

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No.12-0350

In re: Herbert Brooks,

Petitioner

Decision and Order

This matter is before the Administrative Law Judge upon the request of Herbert Brooks, 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 case 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 Petitioner failed to file any additional material with the Hearing Clerk; however, in his Request for Hearing, Mr. Brooks stated that the signature on the documents was not his and had been signed by his ex wife. A comparison of the signatures on the Request for Hearing and the Loan Guarantee application raised sufficient doubt that Rural Development was asked to see if an individual could be located at the time the document was signed to verify that it was in fact Mr. Brooks that signed the loan guarantee application. Rural Development failed to

provide such a person, but instead has submitted a copy of Mr. Brooks' Driver License from the State of Georgia.

On the basis of the record before me, nothing further having been received from the Petitioner, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. On June 31, 2008, an individual whose identity has not been established applied for and received a home mortgage loan guarantee from Rural Development (RD), United States Department of Agriculture (USDA). RX-1. The loan guarantee application form does not require notarization and no individual has been produced who was present at the time the document was signed.
2. On July 31, 2008, Herbert T. Brooks and Keyonta Brooks obtained a home mortgage loan for property located in Winder, Georgia from Homestar Financial Corporation for \$170,917.00 and before a Notary Public executed a note and Security Deed secured by the property. RX-2.
3. Homestar Financial Corporation subsequently sold the note and mortgage to Chase Manhattan Mortgage. RX-2.
4. In 2009, the mortgage loan was defaulted on and foreclosure proceedings were initiated. RX-3.
5. JP Morgan Chase submitted a loss claim and USDA paid Chase the sum of \$80,321.87 for unpaid principal, accrued interest, protective advances, liquidation costs and property sale costs. RX-9.

6. The record does not contain any court records pertaining to foreclosure proceedings, but contains a deed executed by Chase Home Finance, LLC under the powers granted in the Security Deed to Homestar Financial Corporation. The record recites assignment of the note and mortgage to Chase Home Finance, LLC; however, those assignments are not part of the record.

7. The debt was submitted to Treasury for collection on June 8, 2011 and Petitioner's salary is being garnished.

Conclusions of Law

1. USDA Rural Development failed to establish that Herbert T. Brooks executed the loan guarantee application upon which the debt is alleged to be due.

2. The Respondent is not entitled to administratively garnish the wages of the Petitioner.

Order

1. For the foregoing reasons, the wages of Herbert T. Brooks may **NOT** be subjected to administrative wage garnishment.

2. All amounts collected from the Petitioner by Treasury shall be refunded.

3. As no debt was established, no 1099 may be issued.

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

August 15, 2012

Peter M. Davenport
Chief Administrative Law Judge