

**UNITED STATES DEPARTMENT OF AGRICULTURE**  
**BEFORE THE SECRETARY OF AGRICULTURE**

In re:	)	
	)	
Kyra Briggs,	)	AWG Docket No. 10-0247
	)	
Petitioner	)	

**Decision and Order**

This matter is before me upon the request of the Petitioner, Kyra Briggs, for a hearing in response to efforts of Respondent, USDA’s Rural Development Agency, Rural Housing Service, to institute a federal administrative wage garnishment against her. On November 15, 2010, Chief Administrative Law Judge Peter M. Davenport issued a Pre-hearing Order setting the date for the hearing and requiring the parties to exchange information concerning the amount of the debt. That hearing did not take place and the case was transferred to me. On December 23, 2010, I issued an order rescheduling the hearing.

Rural Development had previously filed a copy of its Narrative along with exhibits RX-1 through RX-6 on July 8, 2010. Rural Development filed an amended Narrative, including exhibits RX-7 and RX-8 on December 3, 2010. Ms. Briggs filed exhibits PX-1 through PX-9 on December 16, 2010. PX-1 is Ms. Briggs Consumer Debtor Financial Statement, PX-9 is Ms. Briggs’ narrative. The other exhibits relate to Ms. Briggs’ financial condition.

I conducted a telephone hearing on January 18, 2011. Rural Development was represented by Mary Kimball who testified on behalf of the agency. Ms. Briggs represented herself. The witnesses were sworn. Ms. Briggs acknowledged that she received a copy of Rural Development's Narrative and Exhibits. Ms. Kimball acknowledged receipt of Ms. Briggs' exhibits.

On February 26, 2007, Ms. Briggs borrowed \$146,400.00 from USDA Rural Housing Service to purchase her residence in Brainerd, MN. (RX-1, RX-8). Ms. Briggs defaulted on the loan and on April 17, 2009, the house was sold at a short sale. (RX-7). After sales expenses, USDA received \$101,714.43 from the short sale and applied that to the outstanding balance. At the time of the sale Mr. Briggs owed \$144,048.46 on the loan – \$143,067.72 in principal, \$495.84 in interest and \$484.90 from a negative balance in her escrow account. Applying the proceeds from the short sale along with a credit of \$319.36 from unapplied refunds and \$1,6661.00<sup>1</sup> subsequently collected by Treasury leaves a current balance of \$40,353.67.

Based on the testimony during the hearing and the record before me, I conclude that Ms. Briggs owes \$40,353.67 on the USDA Rural Housing loan. In addition, there are potential fees of \$11,299.02 due the US Treasury for the cost of collection giving a total amount due of \$51,652.69. In determining the percentage of garnishment, if any, to be

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<sup>1</sup>Treasury withheld \$3,900.00 from a tax refund due Ms. Biggs and her current husband. It returned \$2,239.00 that resulted from Ms. Briggs current husband's income, netting a credit of \$1,6661.00 towards the loan deficiency.

authorized for collection, I examine the petitioner's Consumer Debtor Financial Statement. This gives me the opportunity to determine if a financial hardship exists that would preclude garnishment at this time; or, if the petitioner's financial condition indicates that I should limit the garnishment to a percentage below the maximum 15% authorized by the statute.

Ms. Briggs is currently separated from her husband and has two young children to support. She works part-time, does some independent consulting, receives child support from the father of her first child and receives financial assistance from her current husband. Her listed expenses are not unreasonable and include a house payment, car payment, student loan payment, two judgments against her, utility payments, food, clothing and medical expenses. According to the credible evidence before me, Ms. Briggs' reasonable expenses exceed her income. Therefore, I find that garnishment is not appropriate at this time. USDA Rural Development may reexamine Ms. Briggs' financial situation in one year, and on an annual basis thereafter, to determine if Ms. Briggs finances have improved sufficiently to warrant garnishment.

Although I am not authorizing garnishment at this time, I want Ms. Briggs to understand I find that she owes the debt. Because she owes the debt to the government, Treasury will continue to obtain payment on the debt by keeping income tax returns and other payments from the government and applying those amounts to lower the debt.

### **Findings of the Fact**

1. On February 26, 2007, Ms. Briggs borrowed \$146,400.00 from USDA Rural Housing Service to purchase her residence in Brainerd, MN.
2. Ms. Briggs defaulted on the loan and a short sale was held on April 17, 2009. At the time of the sale Ms. Briggs owed \$144,048.46 on the loan – \$143,067.72 in principal, \$495.84 in interest and \$484.90 from a negative balance in her escrow account.
3. USDA applied the proceeds from the short sale along with a credit of \$319.36 from unapplied refunds and \$1,6661.00 subsequently collected by Treasury leaving a current balance of \$40,353.67. In addition, there are potential fees due to the U.S. Treasury in the amount of \$11,299.02 giving a total amount due of \$51,652.69.
4. Ms. Briggs is currently separated from her husband and has two young children to support. She works part-time, does some independent consulting, receives child support from the father of her first child and receives financial assistance from her current husband.
5. Ms. Briggs' reasonable expenses exceed her income.

### **Conclusions of Law**

1. The Secretary of Agriculture has jurisdiction over the parties, Ms. Briggs and USDA Rural Development Agency, Rural Housing Service; and over the subject matter, which is administrative wage garnishment.

2. Petitioner Kyra Briggs is indebted to USDA's Rural Development Agency, Rural Housing Service program in the amount of \$40,353.67.

3. In addition, Ms. Briggs is indebted for potential fees to the US Treasury in the amount of \$11,299.02.

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

5. I conclude that Ms. Briggs' financial circumstances, at this time, do not support garnishment.

### **Order**

Until the debt is fully paid, Ms. Briggs shall give notice to USDA Rural Development Agency, Rural Housing Service or those collecting on its behalf, of any changes in his mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).

USDA Rural Development Agency, Rural Housing Service, and those collecting on its behalf, are not authorized to proceed with garnishment at this time. USDA Rural Development may reexamine Ms. Briggs' financial situation in one year, and on an annual basis thereafter, to determine if Ms. Briggs finances have improved sufficiently to warrant garnishment. Ms. Briggs shall provide to Rural Development, when requested, a Consumer Debtor Financial Statement to facilitate this review.

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

Done at Washington, D.C.  
this 21st day of January 2011

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STEPHEN M. REILLY  
Hearing Official