

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0303

In re: ANGELA PURNELL,
Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Angela Purnell (“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 19, 2012, Petitioner requested a hearing. By Order issued March 30, 2012, a hearing was scheduled to commence on May 17, 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 May 2, 2012, Respondent filed a Narrative, together with supporting documentation (“RX-1 through RX-11”). Petitioner filed correspondence denying the indebtedness and supporting her claims regarding the fitness of habitability of the real estate (“PX-1”). The parties’ submissions are hereby formally entered into the record.

The hearing commenced as scheduled. Petitioner represented herself and credibly testified. Respondent was represented by Michelle Tanner, of the New Program Initiatives Branch of USDA-RD, Saint Louis, Missouri. Ms. Tanner credibly testified regarding USDA-RD’s submissions.

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 25, 2008, the Petitioner obtained a home mortgage loan in the amount of \$282,653.00 from C& F Mortgage Corporation (“Lender”) for the purchase of real property located in Laplata, Maryland, evidenced by Promissory Note. RX-2.
2. Before executing the Promissory Note for the loan, on January 31, 2008, 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 Lender sold the loan to JP Morgan Chase Bank (“Chase”). RX-2.
5. Petitioner discovered the existence of health-threatening mold after inspection of the property, and she did not reside at the property. Testimony of Petitioner.
6. Petitioner attempted to resolve the matter with Chase and USDA-RD, but fell ill and could not continue to pursue a resolution. Id.
7. The loan fell into default and was accelerated for foreclosure. RX-3.
8. A foreclosure sale was held on September 2, 2009, and Chase acquired the property for the sum of \$201,233.30. RX-3.
9. USDA-RD and Chase developed a property disposition plan that valued the property for less than the sale price. RX-5.
10. The property subsequently was sold to a third party for the sum of \$158,700.00. RX-6.
11. At the time of the sale, the total due on Petitioner’s mortgage account was \$341,093.93, consisting of principal, interest, fees and advances. RX-6; RX-7.

12. After crediting the account for sale proceeds, USDA-RD paid a loss claim in the amount of \$155,763.69. RX-7.

13. Petitioner failed to negotiate a settlement of the loss claim with USDA-RD, and thereafter, USDA-RD referred the loss payment to the U.S. Department of Treasury (“Treasury”) as a debt of the Petitioner. RX-8; RX-9.

14. The debt is at Treasury for collection in the amount of \$155,763.69, plus potential fees. RX-10; RX-11.

15. Petitioner was advised of intent to garnish her wages to satisfy the indebtedness.

16. Petitioner timely requested a hearing, and provided a statement denying liability.

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. Petitioner’s credible statements regarding the fitness of habitability of the real estate do not constitute defenses to the debt, but rather would have been defenses to the foreclosure action.

5. Petitioner’s income would withstand wage garnishment, given her stated expenses.

6. Because of the circumstances leading to Petitioner’s delinquency and the amount of the debt, wage garnishment shall be suspended for a period of **six months** to allow Petitioner to pursue legal action or otherwise resolve the debt.

5. Respondent is entitled to administratively garnish the wages of the Petitioner at the statutory maximum amount of 15%, **but not until December 18, 2012.**

ORDER

For the foregoing reasons, the wages of Petitioner shall be subjected to administrative wage garnishment at the statutory maximum beginning December 18, 2012.

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 18th day of May, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge