UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Andrea Garza Dupriest	)	
Petitioner	)	
	)	AWG Docket No. 13 – 0042
	)	

Decision and Order

This matter is before me upon the request of Petitioner, Andrea Garza Dupriest, 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 administration of wage garnishment. On November 2, 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 with a Narrative filed, together with the supporting documentation RX-1 through RX-9 on November 18, 2012. At my request, RD updated RX-6 on February 1, 2013 which I now label as RX-6a. Petitioner filed her Narrative on January 14, 2013 and an updated financial statement on January 17, 2010, which I now mark as PX-1 and PX-2, respectively. Michelle Tanner represented RD. William Scazzero, Esq. represented the Petitioner.

On January 16, 2013 at the appointed time, I conducted the oral hearing with the parties. The parties were sworn.

Findings of Facts

1. On October 31, 1994 Petitioner financed a home from USDA Rural Development in the amount of $54,880. RX-1.
2. On December 1, 2003, USDA Rural Development determined that Petitioner obtained an unauthorized loan. The records indicate that she used several Social Security numbers. (RX-2 @ page 7 of 18). The Agency adjusted the account as required under the regulation 7 CFR part 3550 and accelerated the loan for foreclosure on January 22, 2004. RX-2 @ page 2 of 18 and RX 3.
3. Petitioner filed two Chapter 13 bankruptcy petitions which were both discharged for failure to comply with the Debtor's scheduled payments. RX-2 @ page 7 of 18.
4. A foreclosure sale was scheduled and held on May 4, 2004. RX-5, RX-8.
5. A third party purchased the home at the judicial sale for $53,997.40. RX-5 @ page 12 of 32, RX-8 @ page 3 of 4.
6. Prior to the sale, Petitioner owed $93,227.01, for principal, interest, and fees, plus additional foreclosure costs that were billed to the account in the amount of $319.75 and $31.88, for a total due of $93,578.64. RX-6a.

7. After the application of the sale proceeds, the amount left unpaid was $39,581.27. RX-6a.
8. The debt was referred to Treasury for collection on June 8, 2004. RX-5.
9. Subsequent collections by Treasury have reduced the amount now due to $33,419.05. RX-6a.
10. In addition, Petitioner owes as potential collection fees the amount of $9,357.33 for a total due of $42,776.38. RX-7.
11. A Financial Hardship Calculation was prepared[1].

Conclusions of law

1. Petitioner is indebted to the USDA Rural Development in the amount of $33,419.05 for the mortgage loan extended to her.
2. In addition, Petitioner is indebted for potential collection fees to the U.S. Treasury in the amount of $9,357.33. (28% of the current debt).
3. All procedural requirements for administrative wage garnishment set forth in 31 CFR § 285.11 have been met.
4. The Respondent is not entitled to administratively garnish the wages of Petitioner at this time.
5. After 12 months, the Respondent is entitled to review the Petitioners income and expenses and to make appropriate corrections to the garnished amount.

Order

For the foregoing reasons, the wages of Petitioner shall not be subjected to administrative wage garnishment at this time.

After 12 months, the Respondent may review the Petitioner's income and expenses and make appropriate corrections to the garnished amount.

Copies of this decision and order shall be served upon the parties by the hearing clerk's office. February 4, 2013.

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James P. Hurt
Hearing official

Copies to: William Scazzero, Esq.
Michelle Tanner
Dale Theurer

[1] The Financial hardship calculation is not posted on the USDA website.