

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0198

In re: Sheila Rogers
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 16, 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-6 on February 14, 2012. The Petitioner filed her 4 page financial statement on March 5 and a follow-up on March 12, 2012 (which I now label as PX-1 and PX-2, respectively). On February 20, 2012, at the time re-set for the hearing, both parties were available for the hearing. Ms. Michelle Tanner represented RD. Ms. Rogers was available and represented herself. The parties were sworn.

Petitioner has been employed at her current job since mid-December 2011. She qualified for Arkansas State unemployment benefits between her current job and her prior employment.

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, 1995, Petitioner obtained a loan for the purchase of a primary home mortgage loan in the amount of \$42,500.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase her home on a property located in Lamar, AK 728##¹. RX-1.
2. The Borrower became delinquent. The loan was accelerated for foreclosure on August 6, 2003. Narrative, RX-2.
3. Prior to the foreclosure sale, borrower entered into a “short sale.” USDA RD received \$40,417.80 from the short sale proceeds. Narrative, RX-5 @ page 11 of 14.
4. The loan balance for the RD loan prior to the short sale was \$41,069.14 for principal, plus \$4,426.44 for accrued interest, plus \$1,535.89 for fees, plus \$166.30 for interest on fee balance, plus \$965.46 for a (negative) escrow balance for a total of \$48,163.23. Narrative, RX-6 @ p. 1 of 4.
5. After the sale proceeds were applied to the debt, the total remaining debt was \$7,745.43. Narrative, RX-6 @ p. 1 of 4.
6. The remaining potential fees from Treasury are \$2,323.63. RX-6 @ p. 1 of 4.
7. Following her most recent term of involuntary unemployment, Ms. Rogers has been employed since mid-December 2011.

¹ The complete address is maintained in USDA files.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$7,745.43 exclusive of potential Treasury fees for the mortgage loan extended to her.
2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$2,323.63.
3. All procedural requirements for administrative wage offset set forth in 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.

Order

For the foregoing reasons, the wages of Petitioner shall NOT be subjected to administrative wage garnishment at this time. After nine months, RD may re-assess the Petitioner's financial position.

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

March 21, 2012

James P. Hurt
Hearing Official

Copies to: Sheila Rogers
 Michelle Tanner
 Dale Theurer

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