

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0647

In re: Michael A. Beene,
Petitioner.

Decision and Order

This matter is before the Office of Administrative Law Judges upon the September 24, 2012, request of Michael A. Beene (“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 (“USDA-RD”); and if established, the terms of any repayment prior to imposition of an administrative wage garnishment.

By Order issued October 5, 2012 the parties were directed to exchange information and documentation and the matter was set for a telephonic hearing. Petitioner did not submit any documentation. USDA-RD filed a Narrative, together with supporting documentation.

On the scheduled date for the hearing, November 8, 2012, USDA-RD’s representative, Michelle Tanner appeared and testified. I admitted USDA-RD’s evidence, RX-1 through RX-6 to the record. Petitioner did not answer at the telephone number that he provided. The Order issued on October 5, 2012 was not returned as undeliverable. I held the record open until the close of business on the date of the hearing, but Petitioner did not respond to a voice mail message left for him.

Consequently, I find it appropriate to decide this matter on the record before me, and the following Findings of Fact, Conclusions of Law, and Order shall be entered.

FINDINGS OF FACT

1. On March 26, 1990, the Petitioner¹ received a loan in the amount of \$32,000.00 from USDA-RD for the purchase of real property located in Deming, New Mexico evidenced by Promissory Note. RX-1.
2. The loan fell into default and was accelerated on October 20, 2003. RX-2.
3. A foreclosure sale was held on October 27, 2004 and the property was sold to the highest bidder for the amount of \$29,050.00. RX-4.
4. At the time of the sale, the amount due on Petitioner's loan was \$40,029.93, comprised of principal, interest, fees, and costs related to the foreclosure and sale. RX-5.
5. USDA-RD applied the proceeds of the sale to the Petitioner's account and a balance of \$10,979.93 remained due. RX-5.
6. Petitioner did not respond to USDA-RD's attempts to settle the outstanding amount due. RX-8.
7. USDA-RD referred Petitioner's account to the U.S. Department of Treasury ("Treasury") for collection on May 9, 2005, pursuant to applicable law. RX-4.
8. At the time of the submission of USDA-RD's exhibits to this record, the amount of Petitioner's account at Treasury was \$4,965.99, plus remaining potential fees.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. Respondent USDA-RD has established the existence of a valid debt from Petitioner to USDA-RD.
3. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met.

¹ Another Borrower also received the loan, but information pertaining to that Borrower is not relevant as the instant action is confined to Petitioner.

4. Upon consideration of all of the evidence, I find that wage garnishment is appropriate.
5. USDA-RD/Treasury may administratively garnish Petitioner's wages at the statutory maximum rate of 15% of his disposable income.
6. Petitioner is advised that only Treasury has authority to compromise the amount of the debt, and that he may be able to negotiate settlement of the debt with the representatives of Treasury.
7. The toll free number for Treasury's agent is **1-888-826-3127**.
8. Petitioner is advised that this Decision and Order does not prevent payment of the debt through offset of any federal money payable to Petitioner, including income tax refunds.
9. Petitioner is further advised that a debtor who is considered delinquent on debt to the United States may be barred from obtaining other federal loans, insurance, or guarantees. See, 31 C.F.R. § 285.13.

ORDER

1. Administrative wage garnishment at the statutory maximum of 15% of Petitioner's disposable income may be effected.
2. Treasury may continue to collect the debt through offset of any funds due to Petitioner from the United States.
3. Until the debt is satisfied, Petitioner shall give to USDA-RD or those collecting on its behalf at Treasury, notice of any change in his address, phone numbers, or other means of contact.
4. Copies of this Decision and Order shall be served upon the parties by the Hearing Clerk's Office.

So Ordered this 9th day of November, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge

