

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0298

In re: SHERRY CASTRO,
formerly known as
SHERRY GARRETT,
Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Sherry Castro (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due to the United States Department of Agriculture, Rural Development Agency (“Respondent”; “USDA-RD”); and if established, the propriety of imposing administrative wage garnishment. On March 19, 2012, Petitioner requested a hearing. By Order issued April 2, 2012, a hearing was scheduled to commence on May 16, 2012, and the parties were directed to provide information and documentation to the Hearing Clerk for the Office of Administrative Law Judges for the United States Department of Agriculture.

On April 13, 2012, Respondent filed a Narrative, together with supporting documentation (“RX-1 through RX-10”), which is hereby formally entered into the record. Petitioner filed correspondence (“PX-1”) denying the indebtedness and ability to pay at the time she filed her Petition for a hearing. Petitioner did not respond to my Order directing her to provide contact information. The Order was not returned to the Hearing Clerk for the United States Department of Agriculture Office of Administrative Law Judges (“Hearing Clerk”) as undeliverable. My staff made attempts to locate the Petitioner without success.

On the basis of the entire record before me, the following Findings of Fact, Conclusions of Law, and Order shall be entered:

FINDINGS OF FACT

1. On February 27, 2007, the Petitioner obtained a home mortgage loan in the amount of \$120,000.00 from JP Morgan Chase Bank (“Lender”) for the purchase of real property located in Caledonia, Mississippi, evidenced by Promissory Note. RX-2.
2. Before executing the Promissory Note for the loan, on February 2, 2007, Petitioner requested a Single Family Housing Loan Guarantee from the USDA-RD, which was granted. RX-1.
3. By executing the guarantee request, Petitioner certified that she would reimburse USDA RD for the amount of any loss claim on the loan paid to the Lender or its assigns. RX-1.
4. The Lender assigned the loan to Chase Home Finance, LLC (“Chase”), which substituted Nationwide Trustee Services Inc. as Substitute Trustee (“Trustee”). RX-3.
5. The loan fell into default and was accelerated for foreclosure. RX-3.
6. A foreclosure sale was held, at which the assignee of the Trustee, the Federal National Mortgage Association acquired the property and then sold it to Homesales, Inc. for the sum of \$90,950.00. RX-3.
7. USDA-RD developed a property disposition plan that valued the property for less than the sale price. RX-4.
8. The property sold to a third party on September 24, 2010 for the sum of \$105,000.00. RX-5.
9. At the time of the sale, the total due on Petitioner’s mortgage account was \$142,234.29, consisting of principal, interest, fees and advances. RX-6.
10. After crediting the account for sale proceeds, USDA-RD paid a loss claim in the amount of \$36,381.04. RX-6; RX-7.

11. Petitioner failed to negotiate a settlement of the loss claim with USDA-RD, and thereafter, USDA-RD referred the loss payment to the U.S. Department of Treasury (“Treasury”) as a debt of the Petitioner. RX-8; RX-9.

12. The debt is at Treasury for collection in the amount of \$30,317.04, plus potential fees of \$8,572.77. RX-10.

13. Petitioner was advised of intent to garnish her wages to satisfy the indebtedness.

14. Petitioner timely requested a hearing, and provided a statement denying liability and asserting her inability to pay any indebtedness.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.

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

3. Respondent has established the existence of a valid debt due to the United States from Petitioner.

4. Petitioner’s credible statements that garnishment would represent a hardship have been given weight, but Petitioner’s failure to document her financial condition undermines her contentions.

5. Respondent is entitled to administratively garnish the wages of the Petitioner at the statutory maximum amount of 15%.

ORDER

For the foregoing reasons, the wages of Petitioner shall be subjected to administrative wage garnishment at this time.

Petitioner is encouraged to negotiate repayment of the debt with the representatives of Treasury. The toll free number for Treasury's agent is **1-888-826-3127**.

Petitioner is advised that this Decision and Order does not prevent payment of the debt through offset of any federal money payable to Petitioner.

Petitioner is further advised that a debtor who is considered delinquent on debt to the United States may be barred from obtaining other federal loans, insurance, or guarantees. See, 31 C.F.R. § 285.13.

Until the debt is satisfied, Petitioner shall give to USDA-RD or those collecting on its behalf, notice of any change in her address, phone numbers, or other means of contact.

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

So Ordered this 17th day of May, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge