

ORIGINAL

USDA
OALJ/OHC

UNITED STATES DEPARTMENT OF AGRICULTURE

2010 DEC -2 PM 4: 11

BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

In re:)	AWG Docket No. 10-0411
)	
Kristopher Gallagher,)	
)	
)	
Petitioner)	Decision And Order

Pursuant to a Hearing Notice, I held a hearing in this proceeding by telephone, on December 1, 2010, at 11:00 AM Eastern Time. Petitioner, Kristopher Gallagher, his mother, GERALYN GALLAGHER, and Respondent, United States Department of Agriculture, Rural Development (USDA-RD), through its representative, Mary E. Kimball, participated and were sworn. Both parties introduced documents pertaining to a home mortgage loan guarantee for property located at 140 Vine Street, Forest City, PA 18421, that Respondent made to Petitioner and Vanessa Sherman. The loan guarantee was signed by Mr. Gallagher and Ms. Sherman, on May 23, 2004, in which they each acknowledged the obligation to reimburse Respondent for any loss claim it paid in respect to the guaranteed mortgage loan.

The mortgage loan was not paid as required, and on January 1, 2005, the house was sold at a sheriff's sale for \$46,550.00 when \$45,472.86 was owed on the principal and \$12,508.72 was owed for accrued interest, and various expenses associated with the sheriff's sale. Respondent paid these amounts to the lending bank. Since then, Treasury has collected \$5,331.37 through offsets against federal income tax refunds otherwise due to Kristopher Gallagher. At present, \$7,177.35 is owed on the debt plus "Remaining potential fees" of \$2,153.21.

Mr. Gallagher testified that he had only lived in the house for three months when Ms. Sherman caused him to leave under circumstances where he believed she would make all the payments and relieve him of any further responsibility for the debt. He was 20 years old at the time and the house had been owned by Ms. Sherman's grandmother. Mr. Gallagher is single and lives with his mother. He is presently employed by [REDACTED] [REDACTED] as an Assembler of heat exchangers earning \$ [REDACTED] per hour. He has been laid off twice by his employer, from October 2008 through December 2009 and, most recently, from May 2010 through July 21, 2010. He has filed a Consumer Financial Statement that shows his gross monthly income to be [REDACTED] and his monthly expenses to be [REDACTED]. Though \$5,331.37 has been collected from Mr. Gallagher, apparently nothing has been collected so far from Ms. Sherman who principally occupied the house.

Under these circumstances, I have concluded that administrative garnishment of any part of Mr. Gallagher's wages "would cause a financial hardship to the debtor" within the meaning of the controlling regulation (31 CFR § 285.11(f)(8) (ii)). The evidence shows that Petitioner's monthly disposable income is [REDACTED]; he entered the loan arrangement when very young; he has paid nearly half the debt while Ms. Sherman who enjoyed the principal benefits of the loan, has paid nothing. These facts lead me to find and conclude that further collection of the debt from Mr. Gallagher through administrative garnishment of his wages would be inequitable, would cause Petitioner financial hardship and therefore may not be pursued.

Order

The relief sought in the petition is hereby granted, and the pending administrative wage garnishment to collect money from Petitioner's disposable pay to satisfy a nontax debt asserted by the Respondent, USDA-RD is hereby barred and dismissed.

This matter is stricken from the active docket.

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

Dated: 12/2/10



Victor W. Palmer
Administrative Law Judge