

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0096

In re: Sheila Marie Fountain,
Petitioner

Decision and Order

This matter is before the Administrative Law Judge upon the request of Petitioner 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 January 11, 2011, a Prehearing Order was entered to facilitate a meaningful conference with the parties as to how the case would be resolved, to direct the exchange of information and documentation concerning the existence of the debt, and setting the matter for a telephonic hearing on February 10, 2011.

The Respondent complied with the Order and filed a Narrative, together with supporting documentation on January 24, 2011. The Petitioner filed a Consumer Debtor Financial Statement with the Hearing Clerk's Office on February 7, 2011. During the hearing, testimony was received from Mary E. Kimball, Accountant for the New Program Initiatives Branch of Rural Development, USDA, Saint Louis, Missouri and from the Petitioner.

On the basis of the entire record before me, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. On September 21, 1987, the Petitioner received a home mortgage loan in the amount of \$35,000.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) for property located in Hoxie, Arkansas. RX-1,2.
2. The Petitioner defaulted on the loan and the residence was sold at a short sale on February 18, 2000. USDA received \$23,194.67 from the sale, leaving a balance due of \$19,618.90. RX-5.
3. Treasury offsets totaling \$5,822.64 exclusive of Treasury fees have been received. RX-5.
4. The remaining unpaid debt is in the amount of \$13,796.26 exclusive of potential Treasury fees. RX-5.
5. The Petitioner's spouse is not employed and the family income roughly approximates the family monthly expenses. With their income level, she is unlikely to be in a position to liquidate the debt owed.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Petitioner is indebted to USDA Rural Development in the amount of \$13,796.26 exclusive of potential Treasury fees for the mortgage loan extended to her.
3. The Petitioner is under a financial hardship at this time.
4. The Respondent is **NOT** entitled to administratively garnish the wages of the Petitioner; however the debt shall remain at Treasury for any and all other appropriate collection action.

Order

For the foregoing reasons, the wages of Petitioner shall **NOT** be subjected to administrative wage garnishment at this time.

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

February 10, 2011

Peter M. Davenport
Chief Administrative Law Judge

Copies to: Sheila Marie Fountain
Mary Kimball
Dale Theurer

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