

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0407

In re: Karen Wald,
Petitioner

Decision and Order

This matter is before the Administrative Law Judge upon the request of Karen Wald 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 September 27, 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 December 16, 2010.

The Respondent filed a Narrative together with supporting documentation on November 8, 2010. The Petitioner also filed her material with the Hearing Clerk on November 8, 2010. On December 16, 2010, the Respondent supplemented the record with a copy of the assignment from the original lender, First Trust Mortgage of the South to Chase Manhattan Mortgage Corporation. At the telephonic hearing, sworn testimony was taken from the Petitioner and Mary E. Kimball, Accountant for New Programs Initiatives Branch, Rural Development, United States Department of Agriculture, St. Louis, Missouri.

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

Findings of Fact

1. On January 8, 2004, Karen Wald applied for and received a home mortgage loan guarantee from Rural Development (RD), United States Department of Agriculture (USDA) (Exhibit RX-1) and on February 19, 2004 obtained a home mortgage loan in the amount of \$67,500.00 for property located in Seneca, South Carolina from First Trust Mortgage Corp. of the South. Narrative, page 1.
2. By assignment dated September 28, 2004 and recorded in Book 1955 at page 182, First Trust Mortgage Corp. of the South assigned the loan and mortgage to Chase Manhattan Mortgage Corporation.
3. In 2007, the Petitioner defaulted on the mortgage loan and J.P. Morgan Chase Bank, N.A. submitted a loss claim. USDA paid J.P. Morgan Chase Bank, N.A. the sum of \$42,591.08 for accrued interest, protective advances, liquidation costs and property sale costs. RX-3.
4. The residence was subsequently sold for an amount greater than the liquidation value and the Petitioner was credited with an additional \$782.00.
5. Treasury offsets in the amount of \$1,101.55 exclusive of Treasury fees have been collected. RX-6.
6. No record of any further assignment of the loan and mortgage appears in the record before me.
7. The Petitioner is unemployed at this time.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. USDA Rural Development has failed in its burden of proof in establishing a debt in this action. The loan guarantee appearing in the record was assigned from First Trust Mortgage Corp. of the South to Chase Manhattan Mortgage Corporation; however, there is no subsequent assignment to J.P. Morgan Chase Bank of N.A., the entity submitting the loss claim and receiving the guaranty payment.
3. There being no debt properly established, even were the Petitioner employed, which she is not, administrative wage garnishment is not appropriate.
4. As no debt to USDA was established, all sums collected from the Petitioner should be refunded to her.
4. The Respondent is NOT entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, the wages of Karen Wald may **NOT** be subjected to administrative wage garnishment at this time and all sums collected from her subsequent to foreclosure shall be refunded to her.

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

December 16, 2010

Peter M. Davenport
Chief Administrative Law Judge

Copies to: Karen Wald
Mary Kimball
Dale Theurer

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