

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWG Docket No. 09-0181
)
Adam Olson,)
)
Petitioner)

Decision and Order

This matter is before me upon the request of the Petitioner, Adam Olson for a hearing in response to efforts of Respondent to institute a federal administrative wage garnishment against him. In response to Petitioner's timely Request for a Hearing, I issued on September 3, 2009 a Pre-hearing Order requiring the parties to exchange information concerning the existence and amount of the debt. On October 2, 2009, I issued an Amended Pre-hearing Order changing the date of the oral hearing to November 12, 2009 at 1:00 PM CST. Due to confusing language in the Pre-hearing Order, the hearing was held on November 19, 2009 at 1:00 PM CST with the agreement of all parties.

Petitioner was represented by Charles W. Balsiger, Esq. Petitioner was not available for the hearing due to family medical issues, however, upon Mr. Balsiger's assurance that his client concurred, the case proceeded as scheduled.

USDA Rural Development Agency (RD) was represented by Gene Elkin, Esq. and Mary Kimball on behalf of the RD agency.

Petitioner was represented by Mr. Balsiger who advised that he had received the narrative and exhibits from RD.

Mr. Balsiger advised that his client wishes to withdraw his request for hearing. Although Ms Kimball did summarize the present monies due based on the exhibits there was no testimony. RD had filed a copy of a Narrative along with exhibits RX-1 through RX-5 on September 3, 2009 with the OALJ Hearing Clerk and certified that it mailed a copy of the same to Petitioner.

Petitioner did not submit any documents or exhibits.

Petitioner owes \$21,872.36 on the USDA RD loan as of November 19, 2009, and in addition, potential fees due the US Treasury in the amount of \$6,124.26 pursuant to the terms of the Promissory Note.

Findings of Fact

1. On October 21, 2005, Petitioner Adam Olson obtained a USDA Rural Development home mortgage loan for property located at ##### West Walnut Street Albion, NE 686##.¹ Petitioner signed a promissory note for \$72,600 and a Rural Development Loan Guarantee. RX-1.

2. On January 1, 2006 Petitioner was sent a Notice of Acceleration and Demand for Payment (Default) on the Promissory Note. RD Narrative. At the time of the Default Notice, the balance due on the note was \$72,428.05 plus unpaid interest. RX-2 @ P. 6 of 8, RX-3.

3. The total debt attributed to Petitioner at the time of the foreclosure was \$80,554.17 which included the costs of sale. RX-2 @ p. 6 of 8, RX-3.

4. The lender (US Bank) acquired the property at the foreclosure sale on March

¹Complete address maintained in USDA records.

20, 2007 for a bid price of \$59,500. RX-2. p. 3 of 8, Narrative correction of 11/16/2009.

5. The lender (US Bank) ordered two appraisals: (a) Appraisal on May 17, 2007 by Camass Appraisals (\$66,000) and; (b) Appraisal on May 4, 2007 by ERA Premiere Team (\$60,000). Narrative.

6. The lender listed the property for sale at \$65,900 on June 4, 2007 and was able to sell it a new purchaser for \$62,600 on July 6, 2007. Narrative, RX-2 @ p. 3 of 8, 4 of 8.

7. The Net proceeds of the Sale after foreclosure costs, protective advances, accrued interest was \$54,718.10 (RX-2 @ p. 6 of 8).

8. After the final sale, three additional recovery (treasury offsets) of \$3,484.28 was received bringing the Petitioner's debt to \$21,872.36 RX-3, RX-5, Narrative.

9. The potential fees due U.S. Treasury pursuant to the Loan Guarantee Agreement were \$6,124.26. RX-5.

10. There was no oral testimony or documentation from Petitioner that he has not been continuously employed by his current employer for 12 continuous months or/alternately he had been involuntarily terminated from his prior employer.

11. Adam Olson is liable for the debt under the terms of the Promissory Note.

Conclusions of Law

1. Petitioner Adam Olson is indebted to USDA's Rural Development program in the amount of \$21,872.36.

2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$6,124.26.

3. All procedural requirements for administrative wage garnishment set forth in 31 C.F.R. § 285.11 have been met.

4. During the term of this Wage Garnishment Order, Petitioner is under a duty to inform USDA's Rural Development of his employment circumstances.

5. Following compliance with 31 C.F.R. § 285.11(j), the USDA Rural Development Agency (RD) is entitled to administratively garnish the wages of the Petitioner.

Order

For the foregoing reasons, provided the requirements of 31 C.F.R. § 288.11(j) have been met, the wages of the Petitioner, Adam Olson, shall be subject 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.

JAMES P. HURT
Hearing Official

November 24, 2009