

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 10-0438
)	
Sara E. Barrows Davis,)	
)	
Petitioner)	Decision and Order

On December 1, 2010, I held a hearing on a Petition to Dismiss the administrative wage garnishment proceeding to collect the debt allegedly owed to Respondent, USDA, Rural Development for losses it incurred under a mortgage given by the Respondent, USDA Rural Development to Petitioner, Sara E. Barrows Davis and to her former husband, Patrick Davis. Petitioner represented herself and USDA Rural Development was represented by Mary Kimball. Petitioner and Mary Kimball were each duly sworn.

Respondent sustained financial loss on the loan it gave to Petitioner and her former husband to finance the purchase of a home. The loan was evidenced by a Promissory Note in the amount of \$65,180.00, dated March 3, 1994. The payments on the loan were not met and a short sale was held on May18, 1999. The house sold for \$63,689.39 when a balance of \$20,113.23 was still owed to USDA, Rural Development for principal, accrued interest, unpaid taxes and other expenses. Since the sale, \$5,672.00 has been collected by the U. S. Treasury Department. The amount that is presently owed on the debt is \$14,554.26 plus potential fees to Treasury of \$4,075.19, or \$18,629.45, total.

Petitioner and Patrick Barrow are divorced, and Petitioner has remarried and resides with her new husband, who is unemployed, her daughter who has a job paying

█ an hour, and her daughter's two children. Petitioner is employed as a home care assistant by an elderly man who would not be able to handle the paperwork involved in a wage garnishment. Petitioner is paid █ a week. Petitioner testified to having monthly expenses that she solely pays of █0. In light of the fact that she would likely lose her job if her elderly employer had to cope with the paperwork involved in wage garnishment, I have concluded that the collection of any part of the debt during the next six (6) months would cause Petitioner undue, financial hardship within the meaning and intent of the provisions of 31 C.F.R. § 285.11.

USDA, Rural Development has met its burden under 31 C.F.R. §285.11(f)(8) that governs administrative wage garnishment hearings, and has proved the existence and the amount of the debt owed by the Petitioner. On the other hand, Petitioner showed that she would suffer undue financial hardship if any amount of money is garnished from her disposable income at any time during the next six (6) months. During that time, Mrs. Davis should undertake to contact Treasury to discuss a settlement plan to pay the debt.

Under these circumstances, the proceedings to garnish Petitioner's wages are suspended and may not be resumed for six (6) months from the date of this Order.

Dated:

Victor W. Palmer
Administrative Law Judge