

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0095

In re: Scottie Byrd
Petitioner

Revised 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-10 on January 6, 2012. During the hearing, I granted Mr. Byrd a limited period of time to file any documentation of financial hardship. Mr. Byrd filed his financial information including his most recent pay stub post-hearing on March 22, 2012 and further clarified his financial statement on April 12, 2012 which I now label as PX-1 through PX-3, respectively. I prepared a Financial Hardship Calculation based upon his financial statements and pay stub.¹

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

On February 2, 2012, at the time set for the hearing, Mr. Byrd was not originally available for the telephone conference. He did call in one hour later. Both parties then participated in the hearing. Ms. Michelle Tanner represented RD and was present for the telephone conference. Mr. Byrd was available and represented himself. 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 December 23, 2003, Petitioner obtained a loan for the purchase of a primary home mortgage loan in the amount of \$68,512.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) to purchase his home on a property located in 1## Ever*** Dr., Inman, SC 293##². RX-3.
2. On/about the same time, the borrower signed RD Form 1980-21 (A Loan Guarantee). RX-1 @ p. 2 of 4.
3. The Borrower became delinquent. The loan was accelerated for foreclosure on April 22, 2005. RX-8 @ p. 5 of 10.
4. A foreclosure sale was ordered on June 29, 2005. Narrative. RX-6 @ p. 1 of 3.
5. JP Morgan Chase (Chase) acquired the property for \$56,100 on August 1, 2005. Narrative, RX-8 @ p 5 of 10.

² The complete address is maintained in USDA files.

6. Chase had the property appraised at \$62,000 on September 1, 2005 and then obtained a Broker's Price Opinion (BPO) at \$47,000 on September 6, 2005. RX-8 @ p. 5 of 10.
7. The property was originally listed for \$63,000.00 on September 16, 2005 and then re-listed for \$55,000 on January 9, 2006. RX-8 @ p. 6 of 10.
8. When the property did not sell, RD credited Chase the Liquidation Value Appraisal of \$52,000 on January 28, 2006. RX-8 @ p. 6 of 10.
9. The principal loan balance for the RD loan prior to the foreclosure was \$67,877.34, plus \$5,475.75 for accrued interest, plus \$70.19 for additional interest for a total of \$73,423.28. Narrative, RX-8 @ p. 8 of 10.
10. Chase was credited \$43,176.10 as the estimated proceeds from the Collateral. RX-8 @ p. 8 of 10.
11. After the loss claims were paid to Chase, the net loss Amount is \$29,250.31. Narrative, RX-8 @ p. 9 of 10.
12. Treasury has not collected any monies as a result of its off-set program. Narrative, RX- 10 @p. 1 of 3.
13. The remaining unpaid debt is in the amount of \$29,250.31 - exclusive of potential Treasury fees. Narrative.
14. The remaining potential fees from Treasury are \$8,775.09. RX-10 @ p. 2 of 3.
15. Mr. Byrd states that he has been employed at his present job for more than one year. Testimony.

16. Mr. Byrd filed his financial documentation under oath. Based upon the Financial Hardship Calculation, Mr. Byrd shall not be subject to administrative wage garnishment at this time.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$29,250.31 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 \$8,775.09.
3. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
4. The Respondent shall not be 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.

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

April 13, 2012

James P. Hurt
Hearing Official

Copies to: Scottie Byrd
 Michelle Tanner
 Dale Theurer

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