

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0229

In re: Kassie Hogan
Petitioner

Decision and Order

This matter is before me upon the request of Petitioner 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 February 28, 2012, I issued a Prehearing Order 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.

The Rural Development Agency (RD), Respondent, complied with the Discovery Order and a Narrative was filed, together with supporting documentation RX-1 through RX-11 on February 6, 2012. The Petitioner filed her 4 page financial statement (under oath) and documents related to her divorce from co-signor, Kendall Hogan (which I now label as PX-1, PX-2, respectively) on March 9, 2012. On March 15, 2012, at the time set for the hearing, both parties were available. Ms. Michelle Tanner represented RD. Ms. Hogan was represented by Robert N. Johnson, III, Esq. The parties were sworn.

Petitioner has been employed at her current job for more than one year. Ms. Hogan raised the issue of Financial Hardship. I note that Ms. Hogan lives very modestly.

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 30, 2005, Petitioner and her then husband, Kendall Hogan, obtained a loan for the purchase of a primary home mortgage loan in the amount of \$51,500.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase their home on a property located in Fort Madison, IA 728##¹. RX-2.
2. At the same time, the borrowers signed RD form 1980-21 (Loan Guarantee). RX-1 @ p. 2 of 5.
3. The Borrowers became delinquent. The loan was accelerated for foreclosure on April 15, 2009. Narrative.
4. At the foreclosure sale of December 2, 2009, Central Mortgage Company purchased the home for \$57,118.03. Central Mortgage Company then listed the home for re-sale on December 16, 2009 for \$45,000. It was subsequently re-sold for \$43,000 on July 15, 2010 to a third party. Narrative, RX-7 @ page 2 of 4.
5. The borrowers owed \$65,908.67 to pay off the RD loan. Narrative.
6. USDA RD paid Central Mortgage Company in the amount of \$21,647.00 for their loss under the loan guarantee program. Narrative, RX-10 @ p. 4 of 6.
7. The remaining amount due of \$21,647.00 was transferred to Treasury for collection on September 14, 2011.
8. Treasury has collected a net \$204.84 from the borrowers bringing the amount now due to \$21,486.98. RX-11 @ p. 1 of 4.

¹ The complete address is maintained in USDA files.

9. The potential Treasury collection fees are \$6,016.36. RX-11 @ p. 2 of 4.
10. Ms. Hogan has been employed for more than one year.

Conclusions of Law

1. Petitioner is jointly and severally indebted to USDA Rural Development in the amount of \$21,486.98 exclusive of potential Treasury fees for the mortgage loan extended to her.
2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$6,016.36.
3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
4. I performed a Financial Hardship Calculation utilizing Ms. Hogan's financial statement.²
5. The Respondent is **not** entitled to administratively garnish the wages of the Petitioner at this time.

² The Financial Hardship Calculation is not posted on the OALJ website.

Order

For the foregoing reasons, the wages of Petitioner shall NOT be subjected to administrative wage garnishment at this time. After one year, RD may re-assess the Petitioner's financial position.

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

March 23, 2012

James P. Hurt
Hearing Official

Copies to: Kassie Hogan
 Michelle Tanner
 Dale Theurer

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