UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0193

In re: David A. Doutt
Petitioner

Decision and Order

This matter is before me upon the request of Petitioner 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 February 6, 2012, I issued a Prehearing Order 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.

The Rural Development Agency (RD), Respondent, complied with the Discovery Order and a Narrative was filed, together with supporting documentation RX-1 through RX-5 on February 10, 2012. The Petitioner was represented by Richard Winkler, J.D. and filed his exhibits (Financial Disclosures, payroll information, and documents from his prior marriage) on February 22, 2012 which I now label as PX-1, 2, and 3 respectively. Mr. Doutt was given 10 additional days after the hearing to file any additional financial information he may wish me to consider, but none have been received.

On February 29, 2012, at the time set for the hearing, both parties were available and participated in the hearing. Ms. Michelle Tanner represented RD. Mr. Winkler

represented Mr. Doutt. The parties were sworn. During the hearing, Mr. Doutt stated he has been employed for more than one year. He also stated that he has remarried and is divorced from Betsy Doutt who was the co-borrower on the RD loan. I performed a Financial Hardship Calculation based upon the financial statements provided by Mr. Doutt under oath which include the income of both himself and his current wife, Mary, as well as expenses for both.

There was a prior hearing involving Mr. Doutt with a Initial Decision rendered by Administrative Law Judge Victor W. Palmer on August 25, 2010 in Docket No. 10-0268. In that decision, the amount of debt was determined to be $19,176.72 and the potential fees from Treasury for collection to be $5,369.48.

Mr. Doutt raised the issue of financial hardship. I performed a Financial Hardship calculation based upon the financial statements he provided in PX- 1 & 2.[1] Mr. Doutt's payroll statements showed that he may sometimes receive overtime pay rates. I calculated his non-overtime gross wages for a 40 hour week. Mary Doutt's wages were provided as gross wages only. I utilized tax rates for Federal and State tables to compute the expected Federal and State income taxes for the family unit. I applied all of the calculated Federal and State taxes for the family unit against Mr. Doutt's income.

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. The prior hearing in AWG Docket No. 10-0268 determined the amount of debt to be due as $19,176.72 and the "remaining Potential fees" from Treasury are $5,369.48.

[1] The Financial Hardship calculation is not posted on the OALJ website.

2. There have been no payments or credits applied to the debt. Narrative.
3. Mr. Doutt has been employed for more than one year. PX-1.
4. Petitioner raised the issue of Financial Hardship.
5. A Financial Hardship calculation on the family unit income and expenses using the prescribed parameters resulted in an allowable monthly garnishment of $211.43 of Mr. Doutt's monthly income.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of $19,176.72 exclusive of potential Treasury fees for the mortgage loan extended to him.

2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of $5,369.48.

3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.

4. The Petitioner is subject to administrative garnishment of his wages at the rate of $211.43 per month.

Order

For the foregoing reasons, the wages of Petitioner shall be subjected to administrative wage garnishment of $211.43 per month at this time.

After one year, Petitioner's financial position may be reviewed again.

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

March 21, 2012

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James P. Hurt
Hearing Official

Copies to: David A. Doutt
Michelle Tanner
Dale Theurer

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