

# **UNITED STATES DEPARTMENT OF AGRICULTURE**

## **BEFORE THE SECRETARY OF AGRICULTURE**

AWG Docket No. 08-0172

In re: TERRELL CARMOUCHE, JR.

Petitioner

### **DECISION AND ORDER**

This matter is before the Administrative Law Judge upon the request of the Petitioner, Terrell Carmouche, Jr., 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 September 22, 2008, a Prehearing Order was entered to facilitate a meaningful conference with the parties as to how the case would 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. Following the filing of the Narrative by the Respondent, a teleconference was held with the parties on November 24, 2008. During the teleconference, Mr. Carmouche indicated that he did not have any exhibits to submit that were not already in the record and would not be calling any witnesses, but that he still desired the hearing. A summary of that teleconference was mailed to the parties and the matter was set for telephonic hearing on December 11, 2008 at 10:30 AM Eastern Standard Time.

During the telephonic hearing held with the parties on December 4, 2008, the Petitioner participated *pro se*. The Respondent was represented by Gene Elkin, Rural Development, United States Department of Agriculture, St. Louis, Missouri. Mr. Elkin introduced and identified the nine exhibits tendered by the Respondent and testified that each of them were records maintained and kept by USDA in the operation of the Rural Development program.

Mr. Elkin testified that on June 27, 1996, Terrell Carmouche, Jr. (sometimes reflected in the file as Terrell Lee Carmouche, Jr.) executed and delivered to USDA a promissory note in the amount of \$54,660 and mortgage for property located at 714 Evelyn Drive, Marksville, Louisiana. RX-1-2. The amount borrowed was entered into the Mort Serv<sup>1</sup> system as account number 2320729. RX-3.

Mr. Carmouche defaulted on the loan and was sent a Notice of Acceleration of Mortgage Loan, Demand for Payment of Debt, and Notice of Intent to Foreclose on November 3, 2006. RX-4. Prior to acceleration of the debt, the Petitioner had been granted an automatic moratorium on his loan as a result of the disaster conditions caused by Hurricane Katrina. RX-5. On October 12, 2006, Mr. Carmouche was advised that the moratorium would not be extended since he had not returned a moratorium review packet. RX-6. On September 7, 2006, the Petitioner had expressed his willingness to voluntarily convey the property to USDA (RX-7), but an inspection of the property that day reflected that the property had been abandoned and was in “horrible” condition. RX-8. After application of sale proceeds and other payments, a current balance of \$25,720.07 remains due. RX-3 & 9.

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<sup>1</sup> A database system of records maintained by RDA.

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 June 27, 1996, the Petitioner, Terrell Carmouche, Jr., (a/k/a Terrell Lee Carmouche, Jr.) applied for and received a home mortgage loan from the United States Department of Agriculture (USDA) Rural Development (RD) for property located at 714 Evelyn Drive, Marksville, Louisiana in the amount of \$54,660 (Loan Number 0005982504). RX-1-3.
2. In 2006, the Petitioner defaulted on the mortgage loan and foreclosure proceedings were initiated. RX-4.
3. The secured property was sold at foreclosure sale on December 15, 2006 for \$28,000. RX-9.
4. The amount remaining due after application of all recovery to date is \$25,720.07. RX-3, 9.

**Conclusions of Law**

1. The Petitioner, Terrell Carmouche, Jr. (a/k/a Terrell Lee Carmouche, Jr.), is indebted to USDA RD in the amount of \$25,720.07 as of September 30, 2008.
2. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
3. The Respondent is entitled to administratively garnish the wages of the Petitioner, subject to the limitations set forth in 31 C.F.R. §285.11(i).

**Order**

For the foregoing reasons, the wages of the Petitioner, Terrell Carmouche, Jr. 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 11, 2008

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**PETER M. DAVENPORT**  
Administrative Law Judge

Copies to: Terrell Carmouche, Jr.  
Mary Kimball  
Gene Elkin  
Dale Theurer

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