the amount of the debt still owed was \$32,692.76 plus pre-foreclosure fees of \$498. Since the sale, USDA, Rural Development has received \$6,417.50 through U.S. Treasury Department offset payments. The balance owed to USDA, Rural Development is \$26,773.26 plus an additional \$7,496.51 owed to Treasury for potential collection fees for a total of \$34,269.77. (RX-7).
3. Mr. Lowman lives with a lady friend. She does not pay any of their expenses. Mr. Lowman is currently employed as a sludge processor by Shelly's Septic Services at an hourly wage of [REDACTED] that is paid weekly. His net weekly earnings, after insurance and taxes are deducted, comes to [REDACTED]. He pays [REDACTED] per month for rent, electric, food, and car insurance. Upon deducting these expenses from his net monthly income, [REDACTED] remains. Inasmuch as a maximum of 15% may be garnished from disposable income, the amount that may be garnished from his weekly salary may not exceed [REDACTED]

Conclusions

1. USDA, Rural Development has proven that Eric Lowman is indebted to USDA, Rural Development in the amount of \$26,773.26 plus an additional \$7,496.51 is owed to Treasury for potential collection fees for a total of \$34,269.77.
2. Based upon the Petitioner's current income and necessary living expenses, administrative wage garnishment of Petitioner's wages shall be at the rate of [REDACTED] 0 per week. A higher amount of monthly garnishment would cause him undue financial hardship.

Order

For the foregoing reasons, administrative wage garnishment of the wages of the Petitioner, Eric Lowman may be made provided the sum garnished each week does not exceed [REDACTED]

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

Dated: _____

Victor W. Palmer
Administrative Law Judge