

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0192

In re: CHRISANN POSAS de los SANTOS<sup>1</sup>,

Petitioner

**DECISION AND ORDER**

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Chrisann Posas de los Santos (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due to the United States Department of Agriculture, Rural Development (“Respondent”; “RD”), and if established, the propriety of imposing administrative wage garnishment. By Order issued on April 15, 2011, the parties were directed to provide information and documentation concerning the existence of the debt and deadlines were set for the submissions. In addition, the matter was set for a telephonic hearing to commence on May 17, 2011.

The Respondent filed a Narrative, together with supporting documentation<sup>2</sup> on April 21, 2011. Petitioner filed a Consumer Debtor Financial Report (herein identified as PX-1) and a copy of her divorce decree (herein identified as PX-2) on May 10, 2011. The parties’ submissions are hereby admitted to the record. At the hearing, Petitioner represented herself and Respondent was represented by Mary E. Kimball, Accountant for the New Program Initiatives Branch of RD, Saint Louis, Missouri. Petitioner and Ms. Kimball testified at the hearing.

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<sup>1</sup> Petitioner requested that the case caption reflect her current surname, “de los Santos”.

<sup>2</sup> References to Respondent’s exhibits herein shall be denoted as “RX-1 through RX-7”.

In determining whether wage garnishment would constitute a hardship, I have considered the sworn testimony, Petitioner's signed financial statement, Treasury Standard Form SF 329C (Wage Garnishment Worksheet), and standard geographical allowable per diem expense rates ([www.irs.gov](http://www.irs.gov); [www.opm.gov](http://www.opm.gov)). 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 September 14, 2007, the Petitioner and Juan Posas<sup>3</sup> signed a promissory note for a home mortgage loan in the amount of \$71,000.00 from JP Morgan Chase for residential real property located in Lyford, Texas. RX-1.
2. On August 7, 2007, Petitioner and Juan Posas requested a Single Family Housing Loan Guarantee from the United States Department of Agriculture (USDA), Rural Development (RD) on March 11, 2005. RX-2.
3. Petitioner subsequently defaulted on the loan and vacated the property in conjunction with her divorce from Juan Posas.
4. The real property suffered damage from a storm, and was subsequently appraised by RD at \$12,000.00.
5. USDA paid JP Morgan Chase \$61,125.76 for the loss, plus taxes, interest, and attorney fees pursuant to the guarantee. RX 4.
6. The property was sold on January 4, 2010 for \$20,550.00.
7. Petitioner's account with USDA was credited with \$6,179.50, plus \$2,428.68 from an overpay adjustment, leaving a balance due on the debt of \$52,517.58. RX 5.
8. The debt was referred to the U.S. Department of Treasury ("Treasury") for collection as required by prevailing statutes and regulations. RX 5.

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<sup>3</sup> Petitioner and Juan Posas subsequently divorced. See, Petitioner exhibit PX-2.

9. The total indebtedness is \$67,222.50, including Treasury fees of \$14,704.92. RX-7.
10. Treasury, through its agent, issued a notice to Petitioner of intent to garnish wages.
11. Petitioner timely requested a hearing, which was held on May 17, 2011.
12. Petitioner contested the validity of the debt, and testified that her ex-husband had interfered with her ability to repair or sell the property.
13. Petitioner did not receive any notices of acceleration or a debt settlement package from RD, despite having left forwarding addresses with the post office when she vacated the real property.
14. Petitioner is employed, but anticipates being laid off from her job with a school district before the start of the new school year.
15. Petitioner agreed that the Consumer Debtor Financial Report that she signed represents her income and expenses.
17. Petitioner expressed willingness to attempt to resolve the debt.

#### **CONCLUSIONS OF LAW**

1. The Secretary has jurisdiction in this matter.
2. Petitioner is indebted to USDA Rural Development in the amount of \$52,517.58 plus potential fees of \$14,704.92, for a balance due of \$67,222.50 on the mortgage loan extended to her.
3. Petitioner's ex-husband also remains liable for the debt.
4. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met with respect to Petitioner.

5. Petitioner's monthly income appears to be consumed by expenses, and I conclude from consideration of her financial statement and Treasury collection guidelines that garnishment would present a financial hardship, as that term is recognized by law.

6. Treasury shall remain authorized to undertake any and all other appropriate collection action except garnishment.

### **ORDER**

For the foregoing reasons, the wages of Petitioner shall **NOT** be subjected to administrative wage garnishment at this time. Petitioner is encouraged in the interim to attempt to negotiate repayment of the debt with the representatives of Treasury. The toll free number for Treasury's agent is **1-888-826-3127**.

Petitioner is advised that this Decision and Order does not prevent payment of the debt through offset of any federal money payable to Petitioner.

Petitioner is further advised that a debtor who is considered delinquent on debt to the United States may be barred from obtaining other federal loans, insurance, or guarantees. See, 31 C.F.R. § 285.13.

Petitioner's current address is [REDACTED], Austin Texas, 78733. Until the debt is satisfied, Petitioner shall give to USDA RD or those collecting on Treasury's behalf, notice of any change in address, phone numbers, or other means of contact.

Petitioner may direct questions to RD's representative Mary Kimball, c/o:

USDA New Program Initiatives Branch  
Rural Development Centralized Servicing Center  
4300 Goodfellow Blvd. F-22  
St. Louis, MO 63120  
314-457-5592  
314-457-4426 (facsimile)

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

So Ordered this 18th day of May, 2011 in Washington, D.C.

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Janice K. Bullard  
Administrative Law Judge