

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 11-0189

In re: Shirley M. McLeod,
Petitioner

DECISION AND ORDER

This matter is before me upon the request of Shirley McLeod 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 April 20, 2011, I issued a Prehearing Order 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 matter for a telephonic hearing.

The USDA Rural Development (RD), Respondent, complied with that Order and a Narrative was filed, together with supporting documentation on April 22, 2011.

Ms. McLeod filed her financial statements on May 12, 2011 which I now label collectively as PX-1. On June 7, 2011 at the scheduled time, both parties were available for the conference call. The parties were sworn. Following the hearing, I requested that Ms. McLeod file a copy of her most recent pay stub to assist with the Financial Hardship calculation and the same was received on June 9, 2011 which I now label as PX-2. Ms. McLeod advised that she expects to retire due to her employer's budget reductions on/about February 2012. She states that she presently travels 75 miles round trip to her

place of employment. In February 2012, she expects to be eligible for social security early retirement.

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

Findings of Fact

1. On February 8, 1992, Shirley McLeod, the Petitioner obtained a \$ 37,000.00 USDA FmHA loan for a primary residence located at 77## Ancon Dr., Fayetteville, NC 283##.¹ The Petitioner signed a promissory note and a Deed of Trust. RX-1, RX-2.
2. Petitioner reamortized her account on July 8, 1997. (RX-4).
3. Petitioner's property was involved in an uninsured fire which substantially destroyed the property on March 5, 1998.
4. On March 12, 1999, the property was declared a valueless lien with no recovery value.
5. In the best interests of the government, USDA released the lien, but not the debt thus creating an unsecured debt owed by Ms. McLeon.
6. The borrower defaulted on the loan and on May 22, 2001, she was mailed a notice of the remaining balance along with available options. RX-7.
7. Ms. McLeod owes a total of \$30,036.25, including principal, interest and fees. Narrative, RX-6 .
8. The remaining potential treasury fees are \$8,410.15. RX-7.
9. Ms. McLeod raised the issue of financial hardship and I performed a Financial Hardship calculation which is effective through her current full time employment.²

¹ Complete address maintained in USDA files.

² The Financial Hardship calculations are not posted on the OALJ website.

Conclusions of Law

1. Shirley M. McLeod is indebted to USDA Rural Development in the amount of \$30,036.25 for the mortgage loan extended to her.
2. Shirley M. McLeod is also indebted to the US Treasury for potential fees in the amount of \$8,410.15.
3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
4. The Respondent is **not** entitled to administratively garnish the wages of the Petitioner at this time. After February 2012, RD may review the then existing financial statements and assess the legal entitlement to garnish her wages.

Order

For the foregoing reasons, the wages of Shirley McLeod shall **not** be subjected to administrative wage garnishment at this time.

After February 2012, RD may re-assess Ms. McLeod's financial position.

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

Done at Washington, D.C.

June 9, 2011

JAMES P. HURT
Hearing Officer

Copies to:

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