

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 11-0119

In re: Pamela Trotter,
k/n/a Pamela T. Evans

Petitioner

DECISION AND ORDER

This matter is before me upon the request of Pamela Trotter k/n/a Pamela T. Evans 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 14, 2011, I issued a Prehearing Order 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.

The USDA Rural Development (RD), Respondent, complied with that Order and a Narrative was filed, together with supporting documentation on January 31, 2011. Ms. Trotter filed with her original petition Financial Documents (4 pages) which I now label as PX-1 and a completed USDA form RD-1956-1 (4 pages) which I now label as PX-2).

On February 16, 2011 at the scheduled time, both parties were available for the conference call. The parties were sworn. Following the hearing, Ms. Trotter forwarded a bi-weekly pay-stub as well as a clarification to her monthly expenses to RD and it was forwarded to the hearing Clerk.

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 March 3, 1998, Pamela Trotter, the Petitioner obtained two loans (\$ 19,000.00 and \$16,718.00) from USDA FmHA loan for a total of \$35,718.00 for a primary residence located at 55## Race***** Rd., Yazoo City, MS 39####.¹ The Petitioner signed a Promissory Note and a mortgage. RX-1, RX-2.
2. The borrower defaulted on the loan and on August 23, 2000 she was mailed a notice of acceleration. RX-4.
3. At the time of the sale, Ms. Trotter owed a total of \$37,373.13 on both accounts.
4. The property was sold in a foreclosure sale on January 8, 2001.
5. USDA RD received a net \$16,426.00 from the foreclosure sale. Narrative and RX- 5 @ p. 2 of 3.
6. After application of the sale proceeds, Ms. Trotter owed \$19,613.17 on account # 15938292 (RX-5 @ p. 1 of 3) and \$1,333.96 on account # 15936414. RX-5 @ p. 2 of 3.
7. Since the sale, RD has received a net \$867.95 (\$233.00 + \$516.46 +\$84.30 + \$34.19) from treasury. Narrative, RX 5 @ p. 1 of 3.
8. The remaining unpaid debt is in the amount of \$20,079.18 (\$18,747.22 + \$1,333.96) exclusive of potential Treasury fees. RX-6.
9. The remaining potential treasury fees are \$6,023.76 (\$5,623.57 + \$400.19). RX-6.
10. Ms. Trotter has been employed since February 2010 and is a widow receiving S.S.A. benefits and child support for one of her three dependents.

¹ Complete address maintained in USDA files.

11. Ms. Trotter submitted her financial statements under oath which included her gross bi-weekly salary and monthly expenses. Ms. Trotter forwarded additional financial information after the hearing, also under oath. It appears her wages are barely more than the mandatory minimum wage. Her SSA benefits and child support were not subject to potential wage garnishment, however they were considered in the Financial hardship calculation. Although it appears she did not have full time employment, I calculated Petitioner's potential wages at 40 hours per week.

12. Since the hearing, another creditor has filed a notice of garnishment for a debt of \$4,090.90 with collection at the rate of 25% of net wages.

13. Based upon the available financial information, I performed a Financial Hardship calculation using standard Federal and State Income Tax rate for head of Household. The result of the calculation is attached².

Conclusions of Law

1. Pamela Trotter, k/n/a Pamela T. Evans is indebted to USDA Rural Development in the amount of \$20,079.18 for the two mortgage loans extended to her.

2. Pamela Trotter is indebted to the US Treasury for potential fees in the amount of \$6,023.76.

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

4. The Respondent is **not** entitled to administratively garnish the wages of the Petitioner for a period of one year. After one year, RD may review the then existing financial statements and assess the legal entitlement to garnish her wages.

² The Financial Hardship Calculation will not be posted on the OALJ website.

Order

For the foregoing reasons, the wages of Pamela Trotter Evans shall **not** be subjected to administrative wage garnishment for a period of one year.

After one year, RD may re-assess Ms. Trotter's financial position.

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

Done at Washington, D.C.
March 14, 2011

JAMES P. HURT
Hearing Officer

Copies to:

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