

**UNITED STATES DEPARTMENT OF AGRICULTURE**

**BEFORE THE SECRETARY OF AGRICULTURE**

In re: ) AWG Docket No. 11-0079  
)  
Raymond Haakinson, )  
)  
Petitioner )

**Dismissal of Petition for Oral Hearing**

This matter is before me upon the request of the Petitioner, Raymond Haakinson for a hearing in response to efforts of Respondent to institute a federal administrative wage garnishment against him. On December 29, 2010, I issued a Pre-hearing Order requiring the parties to exchange information concerning the amount of the debt.

RD had previously submitted its Narrative and Exhibits RX-1 through RX -5 pursuant to my Pre-Hearing order.

Mr. Haakinson provided a medical letter from his physician which I now label as PX-1 and his financial statements (4 pages) which I now label as PX-2. On February 3, 2011 at the re-scheduled time, both parties were available for the conference call. The parties were sworn.

I reviewed the documentation submitted by RD and noted that the underlying loan document was missing from the exhibits. I inquired if RD needed more time to locate the missing document(s). Ms. Mary Kimball, representing RD, stated that the signed promissory note was missing and that there was no reasonable expectation that it could be found.

Under 31 C.F.R. 285.11(f) (8)(i) *The agency will have the burden of going forward to prove the existence [ ] of the debt.* Consequently, the agency has failed to meet its burden and the debt must be discharged and cancelled.

Ms. Kimball on behalf of RD has elected to CANCEL the debt, but will be issuing a IRS form 1099-c to Mr. Haakinson .

### **Conclusions of Law**

1. Petitioner, Raymond Haakinson, is not indebted to USDA's Rural Development program.
2. In addition, Petitioner is not indebted for potential fees to the US Treasury.
3. All procedural requirements for administrative wage garnishment set forth in 31 C.F.R. ¶ 285.11 have been met.
4. RD may NOT administratively garnish Petitioner's wages.

### **Order**

1. The debt is CANCELLED.
2. The Administrative Wage Garnishment may NOT proceed against this debtor pursuant to 31 C.F.R. §285.11(f)(8)(i).
3. Copies of this Decision and Order shall be served upon the parties by the Hearing Clerk's office.

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**JAMES P. HURT**

Hearing Official

February 7, 2011