

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWG Docket No. 10-0073
)
Ashley Becker,)
)
Petitioner)

Final Decision and Order

This matter is before me upon the request of the Petitioner, Ashley Becker for a hearing in response to efforts of Respondent to institute a federal administrative wage garnishment against him. On January 14, 2010, I issued a Pre-hearing Order requiring the parties to exchange information concerning the amount of the debt.

I conducted a telephone hearing at the scheduled time on March 22, 2010. USDA Rural Development Agency (RD) was represented by Gene Elkin, Esq., and Mary Kimball who testified on behalf of the RD agency.

I called Ms. Becker and left messages that the hearing was about to begin at 269-953-33**¹ which was the phone number Petitioner listed in her petition.

The witnesses were sworn in. RD had filed a copy of a Narrative along with exhibits RX-1 through RX-6 on February 12, 2010 with the OALJ Hearing Clerk and certified that it mailed a copy of the same to Petitioner.

Petitioner did not submit any exhibits.

Petitioner owes \$26,588.64 on the USDA RD loan as of today, and in addition, potential fees of \$7,444.82 due the US Treasury pursuant to the terms of the Promissory Note.

¹ Complete phone number maintained in USDA files.

Findings of Fact

1. On September 21, 2005, Petitioner Ashley P. Becker obtained a USDA Rural Development home mortgage loan for property located at 12## Little Creek Road, Alger, MI 486**.² Petitioner was signor to a promissory note for \$35,700. RX-1 @ p. 2 of 2.
2. On June 1, 2007, Petitioner defaulted on the note and was sent a Notice of Acceleration and Demand for Payment (Default) on the Promissory Note. Narrative, RX-3, and Ms. Kimball's testimony. At the time of the Default Notice, the balance due on the note was \$34,580.74. Narrative, RX-3, RX-6.
3. The property was sold after notice to Petitioner to a new buyer for a price of \$11,000. Narrative, Ms. Kimball's testimony, RX-4.
4. The total amount of debt owed after the sale was \$29,271.20. RX @ p. 6 of 7, RX-4.
5. After the final sale, there were additional recoveries (treasury offset) of \$144.33 and \$21.80 totaling \$166.13 which brought the Petitioner's debt down to \$26,588.64. Ms. Kimball's testimony, RX-3, RX-6, Narrative.
6. The potential fees due U.S. Treasury pursuant to the Loan Guarantee Agreement are \$7,444.82. Narrative and RX-6.
7. There was no testimony or exhibits from Petitioner regarding her employment status or wages.
8. The Petitioner raised issues of financial hardship resulting from the garnishment process, but provided no evidence to assess her claim.
9. Ashley P. Becker is liable for the debt under the terms of the Promissory Note.

²Complete address maintained in USDA records.

Conclusions of Law

1. Petitioner Ashley P. Becker is indebted to USDA's Rural Development program in the amount of \$26,588.64.
2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$7,491.34.
3. All procedural requirements for administrative wage garnishment set forth in 31 C.F.R. § 285.11 have been met.
4. Petitioner is under a duty to inform USDA's Rural Development of her current address, employment circumstances, and living expenses.
5. Following compliance with 31 C.F.R. § 285.11(i) and (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(i) & (j) have been met, the USDA Rural Development Agency (RD) is entitled to administratively garnish the wages of the Petitioner at the rate of 15% of her Monthly Disposable Income.

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

JAMES P. HURT
Hearing Official

March 22, 2010