

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 13-0153

In re: SANDY CREASY,

Petitioner.

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the January 11, 2013 request of Sandy Creasy (“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 propriety of imposing administrative wage garnishment. By Order issued on January 23, 2013, the parties were directed to provide information and documentation concerning the existence of the debt and the matter was set for a telephonic hearing to commence on March 13, 2013.

Respondent filed a Narrative, together with supporting documentation¹ identified as RX-1 through RX-6. Petitioner filed a Consumer Debtor Financial Statement, identified as PX-1.

At the hearing, Petitioner represented herself and testified. Michelle Tanner represented USDA-RD and testified. I admitted the exhibits to the record.

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 March 27, 1990 the Petitioner received a home mortgage loan in the amount of \$38,000.00 from USDA-RD to purchase residential real property located in Raymondville, Texas. RX-1.

¹ References to Respondent’s exhibits herein shall be denoted as “RX-#”.

2. Petitioner defaulted on the loan and her account was accelerated and scheduled for foreclosure. RX-2.
3. USDA-RD was the highest bidder (\$24,587.25) at a foreclosure sale held on June 5, 2001. RX-3
4. After application of the sale proceeds, the amount due on Petitioner's loan was \$40,938.73, consisting of principal, interest and recoverable costs and fees. RX-4.
5. USDA-RD offered to compromise the debt, but no settlement was reached. RX-3.
6. USDA-RD entered the outstanding balance on the account as a debt due from Petitioner, and referred to the United States Department of Treasury ("Treasury") for collection pursuant to law. RX-4.
7. Pursuant to a previous notice of intent to implement administrative wage garnishment, Petitioner appeared before Administrative Law Judge Jill Clifton at a hearing commenced on December 9, 2010, but failed to appear when the hearing was resumed on March 4, 2011.
8. By Decision and Order issued March 11, 2011, Judge Clifton concluded that the debt was valid and that Petitioner could withstand wage garnishment at the statutory maximum amount of 15% of her disposable income.
9. Wage garnishment was not implemented until January, 2013, and Petitioner was given another opportunity to challenge the garnishment.
10. Petitioner is sole provider for a family that includes three dependent children and one adult child attending college.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.

2. In concurrence with Judge Clifton's ruling, Petitioner is indebted to USDA Rural Development in the amount of \$37,402.14 exclusive of potential Treasury fees for the mortgage loan extended to her.
3. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met.
4. The Petitioner's income and expenses cannot withstand the statutory maximum of wage garnishment.
5. Wage garnishment may be implemented at the rate of 5% of Petitioner's disposable income, EXCEPT THAT wage garnishment shall be stayed for a period of ninety (90) days to allow Petitioner to attempt to reach a settlement with Treasury or otherwise address the debt.
6. Treasury shall remain authorized to undertake any and all other appropriate collection action.

ORDER

For the foregoing reasons, Petitioner shall be subjected to administrative wage garnishment at a maximum rate of 5% of her income, **beginning no sooner than ninety (90) days from the date of this Decision and Order.**

Petitioner is encouraged to negotiate repayment of the debt with the representatives of Treasury. The toll free number for Treasury's agent is **1-888-826-3127**.

Petitioner is also encouraged to consult an attorney or debt collection expert regarding this debt.

Petitioner is advised that this Decision and Order does not prevent payment of the debt through offset of amounts due from the government.

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.

Until the debt is satisfied, Petitioner shall give to USDA-RD or those collecting on its behalf, notice of any change in her address, phone numbers, or other means of contact.

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

So Ordered this 13th day of March, 2013 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge