

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWG Docket No. 09-0143
)
 Pamela Meyer,)
)
 Petitioner)

Decision and Order

This matter is before me upon the request of the Petitioner, Pamela Meyer, a/k/a Pamela K. Meyer, Pamela Preston, Pamela Kim, for a hearing in response to efforts of Respondent to institute a federal administrative wage garnishment against Petitioner. On July 6, 2009, I issued a Pre-hearing Order requiring the parties to exchange information concerning the nature of the debt and the ability of Petitioner to repay all or part of the debt, if established.

I conducted a telephone hearing with the parties on September 10, 2009. USDA Rural Development Agency (RD) was represented by Gene Elkin, Esq. and Mary Kimball testified on behalf of the RD agency. The witnesses were sworn in. Ms. Kimball stated that she had phone conversations with the Petitioner since the Pre-Hearing Order.

Additionally, OALJ Secretary M. Kennedy documented three attempts to contact Petitioner during normal business hours prior to the hearing date at the phone number listed in her Petition. M. Kennedy did leave voice-mail messages, but received no return calls . Petitioner did not make herself available to be contacted via telephone on the date and time set for the hearing. RD had filed a copy of a Narrative along with exhibits on August 6, 2009 with the OALJ Hearing Clerk and certified that it mailed a copy of the same to Petitioner.

Petitioner submitted no documents or exhibits pursuant to the Pre-Hearing Order.

Petitioner owes \$23,404.81 on the USDA RD loan as of September 9, 2009, and in addition, fees due the US Treasury of \$6,967.59 pursuant to the terms of the Promissory Note.

Findings of Fact

1. On May 1, 1996, Petitioner Pamela Meyer (and her then husband, Jay Meyer) obtained a USDA Rural Development home mortgage loan for property located at 900 7th Avenue, Lemon, SD 57638. Petitioners jointly and severally signed a promissory note for \$31,400.00 RX-1 .

2. On May 24, 2005 Petitioner was sent a Notice of Acceleration and Demand for Payment (Default) on the Promissory Note. RX 3. At the time of the Default Notice, the balance due on the note was \$31,783.03 and unpaid interest was \$685.42.

3. The borrowers sold the home in a “short sale” which was approved by USDA RD. However, USDA did not release the borrowers from the remaining debt. At the time of sale, borrowers owed additional accrued interest and fees for a total debt of \$36,622.37.

USDA received a sale proceeds check for \$11,750.00 on 06/27/2006. RX-4. After applying these funds, borrowers owed \$24,872.37. Sale proceeds included \$1,567.17 which was later returned since it was the costs of the sale.

4. After the foreclosure proceeds were applied to the debt owed at the time of the sale, the amount due USDA from Petitioner was \$23,629.76. RX 5.

5. USDA has received additional payments from Treasury after their fees were deducted. USDA applied this amount and an insurance refund to borrowers' account. The balance due USDA as of September 9, 2009 is \$23,404.81. (M. Kimball testimony).

6. Although Petitioner’s stated reason for her petition for hearing was that the proposed garnishment would create a hardship, she presented no evidence to that end even though she was

afforded an opportunity to do so.

7. There was no evidence that Petitioner has not been continuously employed by her current employer for 12 continuous months or whether she had been involuntarily terminated from her prior employer. 31 C.F.R. § 285.11(j).

7. Pamela Meyer is jointly and severally liable for the debt with her prior husband, Jay Meyer, under the terms of the Promissory Note.

Conclusions of Law

1. Petitioner Pamela Meyer is indebted to USDA's Rural Development program in the amount of \$23,404.81.

2. In addition, Petitioner is indebted for fees to the US Treasury which are currently \$6,967.59.

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

4. The USDA Rural Development Agency (RD) is entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, provided the requirements of 31 C.F.R. § 288.11(j) have been met, the wages of the Petitioner, Pamela Meyer, shall be subject to administrative wage garnishment at the rate of 15% of disposable pay, or such lesser amount as specified in 31 C.F.R. § 285.11(i)

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

JAMES P. HURT
Hearing Official

September 11, 2009