

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0121

In re: Kristi Lindstrom
Petitioner

Decision and Order

This matter is before me upon the request of Petitioner 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 January 6, 2012, 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 Rural Development Agency (RD), Respondent, complied with the Discovery Order and a Narrative was filed, together with supporting documentation RX-1 through RX-11 on January 18, 2012. The Petitioner filed her 4 page financial statement on January 31, 2012 (which I now label as PX-1). After the hearing on February 10, 2012, Petitioner filed her most recent pay stub (which I now label as PX-2). Petitioner has been employed at her current job for more than one year. Petitioner's husband obtained piecework employment after a lengthy period of layoff.

On February 7, 2012, at the time set for the hearing, both parties were available for the hearing. Ms. Michelle Tanner represented RD and was present for the telephone

conference. Ms. Lindstrom was available and represented herself. The parties were sworn.

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 July 27, 2006, Petitioner and her husband John obtained a loan for the purchase of a primary home mortgage loan in the amount of \$115,000.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase her home on a property located in 3## W. Ce**** Street, Leroy, IL 617##¹. RX-2.
2. On/about the same time, the borrowers signed RD Form 1980-21 (A Loan Guarantee). RX-1.
3. The Borrowers became delinquent. The loan was accelerated for foreclosure on January 11, 2008. RX-8 @ p. 4 of 9.
4. A Chapter 13 bankruptcy was filed on/about July 30, 2008 which was released (not discharged) on/about March 23, 2009. RX 8 @ 5 of 9.
5. A foreclosure sale was scheduled on April 30, 2009. Narrative. RX-8 @ p. 4 of 9.
6. JP Morgan Chase (Chase) acquired the property for \$83,300. Narrative. RX-5 @ p 1 of 3.
7. Chase had the property appraised at \$102,000 on July 16, 2009 and then obtained a Broker's Price Opinion (BPO) at \$98,000 on July 27, 2009. RX-8 @ p. 5 of 9.
8. The property was originally listed for \$102,000.00 and then re-listed for \$92,2000.00 on October 18, 2009.

¹ The complete address is maintained in USDA files.

9. Chase obtained a best offer bid for \$92,000 which was accepted. RX 7 @ p. 1 of 5.
10. The principal loan balance for the RD loan prior to the foreclosure was \$112,511.44, plus \$18,991.49 for accrued interest, plus \$3,494.92 for fees, plus \$152.18 for interest on protective costs for a total of \$135,150.03. Narrative, RX-10 @ p. 9 of 11.
11. In addition, as part of the foreclosure process, Chase was paid \$14,749.69. RX 10 @ p. 9 of 11 for a grand total of \$149,899.72.
12. After the sale proceeds were applied, borrowed owed \$55,252.26. Narrative, RX-10 @ p. 9 of 11.
13. Treasury has collected \$4,529.41 as a result of its off-set program. Narrative, RX-11 @p. 1,2 of 4.
14. The remaining unpaid debt is in the amount of \$50,722.85 - exclusive of potential Treasury fees. Narrative, RX-10.
15. The remaining potential fees from Treasury are \$14,202.41. RX-11 @ p. 4 of 4.
16. Ms. Lindstrom states that has been employed at her present job for more than one year. PX-1.
17. She is married and is the parent of three minor children. PX-1. Her husband has acquired piece work employment approximately 30 miles from their home.
18. Borrower raised the issue of financial hardship. I performed a Financial Hardship calculation using the exhibits PX-1 and PX-2. I utilized the annual gross income of the 2010 tax return. In the calculation, knowledge of payroll tax and Medicare deductions were unnecessary for the determination of allowable wage

garnishment since in the calculation, the “accepted” expenses resulted in a \$0.00 allowable garnishment.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$50,722.85 exclusive of potential Treasury fees for the mortgage loan extended to her.
2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$14,202.41.
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.

Order

For the foregoing reasons, the wages of Petitioner shall NOT be subjected to administrative wage garnishment at this time. After one year, RD may re-assess the Petitioner's financial position.

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

February 24, 2012

James P. Hurt
Hearing Official

Copies to: Kristi Lindstrom
Michelle Tanner
Dale Theurer

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