

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

| | | |
|----------------|---|---------------------------|
| In re: |) | AWG Docket No. 11-0153 |
| |) | |
| Charles Moore, |) | |
| |) | |
| Petitioner |) | Decision and Order |

On April 19, 2011, at 12:00 PM, EDT, I held a hearing on a Petition to Dismiss an administrative wage garnishment proceeding to collect a debt allegedly owed to Respondent, USDA, Rural Development for losses it incurred under a loan guarantee it gave to assist Petitioner, Charles Moore and Sara Green to obtain a mortgage to purchase a house. Petitioner represented himself and USDA Rural Development was represented by Mary Kimball. Petitioner and Mary Kimball were each duly sworn. Various exhibits were offered by Ms. Kimball that were received in evidence (RX-1 through RX-8).

Respondent sustained financial loss on the loan given to Petitioner and his former partner to finance their purchase of a house located at 506 Airbase Road, Pollack, LA 71467. The loan, dated November 6, 2006, was in the amount of \$156,120.00 (Exhibit RX-2). The payments on the mortgage were not met and a foreclosure sale was held on December 16, 2008, at which time the house sold for \$88,700.00 (Exhibit RX-6). Respondent paid Fannie Mae \$77,118.50 for accrued interest, advances, attorney fees, appraisal and property inspections and selling costs (Exhibits RX-3 and RX-4). Since the sale, \$3,337.00 has been collected by the United States Treasury Department. The amount that is presently owed on the debt is \$73,781.50 plus potential fees to Treasury of \$20,658.82 or \$94,440.32 total (Exhibit RX-8).

Petitioner is employed by the Penfield School District in Rochester, NY, as a School Bus Driver. His wages are paid on a bi-weekly basis, and he presently receives [REDACTED]0 per month net. His monthly household expenses are: rent-[REDACTED] gasoline-[REDACTED]; electric-[REDACTED] utilities-[REDACTED] back taxes-[REDACTED] miscellaneous-[REDACTED] or [REDACTED] total. I have concluded that the garnishment of any part of Petitioner's weekly paychecks during the next six (6) months would cause Petitioner undue financial hardship within the meaning and intent of the provisions of 31 C.F.R. § 285.11. After that time, the maximum that may be garnished will be [REDACTED] per month.

USDA, Rural Development has met its burden under 31 C.F.R. §285.11(f)(8) that governs administrative wage garnishment hearings, and has proved the existence and the amount of the debt owed by the Petitioner. On the other hand, Petitioner has shown that he would suffer undue financial hardship if any amount of money is garnished from his disposable income at any time during the next six (6) months and that the maximum that may be garnished after that period of time from his disposable income should not exceed [REDACTED] per month. During the next six months, Mr. Moore should undertake to contact an attorney to discuss filing for bankruptcy or to arrange a settlement plan with Treasury to pay the debt.

Under these circumstances, the proceedings to garnish Petitioner's wages are suspended and may not be resumed for six (6) months from the date of this Order, and subsequent to that time no more than \$50.00 a month may be garnished.

Dated:

Victor W. Palmer
Administrative Law Judge