

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWG Docket No. 10-0064
)
Jason A. Markle,)
)
Petitioner)

Final Decision and Order

This matter is before me upon the request of the Petitioner, Jason Markle for a hearing in response to efforts of Respondent to institute a federal administrative wage garnishment against him. On January 5, 2010, I issued a Pre-hearing Order requiring the parties to exchange information concerning the amount of the debt.

I conducted a telephone hearing at the scheduled time on March 16, 2010. USDA Rural Development Agency (RD) was represented by Gene Elkin, Esq., and Mary Kimball who testified on behalf of the RD agency.

Petitioner was present and was self represented.

The witnesses were sworn in. RD had filed a copy of a Narrative along with exhibits RX-1 through RX-5 on January 28, 2010 with the OALJ Hearing Clerk and certified that it mailed a copy of the same to Petitioner. Mr. Markle stated that he received RD's Exhibits and witness list.

Petitioner submitted a letter dated December 15, 2009 stating he does not dispute the debt but only wants to clarify the amount and why his ex-wife has not been pursued.

Petitioner owes \$7,449.79 on the USDA RD loan as of today, and in addition, potential fees of \$2,085.94 due the US Treasury pursuant to the terms of the Promissory Note.

Findings of Fact

1. On June 13, 2003, Petitioner Jason and Laura Markle obtained a USDA Rural Development home mortgage loan for property located at 1# East***, Conway, AR, 720**.¹ Petitioner was co-signor to a promissory note for \$80,000. RX-1 @ p. 2 of 4.

2. On May 1, 2005, Petitioner defaulted on the note and was sent a Notice of Acceleration and Demand for Payment (Default) on the Promissory Note. Narrative. At the time of the Default Notice, the balance due on the note was \$74,536.77. Narrative, RX-2 @ p. 3 of 7.

3. The residence was appraised on July 28, 2008 for \$80,000. It was sold at a public auction on August 21, 2008 for \$68,001. RX-2 @ p. 3 of 7.

4. After the sale, Treasury recovered an additional \$4,471.00, but reversed \$806.04 - thus reducing the amount due from Petitioner to \$ \$7,449.79. Narrative, RX-3.

5. The potential fees due U.S. Treasury pursuant to the Loan Guarantee Agreement are \$2,085.94. Narrative, RX-5.

6. Petitioner's ex-wife received a bankruptcy discharge on/about February 17, 2010.

7. Petitioner is jointly and severally liable on the debt under the terms of the Promissory Note

8. Petitioner stated that he has been unemployed since August 2009.

Conclusions of Law

1. Petitioner Jason Markle is indebted to USDA's Rural Development program in the

¹Complete address maintained in USDA records.

amount of \$7,449.79.

2. In addition, Petitioner is indebted for potential fees to the US Treasury in the amount of \$2,085.94.

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

4. Petitioner is under a duty to inform USDA's Rural Development of his current address, employment circumstances, and living expenses.

5. The administrative wage garnishment by RD against this debtor is suspended at this time.

Order

The requirements of 31 C.F.R. ¶ 288.11(i) & (j) have been met. The Administrative Wage Garnishment against this debtor is suspended at this time.

Copies of this Decision and Order shall be served upon the parties by the Hearing Clerk's office.

JAMES P. HURT
Hearing Official

April 6, 2010