

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0284

In re: Susan Bazzel
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 April 10, 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-10 on April 10, 2012. Petitioner filed her financial information (which I now label as PX-1) on/about April 20, 2012. On or about May 14, 2012, Ms. Bazzel submitted an updated financial statement (which I now label as PX-2). On May 7, 2012, at the time re-set for the hearing by agreement, both parties were available. Ms. Michelle Tanner represented RD. Ms. Bazzel was represented by Don Warnes, Esq. The parties were sworn.

Petitioner has been employed for more than one year.

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 28, 2006, Petitioner and Derrick Bazzel obtained a loan for the purchase of a primary home mortgage loan in the amount of \$93,494.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase a home on a property located in Union Grove, Alabama. RX-2.
2. Prior to signing the loan, the borrowers signed RD form 1980-21 (Loan Guarantee). RX- 1 @ p. 2 of 3.
3. The Borrowers became delinquent. The loan was accelerated for foreclosure and the notice of a judicial sale was advertised on/about April 3, 2010. Narrative, RX- 3 @ p. 3 of 5, RX-6 @ 3 of 20.
4. At the foreclosure sale of May 6, 2010, the property was acquired by the lender, JP Morgan Chase for \$96,050.00. RX-6. @ p. 3 of 20.
5. The property was listed for sale on June 18, 2010 at \$89,900.00. RX-6 @ p. 4 of 20.
6. The property was sold to a third party on August 4, 2010 for \$86,000.00. RX-6 @ p. 4 of 20.
7. The borrowers owed \$89,892.17 for principal, plus \$7,810.79 for interest, plus \$712.93 for protective advancements, plus \$12.70 for interest on protective advance for a total of \$98,428.59 to pay off the RD loan. Narrative, RX-7.

8. In addition, under the loan guarantee program, borrowers owe an additional \$13,063.09 for fees and expenses for a grand total of \$111,491.68. RX-7.
9. USDA RD paid the lender \$25,353.49 for their loss under the loan guarantee program. Narrative, RX-7.
10. Treasury has received \$4,233.00 toward the debt. RX-10 @ p. 1 of 3.
11. The remaining amount due of \$21,137.49 was transferred to Treasury for collection on April, 9, 2012. Narrative, RX-10 @ p. 2 of 3.
12. The potential Treasury collection fees are \$5,918.50. Narrative, RX-10 @ p. 2 of 3.
13. Derrick Bazzel was discharged from Chapter 7 bankruptcy on/about June 16, 2011. RX-9@ p. 2 of 6.
14. Ms. Bazzel remains liable on the debt.
15. Ms. Bazzel has been employed for more than one year. Testimony, PX-1.
16. Ms. Bazzel raised the issue of financial hardship. I prepared a Financial Hardship Calculation.¹ Ms. Bazzel is divorced. There is one wage earner in the family unit which includes one minor child in the household. (PX-1). She receives court ordered child support. Since under the financial hardship calculation no wage garnishment was authorized (even though the wages utilized in the calculation were gross straight time wages) there was no need to further refine the calculation by apportioning the payroll stub taxes, health care costs, etc.

¹ The Financial hardship calculation is not posted on the OALJ website.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$21,137.49 exclusive of potential Treasury fees for the mortgage loan extended to her and under the loan guarantee program.
2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$5,918.50.
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 twelve 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.

May 16, 2012

James P. Hurt
Hearing Official

Copies to: Don Warnes, Esq.
Michelle Tanner
Dale Theurer

Hearing Clerk's Office
U.S. Department of Agriculture
1400 Independence Avenue SW
Room 1031, South Building
Washington, D.C. 20250-9203
202-720-4443
Fax: 202-720-9776