

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 09-0179
)	
Shannon Swain,)	
a/k/a Shannon Halbert)	
)	
Petitioner)	

Decision and Order

This matter is before me upon the request of the Petitioner, Shannon Swain for a hearing in response to efforts of Respondent to institute a federal administrative wage garnishment against her. In response to Petitioner's timely Request for a Hearing, I issued on September 8, 2009 a Pre-hearing Order requiring the parties to exchange information concerning the existence and amount of the debt. On October 2, 2009, I issued an Amended Pre-hearing Order changing the date of the oral hearing to November 12, 2009 at 1:00 PM CST. Due to confusing language in the Pre-hearing Order, the hearing was held on November 19, 2009 @ 2:00 PM CST with the agreement of all parties.

Petitioner was self represented.

USDA Rural Development Agency (RD) was represented by Mary Kimball. John Weaver for the RD was also present.

Petitioner advised that she had received the Narrative and exhibits from RD.

Petitioner further advised that she no longer contested the debt or the amount of the debt, but merely wished to work out a payment arrangement in lieu of garnishment.

Although Ms Kimball did summarize the present monies due based on the RD Exhibits, there was no testimony.

Petitioner did not submit any documents or exhibits.

Petitioner owes \$20,694.87 on the USDA RD loan as of November 19, 2009, and in addition, potential fees due the US Treasury in the amount of \$5,794.57 pursuant to the terms of the Promissory Note.

Findings of Fact

1. On January 31, 2003, Petitioner Shannon Swain a/k/a Shannon Halbert obtained a USDA Rural Development home mortgage loan for property located at ##### Woodland Park Drive, Lindale, TX 757##.¹ Petitioner signed a promissory note for \$67,000 and a Rural Development Loan Guarantee. RX-1.

2. On February 16, 2007 Petitioner was sent a Notice of Acceleration and Demand for Payment (Default) on the Promissory Note. Narrative, RX-3 @ p.3 of 5. At the time of the Default Notice, the balance due on the note was \$96,361.62 including unpaid interest. RX-4 @ p. 1 of 2.

3 The property was sold for \$80,000 on August 9, 2007 in a short sale (meaning that the lender approved the sale, but the Petitioner would be held liable for the monies due under the terms of the guarantee note). Narrative.

4. The net funds received as a result of the short sale was \$74,716.50. Narrative, RX-4 @ p. 1 of 2.

5. After the application of the net proceeds of the short sale, fees prior to the sale,

¹Complete address maintained in USDA records.

and accrued interest the amount due to RD was \$21,645.12. RX-4 @ p. 1 of 2

6. After the final sale, two additional recoveries, treasury offsets of \$921.00, and a insurance fund rebate of \$29.95, were received bringing the Petitioner's debt to \$20,694.87. RX-4 @ p. 2 of 2, Narrative.

7. The potential fees due U.S. Treasury pursuant to the Loan Guarantee Agreement were \$5,794.57. RX-5.

8. There was no oral testimony or documentation from Petitioner that she has not been continuously employed by her current employer for 12 continuous months or/alternately she had been involuntarily terminated from her prior employer.

9. Shannon Swain a/k/a Shannon Halbert is liable for the debt under the terms of the Promissory Note.

Conclusions of Law

1. Petitioner Shannon Swain is indebted to USDA's Rural Development program in the amount of \$20,694.87.

2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$5,794.57.

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

4. During the term of this Wage Garnishment Order, Petitioner is under a duty to inform USDA's Rural Development of her employment circumstances.

5. Following compliance with 31 C.F.R. § 285.11(j), the USDA Rural Development Agency (RD) is entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, provided the requirements of 31 C.F.R. § 288.11(j) have been met, the wages of the Petitioner, Shannon Swain, shall be subject 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.

JAMES P. HURT
Hearing Official

November 20, 2009