

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0274

In re: KRISTINA MARSH,

Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Kristina Marsh (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due to the United States Department of Agriculture, Rural Development Agency (“Respondent”; “USDA-RD”); and if established, the propriety of imposing administrative wage garnishment. On March 5, 2012, Petitioner requested a hearing. By Order issued March 29, 2012, a hearing was scheduled to commence on May 15, 2012, and the parties were directed to provide information and documentation to the Hearing Clerk for the Office of Administrative Law Judges for the United States Department of Agriculture.

On April 4, 2012, Respondent filed a Narrative, together with supporting documentation (“RX-1 through RX-12”), which is hereby formally entered into the record. Petitioner filed a Consumer Debtor Financial Statement (“PX-1”) with her petition.

The parties’ documents are hereby formally admitted to the record. The hearing commenced as scheduled, and Petitioner testified, representing herself. Michelle Tanner testified on behalf of USDA-RD.

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

FINDINGS OF FACT

1. On February 16, 2007, the Petitioner¹ obtained a home mortgage loan in the amount of \$132,600.00 from Wells Fargo Bank (“Lender”) for the purchase of real property located in Birchwood Wisconsin, evidenced by Promissory Note. RX-2.
2. Before executing the Promissory Note for the loan, on January 5, 2007, Petitioner requested a Single Family Housing Loan Guarantee from the USDA-RD, which was granted. RX-1.
3. By executing the guarantee request, Petitioner certified that she would reimburse USDA RD for the amount of any loss claim on the loan paid to the Lender or its assigns. RX-1.
4. The loan fell into default and was accelerated for foreclosure. RX-3.
5. Wells Fargo acquired the property at foreclosure sale on January 5, 2010 for the sum of \$93,500.00. RX-4.
6. USDA-RD and Wells Fargo prepared a property disposition plan that valued the property for less than the sale price. RX-4; RX-5; RX-6.
7. The property sold to a third party on September 10, 2010 for \$74,900.00. RX-7.
8. The sales price was greater than the recovery appraised value. RX-6; RX-7.
9. At the time of the sale, the total due on Petitioner’s mortgage account was \$164,318.86, consisting of principal, interest, fees and advances. RX-6; RX-8.
10. After crediting the account for sale proceeds, USDA-RD paid a loss claim in the amount of \$83,318.77 to Lender. RX-7; RX-10.
11. Petitioner failed to negotiate a settlement of the loss claim with USDA-RD, and on USDA-RD referred the loss payment to the U.S. Department of Treasury (“Treasury”) as a debt of the Petitioner. RX-9; RX-10; RX-11; RX-12.

¹ Petitioner’s ex-husband Chad Marsh also obtained the loan at issue herein.

12. The debt is at Treasury for collection in the amount of \$83,318.77, plus potential fees of \$23,329.26 RX-11.
13. Petitioner was advised of intent to garnish her wages to satisfy the indebtedness.
14. Petitioner timely requested a hearing and provided evidence of her financial condition.
15. Petitioner testified that she is working with a lawyer regarding her outstanding debts.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met.
3. Respondent has established the existence of a valid debt due to the United States from Petitioner.
4. There is evidence that garnishment at the statutory maximum would represent a hardship.
5. Respondent is entitled to administratively garnish the wages of the Petitioner at the amount of 5%, but not until Petitioner has had opportunity to consult with her attorney regarding resolving the matter.
6. Garnishment at 5% of Petitioner's wages may begin after 90 days from the date this Decision and Order is issued, or on August 17, 2012.

ORDER

For the foregoing reasons, the wages of Petitioner shall be subjected to administrative wage garnishment at this time.

Petitioner is encouraged to negotiate repayment of the debt with the representatives of Treasury. The toll free number for Treasury's agent is **1-888-826-3127**.

Petitioner is advised that this Decision and Order does not prevent payment of the debt through offset of any federal money payable to Petitioner.

Petitioner is further advised that a debtor who is considered delinquent on debt to the United States may be barred from obtaining other federal loans, insurance, or guarantees. See, 31 C.F.R. § 285.13.

Until the debt is satisfied, Petitioner shall give to USDA-RD or those collecting on its behalf, notice of any change in her address, phone numbers, or other means of contact.

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

So Ordered this 16th day of May, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge