

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 10-0106
)	
Noreen A. Stafford,)	
)	
Petitioner)	Decision

Pursuant to a Hearing Notice issued on February 19, 2010, I held a hearing by telephone, on April 27, 2010, at 11:00 AM Eastern Time, in consideration of a Petition seeking to dispute the terms of a proposed repayment schedule for a debt that Petitioner incurred under a Single Family Housing Mortgage Loan. Petitioner had signed a promissory note to secure a home mortgage loan given her by Respondent, USDA, and Rural Development, which has not been fully repaid, and has resulted in the garnishment of Petitioner's wages for nonpayment of the amount still owed.

Petitioner did not participate in the hearing. Petitioner was instructed by the Hearing Notice to file: 1, completed forms respecting her current employment, general financial information, assets and liabilities, and monthly income and expenses; 2, a narrative of events or reasons why she cannot pay the alleged debt and indicating what portion of the alleged debt she is able to pay through wage garnishment; 3. supporting exhibits; and 4. lists of the exhibits and witnesses who would testify in support of her petition. She was further instructed to contact my secretary, Ms. Marilyn Kennedy, and give Ms. Kennedy a telephone number where Petitioner could be reached at the time of the scheduled hearing. Petitioner failed to comply with any of the instructions. At the time of the scheduled hearing, she did not answer calls to her listed telephone.

Respondent participated in the hearing through its representatives, Gene Elkin Legal Liaison and Mary Kimball, Accountant for the New Initiatives Branch, USDA Rural Development.

Under 31 C.F.R. § 285.11 (f) (2), a hearing on a Petition challenging wage garnishment may be at the agency's option, either oral or written. An oral hearing may be conducted by telephone conference and is only required when the issues in dispute cannot be resolved by review of the documentary evidence 31 C.F.R § 285.11 (f) (3). An oral hearing was scheduled to hear and decide Petitioner's concerns. In that Petitioner whenever advised Hearing Clerk, the Respondent, or this office that she had moved or that she could not be personally contacted on her listed telephone number, and that all mail sent to her only listed address was never returned as undeliverable by the U.S. Post Office, I proceeded with the scheduled hearing without her presence, and took evidence on the existence of the debt that her Petition challenged.

Both Mr. Elkin and Ms. Kimball were duly sworn. Ms. Kimball identified and authenticated Respondent's Exhibits 1-4 which were received in evidence.

Respondent proved the existence of the debt owed by Petitioner to Respondent for the losses Respondent sustained as a \$91,000.00 home mortgage loan it gave to Petitioner, on September 14, 1987, for property located at 145 Laurel Street Extension, Greenfield, MA. The property was sold at a short sale on June 29, 2000 for \$85,000.00. The total amount due on the mortgage debt prior to the sale was \$91,417.28. After the sale funds were applied to the debt, the amount due from Petitioner was \$20,531.19. Respondent has received Treasury offset payments and the present balance of the debt is \$14,917.96. Potential collection fees assessed by the United States Treasury Department \$4,177.03 which makes the balance due at Treasury \$19,094.99. The Petitioner appears to be employed and has provided no evidence showing that

the present collection of any part of the debt would cause Petitioner undue, financial hardship within the meaning and intent of the provisions of 31 C.F.R. § 285.11. Therefore the Petition is dismissed and the proceedings to garnish Petitioner's wages may be resumed provided the amount of the wages garnished does not exceed 15% of her disposable income.

Petitioner is advised, however that if she telephones the private agency engaged by Treasury to pursue the debt's collection, she might be able to settle the debt at a lower amount with lower payments. She should do so immediately.

Dated _____

Victor W. Palmer
Administrative Law Judge