

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	[AWG]
Keith Parmeley)	Docket No. 12-0329
)	
Petitioner)	Decision and Order

Appearances:

none, for the Petitioner Keith Parmeley; and

Michelle Tanner, Appeals Coordinator, United States Department of Agriculture, Rural Development, Centralized Servicing Center, St. Louis, Missouri, for the Respondent (USDA Rural Development).

1. The hearing by telephone was held as scheduled on June 13, 2012. Keith Parmeley, also known as Keith W. Parmeley (“Petitioner Parmeley”) did not participate. (Petitioner Parmeley did not participate by telephone: there was no answer at the telephone number Petitioner Parmeley provided in his Hearing Request; and in response to my Order issued April 25, 2012, Petitioner Parmeley provided no telephone number where he could be reached for the hearing by telephone.)

2. Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and is represented by Michelle Tanner.

Summary of the Facts Presented

3. Petitioner Parmeley owes to USDA Rural Development a balance of **\$75,715.42** (as of May 2, 2012) in repayment of a United States Department of Agriculture / Rural Development / Rural Housing Service *Guarantee* (see RX 1, esp. p. 2) for a loan made on July 10, 2006, by JP Morgan Chase Bank, N.A., for a home in Missouri, the balance of which is now unsecured (“the debt”). See USDA Rural Development Exhibits RX 1 through RX 10, plus Narrative, Witness & Exhibit List (filed May 3, 2012), which are admitted into evidence, together with the testimony of Michelle Tanner.

4. This *Guarantee* establishes an **independent** obligation of Petitioner Parmeley, “I certify and acknowledge that if the Agency pays a loss claim on the requested loan to the lender, I will reimburse the Agency for that amount. If I do not, the Agency will use all remedies available to it, including those under the Debt Collection Improvement Act, to recover on the Federal debt directly from me. The Agency’s right to collect is independent of the lender’s right to collect under the guaranteed note and will not be affected by any release by the lender of my obligation to repay the loan. Any Agency collection under this paragraph will not be shared with the lender.” RX 1, p. 2.

5. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$75,715.42** would increase the current balance by \$21,200.32, to \$96,915.74. *See* USDA Rural Development Exhibits, esp. RX 10, p. 2.

6. The amount Petitioner Parmeley borrowed was \$153,230.00 on July 10, 2006. RX 2. Petitioner Parmeley defaulted on the mortgage to JP Morgan Chase Bank, N.A. (“Chase”). Foreclosure was initiated on July 15, 2010. A foreclosure sale was held on August 11, 2010, at which Chase acquired the property back into inventory with the highest bid, \$110,500.00. Chase placed the home “as is” on the market for resale. The “As Is” Value per the Brokers Price Opinion (BPO) was \$114,900.00 as of September 3, 2010. The Original List Price was \$124,500.00. The Final List Price was \$106,900.00. The property sold to a third party for \$99,000.00, with the closing date being March 25, 2011.

7. Mr. Parmeley stated in his Hearing Request: “My home was only 3 yrs. old. Chase Bank owes.” But Mr. Parmeley owed \$168,124.66 on the loan with Chase. The detail is shown on RX 7. In addition to principal (\$148,417.49), there was interest (\$17,107.90), and there were fees and protective advances to pay taxes and insurance (\$2,2583.13). There was also interest on protective advances (\$16.14). These four items of what Mr. Parmeley owed total \$168,124.66. RX 7. Petitioner Parmeley also owed Chase’s expenses to sell the property, which totaled an additional \$12,985.74. The detail is shown on RX 7. So, after the \$99,000.00 in sales proceeds were applied to reduce the debt, and another \$5,887.98 in recoveries/credits/reductions were applied to reduce the debt, Chase still had a loss claim of \$76,222.42. RX 6, RX 7, and USDA Rural Development Narrative.

8. USDA Rural Development paid the loss claim to Chase, \$76,222.42, in May 2011. RX 9 and USDA Rural Development Narrative. Thus \$76,222.42, the amount USDA Rural Development paid, is the amount USDA Rural Development recovers from Petitioner Parmeley under the *Guarantee*. No more interest accrues; no interest, no penalties.

9. A collection by Treasury (\$524.00 from Petitioner Parmeley in February 2012, an *offset*) applied to reduce the debt (after the collection fee was subtracted) leaves **\$75,715.42** unpaid as of May 2, 2012 (excluding the potential remaining collection fees). *See* RX10.

10. Although my Hearing Notice and Prehearing Deadlines, dated April 25, 2012, invited financial disclosure from Petitioner Parmeley, such as filing a Consumer Debtor Financial Statement, he filed nothing. Thus I cannot calculate Petitioner Parmeley's current disposable pay. (Disposable pay is gross pay minus income tax, Social Security, Medicare, and health insurance withholding; and in certain situations minus other employee benefits contributions that are required to be withheld.) There is no evidence before me to use to consider the factors to be considered under 31 C.F.R. § 285.11. In other words, I cannot tell whether garnishment to repay "the debt" (*see* paragraph 3) in the amount of 15% of Petitioner Parmeley's disposable pay creates a financial hardship.

11. Petitioner Parmeley is responsible and able to negotiate the repayment of the debt with Treasury's collection agency.

Discussion

12. Garnishment of Petitioner Parmeley's disposable pay is authorized. I encourage **Petitioner Parmeley and Treasury's collection agency to negotiate promptly** the repayment of the debt. Petitioner Parmeley, this will require **you** to telephone Treasury's collection agency after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner Parmeley, you may choose to offer to the collection agency to compromise the debt for an amount you are able to pay, to settle the claim for less. Petitioner Parmeley, you may want to have someone else with you on the line if you call.

Findings, Analysis and Conclusions

13. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Parmeley and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.

14. Petitioner Parmeley owes the debt described in paragraphs 3 through 9.

15. **Garnishment up to 15% of Petitioner Parmeley's disposable pay** is authorized. There is no evidence that financial hardship will be created by the garnishment. 31 C.F.R. § 285.11.

16. **No refund** to Petitioner Parmeley of monies already collected or collected prior to implementation of this Decision is appropriate, and no refund is authorized.

17. Repayment of the debt may also occur through **offset** of Petitioner Parmeley's **income tax refunds** or other **Federal monies** payable to the order of Mr. Parmeley.

Order

18. Until the debt is repaid, Petitioner Parmeley shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in his mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).

19. USDA Rural Development, and those collecting on its behalf, are authorized to proceed with **garnishment up to 15% of Petitioner Parmeley's disposable pay**. 31 C.F.R. § 285.11.

20. I am **NOT** ordering any amounts already collected prior to implementation of this Decision, whether through *offset* or garnishment of Petitioner Parmeley's pay, to be returned to Petitioner Parmeley.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 28th day of June 2012

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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