

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0220

In re: SIDNEY COBB,

Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Sidney Cobb (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due to the U.S. Department of Agriculture, Rural Development (“USDA-RD”; “Respondent”), and if established, the propriety of imposing administrative wage garnishment. By Order issued on February 21, 2012, the parties were directed to file and exchange information and documentation and the matter was set for a hearing to commence by telephone on March 14, 2012.

The Respondent filed a Narrative, together with supporting documentation¹. Petitioner did not file any documents. The hearing was held as scheduled, and testimony was given by Petitioner, and by Respondent’s representative, Michelle Tanner, of the New Program Initiatives Branch of USDA-RD, Saint Louis, Missouri.

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

FINDINGS OF FACT

1. On August 29, 1996, the Petitioner received a home mortgage loan in the amount of \$62,780.00 from USDA-RD for the purchase of residential property located in Forest City, Pennsylvania. RX 1.

¹ References to Respondent’s exhibits herein shall be denoted as “RX-#”.

2. On October 26, 2000, Petitioner's account was accelerated for monetary default. RX-2.
3. On December 4, 2003 a foreclosure sale of the property yielded \$20,000.00, and after costs of the sale, \$19,294.55 was tendered to USDA-RD. RX-3.
4. At the time of the foreclosure sale, the balance due on the account was \$85,851.49, consisting of principal, accrued interest, protective advances, attorney fees, appraisal and property inspection fees. RX-3.
5. After applying the proceeds from the sale, \$66,556.94 remained on the account with USDA-RD. RX-3
6. On April 16, 2004, USDA-RD sent Petitioner an offer to compromise the balance due on the account. RX-4
7. Petitioner did not receive the offer, as he was no longer at the address where the offer was sent.
8. When Petitioner did not respond to the offer to settle the debt, on July 6, 2004, the account was referred to Treasury for collection as required by law. RX-5.
9. When the account was referred to Treasury, it consisted of \$66,556.94 plus Treasury's potential fees of \$19,967.08, for a total potential indebtedness of \$86,524.02. RX-5.
10. Treasury, through its agent, issued a notice to Petitioner of intent to garnish his wages, and Petitioner timely filed a petition for a hearing.
11. Petitioner challenged the amount of the debt, asserting that he had not been given credit for income tax refund offsets that had been applied to his account.
12. Following Notice of Hearing, a hearing was held on March 14, 2012,
13. At the hearing, Respondent's representative credibly testified that she had conducted a diligent search of Petitioner's account status in response to his objection.

14. As the result of that search, Respondent acknowledged that Petitioner's tax refunds had been intercepted by Treasury, but credits had not been applied to the account balance.
15. After crediting the account, the balance due is \$52,361.94, exclusive of potential fees.
16. Petitioner provided a verbal summary of his expenses and income.
17. Petitioner is currently unemployed, but his work is seasonal and he hopes to return in the near future.
18. Petitioner is responsible for his dependent infant and the child's mother, who live with him.
19. Petitioner's monthly obligations include child support for his other minor children who do not reside with him.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. Petitioner is indebted to USDA RD in the amount of \$52,361.94, exclusive of potential Treasury fees for the mortgage loan extended to him.
3. All procedural requirements for administrative wage offset set forth at 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, because garnishment would represent a hardship, as there is no excess of Petitioner's income after expenses.
5. Even if Petitioner returns to work at full pay, his expenses will be absorbed by his income.
6. Treasury shall remain authorized to undertake any and all other appropriate collection action.

ORDER

For the foregoing reasons, the wages of Petitioner shall NOT be subjected to administrative wage garnishment at this time. 31 C.F.R. §285.11.

Petitioner is encouraged to negotiate 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 and counsel by the Hearing Clerk's Office.

So Ordered this 16th day of March, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge