

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 09-0010

In re: MARCUS SEGUNDO,

Petitioner

DECISION AND ORDER

This matter is before the Administrative Law Judge upon the request of the Petitioner, Marcus Segundo, 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 October 20, 2008, a Prehearing Order was entered to facilitate a meaningful conference with the parties as to how the case will be resolved and to direct the exchange of information and documentation concerning the existence of the debt.

The Respondent complied with that Order and a Narrative was filed, together with supporting documentation. The petitioner failed to file anything further with the Hearing Clerk and efforts to reach him by telephone were unsuccessful. At the time he requested a hearing, the Petitioner indicated that he did not owe the amount alleged to be due as "The house was paid off." Attached to the request for hearing was a closing statement indicating that \$28,786.26 was paid to the "Clrk of the Dist Court for" on item 504 (Pay off of First Mortgage).

The Narrative filed by the Respondent reflects that Petitioner did redeem the property prior to the expiration of the redemption period and resold the property as reflected by the closing statement provided by the Petitioner, but that USDA Rural Development was nonetheless obligated to pay the lender the sum of \$7,345.51 for accrued interest, protective advances, liquidation costs and property sale costs.

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 September 3, 2003, the Petitioner, Marcus Segundo, applied for and received a home mortgage loan guarantee from the United States Department of Agriculture (USDA) Rural Development (RD) and on October 10, 2003 obtained a home mortgage loan for property located at 206 Eldridge, Coffeyville, Kansas from J.P. Morgan Chase Bank, N.A. (Chase) for \$32,280.00 (Loan Number 1082058435). RX-1.
2. In 2006, the Petitioner defaulted on the mortgage loan and foreclosure proceedings were initiated. RX-2.
3. Chase purchased the secured property at the foreclosure sale on June 7, 2007 for \$28,050.00. The Petitioner sold the residence on September 4, 2007 for \$35,000.00 three days prior to the expiration of the redemption period and redeemed the property for \$28,765.20, representing the foreclosure sale price of \$28,050.00, interest in the amount of \$700.20 for the period from June 7, 2007 through September 5, 2007, and a property inspection fee of \$15.00. Chase received the funds from the Court on October 5, 2007

and submitted a loss claim in the amount of \$7,345.51 to USDA Rural Development for accrued interest, protective advances, liquidation costs and property sale costs. RX-3.

4. USDA paid Chase \$7,345.51 under the Loan Guarantee. RX-3.

Conclusions of Law

1. The Petitioner, Marcus Segundo, is indebted to USDA Rural Development in the amount of \$7,345.51 as of December 19, 2007 for the mortgage loan guarantee extended to him, further identified as Loan account number 1082058435.

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 Petitioner, Marcus Segundo, shall be subjected to administrative wage garnishment at the rate of 15% of disposable pay, or such lesser amount as 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.

Done at Washington, D.C.
March 25, 2009

PETER M. DAVENPORT
Administrative Law Judge

Copies to: Marcus Segundo
Mary Kimball
Dale Theurer

Hearing Clerk's Office
U.S. Department of Agriculture
1400 Independence Avenue SW
Room 1031, South Building
Washington, D.C. 20250-9203
202-720-4443
Fax: 202-720-9776

