

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0023

In re: TERRY CLICK,

Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Terry Click (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due to the United States Department of Agriculture, Rural Development Agency (“Respondent”; “USDA-RD”); and if established, the propriety of imposing administrative wage garnishment. On October 13, 2011, Petitioner requested a hearing. By Order issued November 23, 2011, a telephonic hearing was scheduled to commence on December 20, 2011, and the parties were directed to provide information and documentation to the Hearing Clerk for the Office of Administrative Law Judges for the United States Department of Agriculture.

On December 20, 2011, the case was reassigned to me. The hearing was rescheduled for January 31, 2012 by Order issued January 5, 2012. On December 20, 2011, Respondent filed a Narrative, together with supporting documentation (“RX-1 through RX-10”). Petitioner did not file any written statement.

Hearing commenced as scheduled, but Petitioner did not answer the telephone number that he provided. Respondent was represented by Ms. Michelle Tanner of the New Program Initiatives Branch of USDA-RD, Saint Louis, Missouri. I held the record open pending the filing of additional evidence by USDA-RD, and by Order issued January 31, 2012, I rescheduled the hearing to commence on March 1, 2012.

On February 2, 2012, Respondent filed additional evidence, which was also sent to Petitioner. At the time of the hearing, Petitioner again did not answer the telephone at the number that he had provided.

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

FINDINGS OF FACT

1. On April 15, 2009, the Petitioner received a home mortgage loan in the amount of \$106,000.00 from Taylor Mortgage for the purchase of real property located in Arab, AL, evidenced by Promissory Note. RX-1; RX-2.
2. Before executing the promissory note for the loan, on March 11, 2009 Petitioner requested a Single Family Housing Loan Guarantee from the USDA-RD, which was granted. RX-2.
3. By executing the guarantee request, Petitioner certified that he would reimburse USDA RD for the amount of any loss claim on the loan paid to the lender or its assigns. RX-2.
4. On April 15, 2009, the loan was assigned to JP Morgan Chase Bank, NA. RX-1.
5. The debt fell into default and a foreclosure sale was held on May 10, 2010, with sales proceeds of \$84,000.00. RX-5; RX-6; RX-7.
6. At the time of foreclosure, the amount due on the loan was \$105,530.69 and after application of the sale proceeds, the debt stood at \$37,212.92 which included reimbursements to the lender for protective advances, attorney fees, appraisal and property inspection fees, and lender closing costs. RX-3; RX-4.
7. USDA-RD paid a loss of \$37,212.92, which remains the amount of the debt due on the account. RX-8.

8. USDA-RD offered to settle the debt with Petitioner. RX-9..
9. No debt settlement occurred, and the loan was referred to the U.S. Department of Treasury (“Treasury”) for collection on August 8, 2011, as mandated by law. RX-9.
10. The unpaid debt at Treasury is \$37,212.92, with potential additional fees of \$10,419.62 for a total of \$47,632.45. RX-10.
11. Petitioner was advised of intent to garnish his wages to satisfy the indebtedness.
12. Petitioner timely requested a hearing, which was held on March 1, 2012.
13. Petitioner failed to attend the hearing.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. Petitioner is indebted to USDA-RD in the amount of \$37,212.92 exclusive of potential Treasury fees for the mortgage loan extended to her.
3. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met.
4. Respondent is entitled to administratively garnish the wages of the Petitioner at the full amount of 15.0% allowed by law.
5. Treasury shall remain authorized to undertake any and all other appropriate collection action.

ORDER

For the foregoing reasons, up to 15% of the wages of Petitioner may be subjected to administrative wage garnishment.

Petitioner is encouraged to consult counsel regarding the resolution of this debt, including the option of negotiating repayment of the debt with the representatives of Treasury. The toll free number for Treasury's agent is **1-888-826-3127**.

Petitioner is advised that this Decision and Order does not prevent payment of the debt through offset of any federal money payable to Petitioner.

Petitioner is further advised that a debtor who is considered delinquent on debt to the United States may be barred from obtaining other federal loans, insurance, or guarantees. See, 31 C.F.R. § 285.13.

Until the debt is satisfied, Petitioner shall give to USDA-RD or those collecting on its behalf, notice of any change in his address, phone numbers, or other means of contact.

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

So Ordered this 5th day of March, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge