

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWG Docket No. 10-0023
)
Sharon White,)
)
Petitioner)

Final Decision and Order

This matter is before me upon the request of the Petitioner, Sharon White, for a hearing in response to efforts of Respondent to institute a federal administrative wage garnishment against her. On November 12, 2009, I issued a Pre-hearing Order requiring the parties to exchange information concerning the amount of the debt.

I conducted a telephone hearing at the time agreed by the parties on January 29, 2010. USDA Rural Development Agency (RD) was represented by Gene Elkin, Esq., and Mary Kimball who testified on behalf of the RD agency.

Petitioner was self represented.

The witnesses were sworn in. RD had filed a copy of a Narrative along with exhibits RX-1 through RX-6 on December 11, 2009 with the OALJ Hearing Clerk and certified that it mailed a copy of the same to Petitioner.

Petitioner submitted documents or exhibits PX-1 through PX-2 (including a sworn statement). Ms. Kimball acknowledged that RD had received the Petitioner's submissions faxed to her during the hearing.

Petitioner owes \$54,898.42 on the USDA RD loan as of today, and in addition, potential fees of \$15,371.56 due the US Treasury pursuant to the terms of the Promissory Note.

Findings of Fact

1. On February 2, 2005, Petitioner Sharon White obtained a USDA Rural Development home mortgage loan for property located at ## Spring Walk Way, Greenville, SC 295##.¹

Petitioner signed a promissory note for \$127,000. RX-1.

2. On September 1, 2005, Petitioner defaulted on the note and was sent a Notice of Acceleration and Demand for Payment (Default) on the Promissory Note. Narrative. At the time of the Default Notice, the balance due on the note was \$126,334.63. Narrative, RX-2 @ p. 6 of 7.

3. The total principal, accrued interest and protective advances was \$148,808.93. Narrative RX-2 @ p. 6 of 7.

4. The lender was paid \$58,170.40 under the Loan Guarantee Agreement. RX-2- @ p. 7 of 7, RX-3.

5. After the final sale, there was an additional recovery (treasury offset) of \$391.06 and \$559.98 plus a recoupment of \$1,878.16 from the lender which brought the Petitioner's debt down to \$54,898.42. RX-3, Narrative.

6. The potential fees due U.S. Treasury pursuant to the Loan Guarantee Agreement are \$15,371.56. Ms. Kimball testimony and RX-6 (as orally updated).

7. There was oral testimony from Petitioner that she has been continuously employed by her current employer for over 1 year.

8. The Petitioner raised issues of financial hardship resulting from the garnishment process. Petitioner's exhibits PX-1 and PX-2 were evaluated using the Financial Hardship

¹Complete address maintained in USDA records.

Calculation program. A copy of the Financial Hardship Calculation is attached² to this Order.

The result is that RD is entitled to garnish up to [REDACTED] per month from Petitioner's wages (15%), however due to her existing cell phone contract, the garnishment is reduced to 10% of her Monthly Disposable Income for one year. After one year from the date of this Order, the garnishment will return to 15% of Petitioner's Monthly Disposable Income.

11. Sharon White is liable for the debt under the terms of the Promissory Note and RD Loan Guarantee.

Conclusions of Law

1. Petitioner Sharon White is indebted to USDA's Rural Development program in the amount of \$54,898.42.

2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$15,371.56.

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

4. Petitioner is under a duty to inform USDA's Rural Development of her current address, employment circumstances, and living expenses.

5. Following compliance with 31 C.F.R. § 285.11(i) and (j), the USDA Rural Development Agency (RD) is entitled to administratively garnish the wages of the Petitioner.

² The Financial Hardship Calculation is not posted online.

Order

For the foregoing reasons, provided the requirements of 31 C.F.R. § 288.11(i) & (j) have been met, the wages of the Petitioner, Sharon White, shall be subject to administrative wage garnishment in the amount of 10% of her Monthly Disposable Income for a period of one year from the date of this Order. After one year, following compliance with 31 C.F.R. § 285.11(i) and (j), the USDA Rural Development Agency (RD) is entitled to administratively garnish the wages of the Petitioner at the rate of 15% of Monthly Disposable Income. The Final Decision and Order will be effective after the parties have been given a 10 day comment period on the “Hardship Calculations.”

Any new or additional financial information must be under the continuing oath of the hearing.

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

JAMES P. HURT
Hearing Official

February 25, 2010