

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0429

In re: Mary K. Baker,
formerly known as
Mary Kay Clark and
Mary K. Rice,

Petitioner

Decision and Order

This matter is before the Administrative Law Judge upon the request of Mary K. Baker (formerly known as Mary Kay Clark and Mary K. Rice) 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 September 27, 2010, a Prehearing Order was entered 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 on December 15, 2010.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on November 4, 2010. Mary K. Baker filed her documentation with the Hearing Clerk on October 25, 2010. At the telephonic hearing, sworn testimony was taken from Mary K. Baker and Mary E. Kimball, Accountant for New Programs Initiatives Branch, Rural Development, United States Department of Agriculture, St. Louis, Missouri.

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 12, 2003, Mary K. Baker (then Mary K. Clark) assumed a Farmers Home Administration (FmHA, now Rural Development (RD)) loan in the amount of 74,332.74 and also received a home mortgage loan from the same entity in the amount of \$10,567.26 for property located in Ellettsville, Indiana. Both loans were secured by a Deed of Trust. RX-1-3.
2. Mary K. Baker defaulted on the loans and the property was sold at a short sale on March 9, 2009 with proceeds realized from that sale in the amount of \$65,555.89, leaving a balance due of \$21,553.44. RX-7.
3. No Treasury offsets or other post sale funds have been received. RX-7.
4. The remaining unpaid debt is in the amount of \$21,553.44 exclusive of potential Treasury fees. RX-4.
5. The financial information provided by the Petitioner reflects minimal income and further indicates that she has not been employed for a continuous period of at least twelve months.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Mary K. Baker is indebted to USDA Rural Development in the amount of \$21,553.44 exclusive of potential Treasury fees for the mortgage loans extended to her.

3. The Petitioner is experiencing financial hardship at this time and is not subject to garnishment by virtue of not having been employed for a continuous period of at least twelve months.

4. The Respondent is **NOT** entitled to administratively garnish the wages of the Mary K. Baker.

Order

For the foregoing reasons, the wages of Mary K. Baker may **NOT** be subjected to administrative wage garnishment. The debt will remain at Treasury for other collection action and review after a period of twelve months.

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

December 15, 2010

Peter M. Davenport
Chief Administrative Law Judge

Copies to: Mary K. Baker
Mary Kimball
Dale Theurer

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