

Respondent participated in the hearing through its representatives, Gene Elkin, Legal Liaison and Mary Kimball, Accountant for the New Initiatives Branch, USDA Rural Development.

Under 31 C.F.R. § 285.11 (f)(2), a hearing on a Petition challenging wage garnishment may be at the agency's option, either oral or written. An oral hearing may be conducted by telephone conference and is only required when the issues in dispute cannot be resolved by review of the documentary evidence 31 C.F.R. § 285.11 (f)(3). An oral hearing was scheduled to commence on January 13, 2010, to decide Petitioner's challenge to the wage garnishment so that I might hear her concerns. In that Petitioner never advised the Hearing Clerk, the Respondent, or this office that she had moved or that she could not be personally contacted on her listed telephone number, and that all mail sent to her only listed address was never returned as undeliverable by the U.S. Post Office, I proceeded with the scheduled hearing without her presence, and took evidence on the existence of the debt that her Petition challenged.

Both Mr. Elkin and Ms. Kimball were duly sworn. Ms. Kimball identified and authenticated Respondent's Exhibits 1-5 which were received in evidence.

Respondent proved the existence of the debt owed by Petitioner Sharon Howard and John Howard, to Respondent for its payment of a loss sustained by JP Morgan Chase Bank, on a \$123,000.00 home mortgage loan the bank had made to Petitioner and John Howard, on August 1, 2006, for property located at 102 Laney, Brenham, TX 77833. There were foreclosure proceedings and the property was resold. The present amount owed on the debt to Respondent is \$30,322.32 plus collection fees owed to the United States Treasury Department which, added together, currently total \$38,812.57. The Petitioner appears to be employed and has provided no

evidence showing that the present collection of any part of the debt would cause Petitioner undue, financial hardship within the meaning and intent of the provisions of 31 C.F.R. § 285.11. Therefore the Petition is DISMISSED and the proceedings to garnish Petitioner' s wages may be resumed provided that amount of wages garnished does not exceed 15% of her disposable income.

Petitioner is advised, however, that if she telephones the private agency engaged by Treasury to pursue the debt' s collection, she might be able to settle the debt at a lower amount with lower payments. She is advised to therefore immediately call Diversified Collection Services, Inc. at 1-888-310-2006.

Date: January 28, 2010

Victor W. Palmer
Administrative Law Judge