

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0230

In re: CLIFFORD STARCHER,

Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Cliffor Starcher (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due to the U.S. Department of Agriculture, Rural Development (“USDA-RD”; “Respondent”), and if established, the propriety of imposing administrative wage garnishment. By Order issued on February 21, 2012, the parties were directed to file and exchange information and documentation and the matter was set for a hearing to commence by telephone on March 15, 2012.

The Respondent filed a Narrative, together with supporting documentation¹. Petitioner did not file any documents. The hearing was held as scheduled, and testimony was given by Petitioner, and by Respondent’s representative, Michelle Tanner, of the New Program Initiatives Branch of USDA-RD, Saint Louis, Missouri.

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

FINDINGS OF FACT

¹ References to Respondent’s exhibits herein shall be denoted as “RX-#”.

1. On August 22, 2007, the Petitioner received a home mortgage loan in the amount of \$70,000.00 from Wells Fargo Bank, NA for the purchase of residential property located in Greeneville, Tennessee. RX-2.
2. On August 6, 2007, Petitioner signed a loan guarantee from USDA-RD, whereby he agreed to reimburse USDA-RD for any loss paid to Wells Fargo Bank. RX-1.
3. On February 18, 2008, Petitioner's account was accelerated for monetary default. RX-3.
4. On May 21, 2009 the property reverted to Wells Fargo Bank after foreclosure for a bid of \$61,200.00. RX-.
5. At the time of the foreclosure sale, the balance due on the account was \$79,839.15 consisting of principal, accrued interest, protective advances, attorney fees, appraisal and property inspection fees. RX-.
6. On June 15, 2009, Wells Fargo Bank listed the property for sale with Finigan, Rheta Realty Executives East and the property was sold in "as is" condition on December 23, 2009 for \$31,500.00. RX-
7. After applying the proceeds from the sale, \$44,529.23 remained on the account, which USDA-RD paid as a loss to Wells Fargo Bank. RX-
8. USDA-RD advised Petitioner of the balance due on the account, but was required to refer the account to Treasury for collection. RX-.
- 9.. Due to credits applied to the account from offset of Petitioner's income tax refund, the account currently is at Treasury in the amount of \$37,561.25, plus potential fees. RX-.
- 10.. Following Notice of Hearing, a hearing was held on March 15, 2012,
11. Petitioner provided a verbal summary of his expenses and income.
12. Petitioner is currently employed, and earns [REDACTED] per hour for a forty hour week.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. Petitioner is indebted to USDA-RD in the amount of \$37,561.25 exclusive of potential Treasury fees for the mortgage loan extended to him.
3. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met.
4. The Respondent is NOT entitled to administratively garnish the wages of the Petitioner at this time, because garnishment would represent a hardship, as there is no excess of Petitioner's income after expenses.
5. Treasury shall remain authorized to undertake any and all other appropriate collection action.

ORDER

For the foregoing reasons, the wages of Petitioner shall NOT be subjected to administrative wage garnishment at this time. 31 C.F.R. §285.11.

Petitioner is encouraged 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.

Until the debt is satisfied, Petitioner shall give to USDA-RD or those collecting on its behalf, notice of any change in his address, phone numbers, or other means of contact.

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

7979 Asheville Highway
Greeneville, TN 37743

So Ordered this 15th day of March, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge