

**UNITED STATES DEPARTMENT OF AGRICULTURE**  
**BEFORE THE SECRETARY OF AGRICULTURE**

AWG Docket No. 08-0162

In re: LORETTA EVANS,

Petitioner

**DECISION AND ORDER**

This matter is before the Administrative Law Judge upon the request of the Petitioner, Loretta Evans, 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 August 13, 2008, a Prehearing Order was entered to facilitate a meaningful conference with the parties as to how the case will be resolved and to direct the exchange of information and documentation concerning the existence of the debt.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation. Ms. Evans failed to file anything further with the Hearing Clerk and repeated efforts to reach her by telephone were unsuccessful. Although the Petitioner claimed to have received a letter informing her that the debt has been paid off,<sup>1</sup> it was never produced and the only evidence in the file reflects an outstanding deficiency

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<sup>1</sup> Ms. Evans did receive a letter indicating that the account was being “charged off;” however, as noted in the Narrative filed on August 27, 2008, that referred to a change of accounting classification rather than cancellation of the debt.

balance remaining after the residence was sold. In a further effort to afford the Petitioner the hearing that she requested, an Order was entered on November 19, 2008 allowing her an additional opportunity to file a list of witnesses or exhibits and directing her to contact the Secretary to the Administrative Law Judge on or before November 26, 2008 to provide a telephone number at which she might be reached and a list of dates that she would be available for the hearing. The Petitioner also failed to respond to that Order which indicated "Failure to comply with this Order will be considered a waiver of the request for hearing and the case will be submitted on the record." Paragraph 3, Order of November 19, 2008.

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. The Petitioner, Loretta Evans, applied for and received a United States Department of Agriculture (USDA) Rural Development (RD) loan for property located at 625 Rohrsburg Road, Orangeville, Pennsylvania 17859, executing a Promissory Note on October 27, 1992 in the amount of \$66,500. RX-1. This debt was established in the Mort Serv system as account number 0005982504. RX-2.
2. In 2004, the Petitioner defaulted on the mortgage loan and a Notice of Acceleration, Demand for Repayment and Notice of Intent to Foreclose was sent to the property address on July 24, 2004. RX-3. The Notice indicated that the balance of the account as of July 20, 2004 was unpaid principal in the amount of \$58,596.58, unpaid

interest in the amount of \$1,604.61, plus additional interest accruing at the rate of \$12.4417 per day thereafter. RX-3.<sup>2</sup>

3. The Account Activity record (RX-4) reflects the following amounts applied to the loan on the dates indicated:

03/10/2005 \$2,965.00 Funds Received; no source identified

07/12/2006 23,215.13 Foreclosure Proceeds

After expenses of sale, an unpaid principal balance of \$48,125.50 remained. Id.

4. In 2008, USDA received \$1,973.00 from the United States Treasury which was applied to the outstanding balance, leaving an outstanding balance of \$46,152.50 as of August 14, 2008. RX-6.

#### **Conclusions of Law**

1. The Petitioner, Loretta Evans, is indebted to USDA RD in the amount of \$46,152.50 as of August 14, 2008 for the mortgage loan extended to her on October 27, 1992, further identified as account number 0005982504.

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

3. The Petitioner's failure to respond to repeated attempts to contact her for a hearing both by telephone and by the Orders of August 13, 2008 and November 19, 2008 shall be deemed to be a failure to appear and a waiver of the request for a hearing in this action.

4. The Respondent is entitled to administratively garnish the wages of the Petitioner.

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<sup>2</sup> The Notice also indicated that the unpaid balance would also include any additional advances for the protection of the security, the interest accruing on any such advances, fees, or late charges and the amount of subsidy to be recaptured in accordance with the Subsidy Repayment Agreement.

**Order**

For the foregoing reasons, the wages of the Petitioner, Loretta Evans, shall be subjected to administrative wage garnishment at the rate of 15% of disposable pay, or such lesser amount as specified in 31 C.F.R. § 285.11(i).

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

Done at Washington, D.C.  
December 3, 2008

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**PETER M. DAVENPORT**  
Administrative Law Judge

Copies to: Loretta Evans  
Esther McQuaid  
Dale Theurer

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