

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0373

In re: Linda Faulkner,
Petitioner

Decision and Order

This matter is before the Administrative Law Judge upon the request of Linda Faulkner asking 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 May 15, 2012, 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 case for a telephonic hearing on July 26, 2012.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on June 7, 2012. The Petitioner filed her material, a Consumer Debtor Financial Statement with the Hearing Clerk on July 17, 2012. At the hearing held on July 26, 2012, both the Petitioner and Michelle Tanner, Appeals Coordinator, Rural Development, United States Department of Agriculture, St. Louis, Missouri participated.

On the basis of the record before me, nothing further having been received from the Petitioner, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. On August 19, 2008, Linda Faulkner applied for and received a home mortgage loan guarantee from Rural Development (RD), United States Department of Agriculture (USDA). RX-1
2. On September 16, 2008, she obtained a home mortgage loan for the purchase of property located in Fountain Inn, South Carolina from Carolina Bank for \$100,918.00. RX-2.
3. The note and mortgage to Carolina Bank was subsequently sold to JP Morgan Chase Bank, N.A. (Chase). RX-2.
4. In 2009, the Petitioner defaulted on her mortgage loan and foreclosure proceedings were initiated. RX-6. The foreclosure sale was held on March 1, 2010 and Chase acquired the property with a bid of \$92,465.73. RX-3.
5. Chase submitted a loss claim and USDA paid Chase the sum of \$43,658.59 for principal, accrued interest, protective advances, liquidation costs and property sale costs. RX-6, 7.
6. The remaining unpaid debt after application of Treasury offsets is in the amount of \$41,046.61, exclusive of potential Treasury fees.
7. The Consumer Debtor Financial Statement submitted by the Petitioner reflects roughly equal income and expenses, with expenses exceeding income taking into account car insurance and taxes.

8. The petitioner is at further risk of being laid off or having her hours cut by her employer by reason of the current economic situation.

Conclusions of Law

1. Linda Faulkner is indebted to USDA Rural Development in the amount of \$41,046.61 for the mortgage loan guarantee extended to her.

2. The Petitioner is under a financial hardship at the present time.

3. The Respondent is **NOT** entitled to administratively garnish the wages of the Petitioner at this time.

Order

For the foregoing reasons, the wages of the Petitioner may **NOT** be subjected to administrative wage garnishment. Should RD determine that Petitioner's financial condition has improved, garnishment action may be taken; however, any hardship determination in such case will be made by Treasury.

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

July 26, 2012

Peter M. Davenport
Chief Administrative Law Judge

Copies to: Linda Faulkner
Michelle Tanner
Dale Theurer

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