

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0391

In re: Sara H. Mees,

Petitioner

**Decision and Order**

This matter is before the Administrative Law Judge upon the request of Sara H. Mees 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 September 27, 2010, a Prehearing Order was entered to facilitate a meaningful conference with the parties as to how the case would be resolved, to direct the exchange of information and documentation concerning the existence of the debt, and setting the matter for a telephonic hearing on December 13, 2010.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on November 10, 2010. Counsel for Sara H. Mees filed her documentation with the Hearing Clerk on November 19, 2010. At the hearing, sworn testimony was taken from the Petitioner and Mary E. Kimball, Accountant for the New Program Initiatives Branch, Rural Development (RD), United States Department of Agriculture, St. Louis, Missouri.

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 22, 2000, Sara H. Mees and her then husband, Davey Mees received a home mortgage loan in the amount of \$78,532.00 from Rural Housing Service, now Rural Development (RD), United States Department of Agriculture (USDA), for property located in Weatherford, Texas. RX-1, 2.
2. Subsequent to the purchase of the residence, the Petitioner and her husband divorced and as part of the division of property in the divorce, Davey Mees was awarded the property conditioned upon his holding the Petitioner harmless.
3. While in sole possession of Davey Mees, the mortgage loan was defaulted upon. As part of the foreclosure proceedings, notice of the default and a notice of acceleration were sent to the property address; however, there is no evidence that the Petitioner received notice of the default or was provided an opportunity to cure the default.
4. The Narrative makes note of the fact that the ex-husband had been awarded the house in the divorce decree and that the Petitioner's signature was not needed for the completion of the short sale.
5. Treasury offsets totaling \$1,277.49 exclusive of Treasury fees have been received. RX-6.

### **Conclusions of Law**

1. The Secretary has jurisdiction in this matter.
2. USDA Rural Development failed in its burden of proof of establishing that the Petitioner was given actual notice of the default, the acceleration of the loan or was given an opportunity to cure any default.

3. The Petitioner is not indebted to USDA Rural Development for the balance of the indebtedness stemming from the mortgage loan extended to her.
4. Any amounts collected by Treasury prior to the entry of this Decision and Order may be retained and need not be returned.
5. As no debt has been established, the wages of Sarah H. Mees may **NOT** be subjected to garnishment.

**Order**

For the foregoing reasons, these proceedings are terminated and the wages of Sara H. Mees shall **NOT** be subjected to administrative wage garnishment. Collection of this debt may be pursued only from Davey Mees.

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

December 13, 2010

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Peter M. Davenport  
Chief Administrative Law Judge

Copies to: S Craig Towson, Esquire  
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