

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0574

In re: Steven Johnson,
Petitioner.

Decision and Order

This matter is before the Office of Administrative Law Judges upon the request of Steven Johnson (“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 (“USDA-RD”); and if established, the terms of any repayment prior to imposition of an administrative wage garnishment. The petition was not timely filed, and therefore, wage garnishment has been in place.

By Order issued August 24, 2012 the parties were directed to exchange information and documentation and the matter was set for a telephonic hearing. Petitioner did not submit any documentation, nor did he provide in his petition or in any other manner, a telephone number where he could be reached for the telephonic hearing. The Order of August 24, 2012 was not returned as undeliverable.

USDA-RD filed a Narrative, together with supporting documentation. On the scheduled date for the hearing, September 27, 2012, USDA-RD’s representative, Giovanna Leopardi appeared and testified. I held the hearing open to allow Petitioner to participate at a later date. By Order issued September 28, 2012, I directed Petitioner to provide contact information to the Hearing Clerk for the Office of Administrative Law Judges by not later than October 7, 2012. Petitioner has not responded to my Order as of the date of this Decision and Order, and the Order directing contact was not returned as undeliverable.

Consequently, I find it appropriate to decide this matter on the record before me, and the following Findings of Fact, Conclusions of Law, and Order shall be entered:

FINDINGS OF FACT

1. On February 15, 2008, the Petitioner¹ received a loan in the amount of \$61,200.00 from JP Morgan Chase Bank, N.A. (“Lender”) for the purchase of real property located in Poplar Bluff, Missouri, evidenced by Promissory Note. RX-2.
2. Prior to signing the promissory note, Petitioner signed RD Form 1980-21, whereby he promised to repay the US for any loss claim that USDA-RD paid to the Lender as the result of Petitioner’s default. RX-1.
3. The loan fell into default and on January 13, 2011, a foreclosure sale was scheduled and held. RX-3.
4. At the sale, a division of the Lender, Homesales Inc., acquired the property for \$31,875.00. RX-3.
5. The property was sold to a third party on April 25, 2011 for \$45,585.00. RX-5.
6. At the time of the sale to the third party, the amount due on Petitioner’s loan was \$72,317.12, comprised of principal, interest, fees, and costs related to the foreclosure and sale. RX-6; RX-7.
7. USDA-RD paid a loss claim of \$25,898.75 to the Lender, for the difference between the amount due and the amount realized by the Lender upon the sale. RX-6; RX-7.
8. Petitioner did not respond to USDA-RD’s attempts to settle this outstanding amount due. RX-8.
9. USDA-RD referred Petitioner’s account to the U.S. Department of Treasury (“Treasury”) for collection on January 9, 2012 pursuant to applicable law. RX-9.

¹ Another Borrower also received the loan, but information pertaining to that Borrower is not relevant as the instant action is confined to Petitioner.

10. Petitioner's wages have been garnished and the amount due has been reduced to \$25,227.21, plus potential fees. RX-10.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. Respondent USDA-RD has established the existence of a valid debt from Petitioner to USDA-RD.
3. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met.
4. Upon consideration of all of the evidence, I find that wage garnishment is appropriate.
5. USDA-RD/Treasury may administratively garnish Petitioner's wages at the statutory maximum rate of 15% of his disposable income.
6. Petitioner is advised that only Treasury has authority to compromise the amount of the debt, and that he may be able to negotiate settlement of the debt with the representatives of Treasury.
7. The toll free number for Treasury's agent is **1-888-826-3127**.
8. Petitioner is advised that this Decision and Order does not prevent payment of the debt through offset of any federal money payable to Petitioner, including income tax refunds.
9. 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.

ORDER

1. Administrative wage garnishment at the statutory maximum of 15% of Petitioner's disposable income may be effected.

2. Treasury may continue to collect the debt through offset of any funds due to Petitioner from the United States.
3. Until the debt is satisfied, Petitioner shall give to USDA-RD or those collecting on its behalf at Treasury, notice of any change in his address, phone numbers, or other means of contact.
4. Copies of this Decision and Order shall be served upon the parties by the Hearing Clerk's Office.

So Ordered this 8th day of November, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge