

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0249

In re: Charles Kellogg,
Petitioner

Decision and Order

This matter is before the Administrative Law Judge upon the request of Charles Kellogg 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 July 1, 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 case for a telephonic hearing on August 16, 2010.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on July 2, 2010. The Petitioner submitted a letter received by the Hearing Clerk's Office on August 3, 2010 indicating that the Petitioner had filed a bankruptcy petition on March 8, 2010. The scheduled hearing was held in abeyance pending confirmation of the bankruptcy filing. Inquiries using PACER failed to verify that a bankruptcy petition had been filed and telephonic inquiry to the attorney who was supposed to have filed the bankruptcy petition confirmed that no petition has been filed.

On the basis of the record before me, false information having been provided in this proceeding by the Petitioner, it will be deemed that he has waived his right to a

hearing and the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. On October 12, 2005 Charles Kellogg applied for and received a home mortgage loan guarantee from Rural Development (RD), United States Department of Agriculture (USDA), (Exhibit RX-1) and on November 14, 2005 obtained a home mortgage loan for property located in Huron, South Dakota from American Bank & Trust for \$41,000.00.
2. American Bank & Trust subsequently assigned the loan to South Dakota Housing Development Authority. RX-4.
3. In 2007, the Petitioner defaulted on the mortgage loan and foreclosure proceedings were initiated. RX-2.
4. South Dakota Housing Development Authority submitted a loss claim and USDA paid the lender the sum of \$18,915.97 for accrued interest, protective advances, liquidation costs and property sale costs. RX-2.
5. Treasury offsets totaling \$543.00 have been received. RX-6.
6. The remaining unpaid debt is in the amount of \$18,372.97, exclusive of potential Treasury fees. RX-6.

Conclusions of Law

1. Charles Kellogg is indebted to USDA Rural Development in the amount of \$18,372.97, exclusive of potential Treasury fees for the mortgage loan guarantee 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 Charles Kellogg shall be subjected to administrative wage garnishment at the rate of 15% of disposable pay, or such lesser amount as might be 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.

Peter M. Davenport
Chief Administrative Law Judge

Date: October 22, 2010

Copies to: Charles Kellogg
Mary Kimball
Dale Theurer

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