

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0274

In re: Julia Chavez,

Petitioner

DECISION AND ORDER

This matter is before me upon the request of Petitioner, Julia Chavez, 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 June 30, 2010, a Prehearing Order was entered to facilitate a meaningful conference with the parties as to how the case would be resolved, to direct the exchange of information and documentation concerning the existence of the debt, and setting the matter for a telephonic hearing on August 26, 2010.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on August 3, 2010. Ms. Chavez filed her documentation with Rural Development and it was forwarded to the Hearing Clerk on August 13, 2010. Ms. Chavez also forwarded a copy of her most recent pay stub.

Ms. Chavez was fully cooperative and was assisted in the oral hearing with English/Spanish translation by her Amida Valles (her sister). Based upon the responsive answers to my questions, I am convinced that Ms. Valles faithfully conveyed the progress

and significance of the proceeding to her sister. RD was represented by Mary Kimball. The parties were sworn in.

Ms. Chavez has been regularly employed by the El Paso public school system as a custodian. She borrows a car from her family, but has none of her own. She sporadically receives child support via a court order from her former husband who is a construction worker. From a review of her sworn financial statement and a recent payroll stub, she lives modestly.

Ms. Chavez raised issues of financial hardship. Based upon the financial statements, I prepared a Financial Hardship Calculation.¹

On the basis of the entire record before me, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. On May 26, 1998, Julia Chavez (and her then husband, Jose Luis Gonzalez) received a home mortgage loan in the amount of \$ 56,700.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) for property located at 14** Hereford, Horizon City, TX 799**².

RX-1.

2. The borrowers defaulted on the loan.

3. The property was sold at a foreclosure sale on with proceeds realized from that sale in the amount of \$57,168.00, leaving a balance due of \$12,313.72. RX-3.

4. Treasury offsets totaling \$5,830.99 exclusive of Treasury fees have been received.

RX-3.

¹ Financial Hardship Calculation is not posted on the OALJ website.

² Complete address maintained in USDA records

5. The remaining unpaid debt is in the amount of \$6,482.73 exclusive of potential Treasury fees. RX-4.

6. RD is not entitled to garnish the wages of Ms. Chavez at this time. RD may reevaluate Ms. Chavez's financial position in 1 year.

Conclusions of Law

1. Julia Chavez is jointly and severally indebted to USDA Rural Development in the amount of \$6,482.73 for the mortgage loan extended to her.

2. In addition, Ms. Chavez is jointly and severally indebted for potential fees to the US Treasury in the amount of \$1,815.16.

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

4. The Respondent is NOT entitled to administratively garnish the wages of Ms. Chavez.

Order

For the foregoing reasons, the wages of Ms. Chavez shall NOT be subjected to administrative wage garnishment at this time.

RD may re-evaluate Petitioner's financial position in one year.

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

Done at Washington, D.C.
September 1, 2010

James P. Hurt
Hearing Officer

Copies to:

Mary Kimball
Dale Theurer

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