

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 09-0082

In re: DARRELL DALY,

Petitioner

DECISION AND ORDER

This matter is before the Administrative Law Judge upon the request of the Petitioner, Darrell Daly, 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 1, 2009, 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 “When the Judge ruled at the end he stated I owe nothing else and then he closed the case.” On June 2, 2009, an Order was entered directing the Petitioner to provide a working telephone number so that a hearing could be scheduled; however, the time set

forth in the Order expired without the Petitioner's compliance. Nothing further having been received from the Petitioner, the request for hearing will be considered waived and the matter will be decided upon the record.

The Narrative filed by the Respondent reflects that foreclosure proceedings were brought by the lender against the Petitioner and the property was sold in a foreclosure sale. USDA however was not a party to that action and the debt that is being sought to be collected arises under the Request for Single Family Housing Loan Guarantee signed by the Petitioner by which he agreed to reimburse the agency in the event a loss claim was paid on the loan. As a result of the foreclosure action, USDA Rural Development was obligated to pay the lender the sum of \$51,607.51 for accrued interest, protective advances, liquidation costs and property sale costs. The amount due has been reduced by Treasury Offsets amounting to \$5,230.50 leaving \$46,377.01 due at this time.

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 October 6, 2003, the Petitioner, Darrell Daly, applied for and received a home mortgage loan guarantee from the United States Department of Agriculture (USDA) Rural Development (RD) and on February 4, 2004 obtained a home mortgage loan for property located at 407 E. Pine Street, Cadillac, Michigan from J.P. Morgan Chase Bank, N.A. (Chase) for \$72,500.00 (Loan Number 1082071546). 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 December 15, 2006 for \$62,050.00. Chase submitted a loss claim and USDA paid Chase the sum of \$51,607.51 for accrued interest, protective advances, liquidation costs and property sale costs. RX-3, 4.
4. Treasury offsets totaling \$5,230.50 have been received. Narrative, p 2.
5. The remaining unpaid debt is in the amount of \$46,377.01.

Conclusions of Law

1. The Petitioner, Darrell Daly, is indebted to USDA Rural Development in the amount of \$46,377.01 as of February 22, 2008 for the mortgage loan guarantee extended to him, further identified as Loan account number 1082071546. All procedural requirements for administrative wage offset set forth in 31 C.F.R. §285.11 have been met.
2. The Respondent is entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, the wages of the Petitioner, Darrell Daly, 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.
June 16, 2009

PETER M. DAVENPORT
Administrative Law Judge

Copies to: Darrell Daly
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