

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0194

In re: Ramon Almanzan
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 February 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-6 on February 10, 2012. Following the hearing, on March 7, 2012 RD filed additional exhibits RX-7 and 8. The Petitioner filed his exhibits (Financial Disclosures) on February 23, 2012 which I now label as PX-1. He was given until March 14, 2012 to file any additional documents, but none have been received.

On February 29, 2012, at the time set for the hearing, both parties were available and participated in the hearing. Ms. Michelle Tanner represented RD. Mr. Almanzan represented himself. The parties were sworn. During the hearing, Mr. Almanzan stated he has been employed for more than one year. He also alleged that there were Treasury

tax intercepts that were not counted in RD's documents. I performed a Financial Hardship based upon the financial statements provided by Mr. Almanzan under oath.¹

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 March 27, 2000, Petitioner obtained a loan for the primary home mortgage in the amount of \$74,000 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD), to re-finance his home on a property located in 12## Magu*** Horizon City, TX 79###². RX-1.
2. The Borrower became delinquent. The loan was accelerated for foreclosure on February 6, 2007. RX-2.
3. A foreclosure sale was ordered and held on February 2, 2010. Narrative. RX-3.
4. USDA acquired the property at the foreclosure sale for \$68,902.00. Narrative, RX-6.
5. The principal balance for the RD loan prior to the foreclosure was \$61,668.10, plus \$16,023.98 for accrued interest, plus \$8,933.04 for costs, plus interest on the fee balance of \$54.80 for a total of \$86,679.92. Additionally, there was a post-sale charge of \$386.00 for a new total balance of \$87,065.92. Narrative, RX-6.
6. The total amount due after the sale was \$18,065.21. Narrative, RX-6.
7. Prior to the foreclosure sale, Treasury made tax refund intercepts of \$2,710.00 on (3/1/2007), \$3,662.00 on (3/27/2008), \$1,183.00 on (7/17/2008). RX-8.

¹ The Financial Hardship calculation is not posted on the OALJ website.

² The complete address is maintained in USDA files.

8. Following the foreclosure sale, Treasury made three (3) wage garnishments bringing the new amount owed to \$17,874.37 – exclusive of potential Treasury fees. RX-7.
9. The remaining potential fees from Treasury are \$5,004.83. RX-7.
10. Mr. Almanzan states that he has been employed for more than one year.
Testimony.
11. Petitioner raised the issue of Financial Hardship.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$17,874.37 exclusive of potential Treasury fees for the mortgage loan extended to him.
2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$5,004.83.
3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
4. The Petitioner is not subject to administrative garnishment of his wages 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, Petitioner's financial position may be reviewed again.

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

March 19, 2012

James P. Hurt
Hearing Official

Copies to: Ramon G. Almanzan
Michelle Tanner
Dale Theurer

Hearing Clerk's Office
U.S. Department of Agriculture
1400 Independence Avenue SW
Room 1031, South Building
Washington, D.C. 20250-9203
202-720-4443
Fax: 202-720-9776