

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 12-0344

In re: Dustin Powlus,
Petitioner

Decision and Order

This matter is before the Administrative Law Judge 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 April 20, 2012, a Prehearing Order was entered 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 on June 28, 2012.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation on May 14, 2012. The only material appearing in the record from the Petitioner are the attachments to his Request for Hearing. On the June 28, 2012 at the time set for the hearing, efforts to reach the Petitioner were unsuccessful and he will be deemed to have waived her right to a hearing.

In his Request for Hearing, the Petitioner asserted that he never had a loan with the "Federal gov." While technically correct, Petitioner's position fails to address the issue of whether he ever applied for the loan guarantee with Rural Development which is the basis for the collection action.

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 February 15, 2007, Dustin Powlus applied for and received a home mortgage loan guarantee from Rural Development (RD) (RX-1) and on March 16, 2007 obtained a home mortgage loan for property located in Berwick, Pennsylvania from Columbia County Farmers National Bank for \$86,900.00. RX-2.
2. On March 17, 2007 Columbia County Farmers National Bank assigned the note and mortgage to the Pennsylvania Housing Finance Agency by assignment of record as Instrument 2007-02814 in the County records. The note and mortgage were later reassigned to U.S. Bank, National Association, Trustee for Pennsylvania Housing Finance Agency. RX-3.
3. In 2010, the Petitioner defaulted on the mortgage loan and foreclosure proceedings were initiated. RX-3.
4. The note holder submitted a loss claim and USDA paid the note holder the sum of \$40,456.75 for unpaid principal, accrued interest, protective advances, liquidation costs and property sale costs. RX-6, 7.
5. The unpaid debt is in the amount of \$40,456.75, exclusive of potential Treasury fees.

Conclusions of Law

1. Petitioner is indebted to USDA Rural Development in the amount of \$40,456.75 for the mortgage loan guarantee extended to him.

2. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.

3. The Respondent is entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, the wages of the Dustin Powlus, shall be subjected to administrative wage garnishment at the rate of 15% of disposable pay, or such lesser amount as might be specified in 31 C.F.R. § 285.11(i).

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

June 28, 2012

Peter M. Davenport
Chief Administrative Law Judge

Copies to: Dustin Powlus
 Michelle Tanner
 Dale Theurer

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