

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 10-0448
)	
John Conklin, Jr.,)	
)	
Petitioner)	Decision and Order

On December 14, 2010, I held a hearing by telephone 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 loan it gave to Petitioner, John Conklin, Jr. , and his former wife, Sonya Conklin. Petitioner was not represented by an attorney, and represented himself pro se. Respondent, USDA Rural Development, was represented by Mary Kimball. Petitioner, John Conklin, Jr., and Mary Kimball who testified for Respondent, were each duly sworn.

Respondent proved the existence of the debt owed by Petitioner for payment of the losses Respondent sustained on the loan given to Petitioner, John Conklin, Jr., and his former wife, Sonya Conklin to purchase a home located at 302 S. Poplar, Archer City, TX 76351. The loan was evidenced by a Promissory Note and a Deed of Trust in the amount of \$36,850.00 dated September 28, 1988 (RX-1and RX-2). Petitioner and Sonya Conklin divorced in 1986 and the house was turned over to her and she agreed to make the payments on the loan. However, the loan payments were not made and a short sale was held on April 17, 1998. USDA, Rural Development received \$24,381.11 from the sale. Prior to the sale, the amount owed on the loan to Respondent, USDA, Rural Development, was \$39,688.33 for principal and interest. After the sale, Petitioner and his

former wife owed \$15,307.22 minus \$105.00 credited for escrow. Since the sale, \$3,406.23 has been collected by the U. S. Treasury Department. The amount that is presently owed on the debt is \$11,795.99 plus potential fees to Treasury of \$3,302.88, or \$15,098.87 total (RX-7). Petitioner is presently unemployed drawing unemployment insurance. At present there is no disposable income that may be subject to wage garnishment.

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 and his former wife. On the other hand, Petitioner showed that he has no present disposable income. He shall consider whether he should attempt to settle the debt by obtaining a loan for a smaller amount than the debt presently claimed or making payments for his appropriate share. At any rate, he is unemployed and his wages may not be garnished until 12 months after he is again becomes employed. Accordingly, federal administrative garnishment proceedings may not proceed at this time and his Petition for dismissal of such proceeding is hereby granted.

It is hereby so ordered.

Dated:

Victor W. Palmer
Administrative Law Judge