

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: )  
)  
Laura Kropidlowksi, ) [AWG]  
) Docket No. **13-0004**  
n/k/a Laura F. Bylls, )  
) **Remand to USDA Rural Development and**  
Petitioner ) **Dismissal of Garnishment Proceeding and This Case**

Appearances:

Robert H. Ellis, Esq., of Jacksonville, Florida, for Laura F. Bylls, formerly known as Laura Kropidlowksi, Petitioner; 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. A hearing by telephone was held on December 4, 2012 and February 20, 2013. Petitioner Laura F. Bylls, formerly known as Laura Kropidlowksi (Petitioner Bylls) participated, represented by Robert H. Ellis, Esq.

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

Summary of the Facts Presented

3. Petitioner Bylls’ Hearing Request dated September 18, 2012 (letter over the signature of Robert H. Ellis, Esq.), is admitted into evidence, together with the testimony of Petitioner Bylls, together with PX 1 through PX 8 filed November 30, 2012; Status Report filed January 18, 2013 with attached 6-page PX A and attached 6-page PX B; and Status Report FAXed and emailed April 1, 2013 with attached 19-page PX A.

4. USDA Rural Development's Exhibits RX 1 through RX 10, plus Narrative, Witness & Exhibit List, were filed on October 15, 2012, and are admitted into evidence, together with the testimony of Michelle Tanner.
5. USDA Rural Development's position is that Petitioner Bylls owes to USDA Rural Development **\$46,002.87** (as of October 11, 2012), in repayment of a United States Department of Agriculture / Rural Development / Rural Housing Service *Guarantee* (see RX 1, esp. p. 2) for the loan made by JP Morgan Chase Bank, N.A. on August 11, 2005. Petitioner Bylls (then Kropidlowski) borrowed \$91,300.00. RX 2, pp. 1-3.
6. JP Morgan Chase Bank, N.A. is the parent company of Chase Home Finance LLC (the Servicing Lender). I refer to these entities as Chase, or the lender.
7. Petitioner Bylls borrowed the \$91,300.00 to buy a home in Kentucky; the balance of the loan is now unsecured ("the debt"). Petitioner Bylls (then Kropidlowski) promise to pay USDA Rural Development, if USDA Rural Development paid a loss claim to the lender, is contained on the same page of the *Guarantee* that Petitioner signed, and is recited in the following paragraph, paragraph 8.
8. The *Guarantee* establishes an **independent** obligation of Petitioner Bylls, "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.
9. USDA Rural Development did pay a loss claim on the requested loan to the lender, \$48,303.66 in 2010. RX 6, esp. p. 12; RX 7. This, the amount USDA Rural Development paid, is the amount USDA Rural Development seeks to recover from Petitioner Bylls under the *Guarantee*, less the amounts already collected from Petitioner Bylls. See RX 10, esp. p. 1.
10. Potential Treasury collection fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$46,002.87** would increase the current balance by \$12,880.81, to \$58,883.68. See RX 10, p. 2.
11. Petitioner Bylls testified that she understood from an employee in a Chase bank branch in Bridgman, Michigan that she would not be responsible to pay a deficiency; that she would receive a form that would identify the amount forgiven as income that she would have to pay income tax on. Petitioner Bylls described the employee as a 30-35 year old

young lady, “Jennifer”. Petitioner Bylls testified that she thinks there was paperwork that would confirm this, but that she does not have those documents any more. Petitioner Bylls testified that she never received a document with numbers on it to show the difference.

12. Petitioner Bylls testified that before she turned in the keys and had the conversation with the employee in the Chase bank branch in Bridgman, Michigan, she had tried the following: Petitioner Bylls had marketed the home, beginning when she left it after about a year for a job opportunity. Petitioner Bylls kept paying, even when she no longer lived in the home for nearly two years while she lived in another state. The 19-page PX A documents the diligence with which Petitioner Bylls paid. Petitioner Bylls testified she had 3 realtors and kept the home on the market the whole time. Petitioner Bylls testified she asked Chase to accept a deed in lieu of foreclosure (no, she was not behind); and she asked Chase to accept a short sale which was only \$10,000.00 less than she owed and she agreed she would pay the \$10,000.00 balance on a personal note (Chase said no).

13. The Due Date of the Last Payment Made was September 1, 2008. RX 6, p. 5. Foreclosure was initiated on February 11, 2009. RX 6, p. 6. At the Foreclosure Sale on June 5, 2009, the lender was not outbid, so the home sold to the lender, Chase, for \$48,000.00. Chase then marketed the REO (real estate owned) and sold it for \$56,101.00. Chase had it listed for \$65,000.00 (the appraised value in September 2009, *see* RX 6, pp. 6-7), but the 6 months allowed for marketing would expire in February 2010. The debt had added up to \$108,476.84 by February 25, 2010, the date the sale of the REO was closed. *See* RX 7 for the summary of principal, interest, costs and fees, plus the liquidation and property sale costs paid by the lender.

14. Getting the security (the home) resold was an expensive process, First, all the costs of foreclosure were incurred, and Petitioner Bylls is expected to reimburse for those costs; because no one outbid the lender at the foreclosure sale, costs incurred to sell the REO were then incurred, and Petitioner Bylls is expected to reimburse for those costs as well, through the date the sale of the REO was closed, February 25, 2010. RX 7 shows that the liquidation and property sale costs paid by the lender were \$11,460.96. Meanwhile, interest continued to accrue, taxes continued to become due, and insurance premiums continued to become due. Interest alone from September 1, 2008 (the Due Date of the Last Payment Made) until February 25, 2010, was \$8,127.66. RX 7.

15. Petitioner Bylls is a very credible witness; I believe her testimony and find that she tried to work with Chase to avoid the additional expenses, but I cannot relieve her on legal grounds of the obligation to reimburse USDA Rural Development for paying Chase for those expenses. Attempts by both Robert H. Ellis, Esq. and Michelle Tanner to get additional documentation from Chase, on the theory that there might be documentation that would provide a basis for relief from Petitioner Bylls’ obligation, have not been fruitful.

16. No additional interest has accrued since February 25, 2010 (the date the sale of the REO was closed) and none will accrue, which makes repaying the debt more manageable.

17. Does Petitioner Bylls owe to USDA Rural Development a balance of **\$46,002.87** (as of October 11, 2012), less other amounts collected since (excluding the potential remaining collection fees), in repayment of a United States Department of Agriculture / Rural Development / Rural Housing Service *Guarantee* (see RX 1, esp. p. 2)? After careful review of the evidence, I conclude that she does. The *Guarantee* is the document by which Petitioner Bylls promised to reimburse USDA Rural Development if it (“the Agency”) paid a loss claim to Chase. USDA Rural Development did pay a loss claim on the requested loan to the lender: USDA Rural Development reimbursed the lender Chase \$48,303.66 in 2010. Petitioner Bylls is legally liable to repay USDA Rural Development.

18. After USDA Rural Development paid Chase the loss claim, \$48,303.66, USDA Rural Development tried to contact Petitioner Bylls by letter in January 2011. RX 9. Petitioner Bylls testified persuasively that she never received the letter. She testified that RX 9 does contain her correct address but that she had never seen it. She testified she would have called about it. I believe Petitioner Bylls and find that she has behaved responsibly. Petitioner Bylls should have another opportunity to negotiate with USDA Rural Development (the “debt settlement” process).

#### Findings, Analysis and Conclusions

19. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Bylls and USDA Rural Development; and over the subject matter (administrative wage garnishment, which requires determining whether Petitioner Bylls owes a valid debt to USDA Rural Development).

20. Petitioner Bylls owes the debt described in paragraphs 5 through 17. The debt, \$48,303.66, the amount of the loss claim paid, was sent to Treasury for collection in 2011, and collections from Treasury left **\$46,002.87** remaining unpaid as of October 11, 2012 (excluding the potential remaining collection fees). See RX 10, especially pp. 1-2.

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

22. Repayment of the debt may occur through *offset* of Petitioner Bylls’ **income tax refunds** or other **Federal monies** payable to the order of Ms. Bylls.

23. Petitioner Bylls should have another “debt settlement” opportunity with USDA Rural Development; that opportunity should and will be restored. I have determined to

REMAND this case to USDA Rural Development to begin anew the “debt settlement” process.

Order

24. Until the debt is repaid, Petitioner Bylls shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in her mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).
25. USDA Rural Development will recall the debt from the U.S. Treasury for further servicing by USDA Rural Development. Thus, this case is REMANDED to USDA Rural Development to give Petitioner Bylls the opportunity to negotiate a repayment plan with USDA Rural Development. USDA Rural Development will begin the process by sending a letter to Petitioner Bylls THROUGH HER ATTORNEY ROBERT H. ELLIS, ESQ.
26. Please notice, Petitioner Bylls, every detail in the letter you are going to receive from USDA Rural Development, including your obligation to submit a request to the Centralized Servicing Center (part of USDA Rural Development) for a written repayment agreement. You, Petitioner Bylls, as you complete the forms and provide the requested documentation, will need to determine what to offer: total amount, as well as installments.
27. If NO agreed repayment plan between Petitioner Bylls and USDA Rural Development happens, or there is a default in meeting repayment plan requirements, and if the debt is consequently submitted to the U.S. Treasury for Cross Servicing, Petitioner Bylls will be entitled anew to have a hearing (**not** on the issue of the validity of the debt, but only on the issue of whether she can withstand garnishment without it causing financial hardship).
28. Repayment of the debt may continue to occur through *offset* of Petitioner Bylls’ **income tax refunds** or other **Federal monies** payable to the order of Ms. Bylls.
29. The Garnishment Proceeding and this case are DISMISSED, without prejudice to Petitioner Bylls to request a hearing timely, should garnishment be noticed.

Copies of this “Remand to USDA Rural Development and Dismissal of Garnishment Proceeding and This Case” shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.  
this 2<sup>nd</sup> day of April 2013

s/ Jill S. Clifton

Jill S. Clifton  
Administrative Law Judge

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