

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0311

In re: JENNIFER LAMOREAUX,
Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Jennifer Lamoreaux (“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 March 26, 2012, Petitioner requested a hearing. By Order issued March 29, 2012, a hearing was scheduled to commence on May 17, 2012, 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 April 25, 2012, Respondent filed a Narrative, together with supporting documentation (“RX-1 through RX-11”). Petitioner filed correspondence denying the indebtedness and supporting her position (“PX-1”). The parties’ submissions are hereby formally entered into the record.

The hearing commenced as scheduled. Petitioner represented herself and credibly testified. Respondent was represented by Ms. Leopardi, of the New Program Initiatives Branch of USDA-RD, Saint Louis, Missouri. Ms. Leopardi credibly testified regarding USDA-RD’s submissions.

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 June 9, 2004, the Petitioner and her husband obtained a home mortgage loan in the amount of \$73,900.00 from Quality Residential Lending (“Lender”) for the purchase of real property located in Thompsonville, Michigan, evidenced by Promissory Note. RX-2.
2. Before executing the Promissory Note for the loan, on January 31, 2008, Petitioner requested a Single Family Housing Loan Guarantee from the USDA-RD, which was granted. RX-1.
3. By executing the guarantee request, Petitioner certified that she would reimburse USDA-RD for the amount of any loss claim on the loan paid to the Lender or its assigns. RX-1.
4. The Lender sold the loan to JP Morgan Chase Bank (“Chase”). RX-2.
5. The loan fell into default and Chase modified the loan. RX-3
6. When the loan again fell delinquent, it was accelerated for foreclosure. RX-4.
7. A foreclosure sale was held on October 28, 2009, and Chase acquired the property for the sum of \$56,319.23. RX-4.
8. USDA-RD and Chase developed a property disposition plan that valued the property for less than the sale price. RX-5.
9. On August 27, 2010, the property was sold to a third party for the sum of \$33,250.00. RX-6.
10. At the time of the sale, the total due on Petitioner’s mortgage account was \$96,165.08 consisting of principal, interest, fees and advances. RX-7; RX-8.
11. After crediting the account for sale proceeds, USDA-RD paid a loss claim in the amount of \$56,960.99. RX-7; RX-8.

12. The claim was established as a debt to the United States. RX-9.
13. Petitioner failed to negotiate a settlement of the loss claim with USDA-RD, and thereafter, USDA-RD referred the loss payment to the U.S. Department of Treasury (“Treasury”) as a debt of the Petitioner. RX-10; RX-11.
14. The debt is at Treasury for collection in the amount of \$49,991.88, plus potential fees of \$13,997.73. RX-10; RX-11.
15. Petitioner was advised of intent to garnish her wages to satisfy the indebtedness.
16. Petitioner timely requested a hearing, and provided written submissions.
17. In 2010, Chase issued to Petitioner and her husband a Form 1099, reporting imputed income to the Borrowers in the amount of \$47,565.40, represented as the balance of principal outstanding on the mortgage loan.
18. Chase also specifically stated that the Borrowers were not personally liable for the payment of the debt.
19. Petitioner and her husband were required to report \$47,565.40 as income on their federal taxes.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met.
3. Respondent has failed to establish the existence of a valid debt due to the United States from Petitioner.
4. Chase reported the deficiency balance after foreclosure sale as imputed income to Petitioner and her husband and advised that they were not personally liable to pay the deficiency.

5. Chase then erroneously submitted the deficiency (with additional amounts for fees accrued after foreclosure) as a loss to USDA-RD under the guarantee program.
6. Although the guarantee signed by Petitioner and her husband advised that they would be responsible for any payment made to the United States regardless of the Lender's release of liability, they cannot be held responsible for both a loss claim and imputed income for the loss.
7. USDA-RD may have an actionable claim against Chase to recover the loss paid on this account.

ORDER

For the foregoing reasons, the loss claim does not constitute a valid debt of Petitioner and her husband to the United States.

No wage garnishment or other collection action may be taken on this account.

The account at Treasury should be rescinded and canceled.

This case is DISMISSED.

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

So Ordered this 18th day of May, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge