

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 09-0103

In re: GEORGE W. TANNER, JR.,

Petitioner

DECISION AND ORDER

This matter is before the Administrative Law Judge upon the request of the Petitioner 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 4, 2009, 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. The Petitioner filed the schedules that had been forwarded to him with the Hearing Clerk, but requested an extension of time for the hearing. At the time he requested a hearing, the Petitioner indicated that he had “explained my situation to 2 USDA-RD Representatives. No[t] one told me that interest would be accrued. The house payments forced me to short sale. I discussed repayment and tried to get a settlement agreement based on my low or [illegible] income from April 08 to Jan 09.”

A telephonic hearing was held on June 24, 2009. The Petitioner was unrepresented spoke on his own behalf. The Respondent was represented by Gene Elkin, Legal Liaison for the Centralized Servicing Center and Mary Kimball, Accountant for the

New Program Initiatives Branch, United States Department of Agriculture, Rural Development, St Louis, Missouri. Diane Green, Secretary to the Administrative Law Judge was also present. Mary Kimball testified for the Respondent, identifying the exhibits attached to the Narrative and explaining the computation of the debt. The Petitioner cross examined Ms. Kimball on certain aspects of her testimony to clarify the computations and then testified how he had completed the schedules and provided some updated information which did not materially alter the picture presented as reflected on his schedules. 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 November 27, 2002, the Petitioner, George W. Tanner, Jr., applied for and received a home mortgage loan in the amount of \$111,476.00 from the United States Department of Agriculture (USDA) Rural Development (RD) for property located at 1667 Cherry Street, Lake City, Pennsylvania. RX-1.
2. The debt was established in the Mort Serv system as account number 0080851100. RX-2.
3. In 2007, the Petitioner defaulted on the mortgage loan and was sent a Notice of Default on September 18, 2007. RX-3.
4. A foreclosure sale was held on May 7, 2008 at which time the amount due prior to the sale was \$116,224.13, including principal, accrued interest, and fees. Funds received from the sale were \$100,277.52, leaving a balance due prior to referral to Treasury of \$15,946.61. RX-5.

5. USDA has received one payment of \$74.90 and Treasury has collected two more payments totaling \$205.78 after fees, leaving a balance of \$15,665.93, exclusive of Treasury fees due and payable. Narrative, p. 2.

Conclusions of Law

1. The Petitioner, George W. Tanner, Jr., is indebted to USDA RD in the amount of \$15,665.93 for the mortgage loan extended to him.
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.

Order

For the foregoing reasons, the wages of the Petitioner, George W. Tanner, 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.
June 24, 2009

PETER M. DAVENPORT
Administrative Law Judge

Copies to: George W. Tanner, Jr.
Mary Kimball
Dale Theurer

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