

United States Department Of Agriculture
Before The Secretary Of Agriculture

Docket No 12 – 0646

In re: Andrew Ison

Decision and Order

This matter is before me 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 a administrative wage garnishment. On November 7, 2012, 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 telephonic hearing on December 18, 2012.

On the date and time set for the hearing, both parties were present. Esther McQuaid represented Rural Development (RD) and Mr. Ison was self-represented. RD observers Ms. Clifton and Ms. Zahner were present, but did not testify. The parties were sworn. Petitioner acknowledged receiving RD’s narrative and exhibits RX(1- 4). Petitioner did not submit any exhibits. Prior to the hearing, I requested that RD provide the judicial sale documents from McDuffie County, Georgia. RD provided the judicial sale document for the property sold in McDuffie County Georgia which I now mark as RX-5. RD also forwarded an explanation of the application of foreclosure sale proceeds which I now make as RX-6. Petitioner was offered an opportunity to forward his income and expenses from which I could prepare a Financial Hardship Calculation, but has not done so. Mr. Ison has been employed for more than one year.

Findings of Fact

1. On September 30, 2003, Petitioner and co-borrower, Kimberly Wilcox, obtained a home mortgage loan in the amount of \$111,650 which was guaranteed by USDA for a property in Thompson, Georgia. Exhibit RX-1.
2. At the time of the signing of the note, the borrowers also signed RD form 1980 – 21, which is the

housing loan guarantee form. RX-2.

3. The borrowers defaulted on the mortgage on about August 1, 2004. RX-3 @ p. 3 of 10, RX-5.

4. At the time of the default, the unpaid balance was \$110,562.71.

5. The property was sold in a judicial sale on August 5, 2005 with the contract price of \$95,200.00. RX-5.

6. After consideration of the various expenses incurred, USDA RD paid a loss claim to Chase bank, the servicing lender, in the amount of \$34,395.79. RX-3 @ p. 8 of 10.

7. On August 31, 2005, the borrowers were sent a 60 day notification of the debt at the most at the most recent address on file. The letters were returned as undeliverable and were unable to be forwarded. The debt was referred to treasury on October 31, 2005.

8. Treasury has collected \$6236.36. RX-4.

9. The remaining debt of \$28,159.43 of the borrowers remains due. RX-4.

10. In addition, borrowers owe potential collection fees of \$7884.64 for a total of \$36,044.07.

11. Petitioner suggested a potential financial hardship, but failed to provide any documentation justifying a financial hardship consideration.

Conclusions of Law

Petitioner is jointly and severally liable to USDA Rural Development in the amount of \$28,159.43 for the mortgage loan extended to him.

In addition, Petitioner is jointly and severally liable to USDA Rural Development for potential collection fees in the amount of \$7884.64.

All procedural requirements for administrative wage garnishment offset set forth in 31 CFR § 285.11 have been met.

Rural Development is entitled to the administratively garnish the wages of the Petitioner at 15% of his disposable pay.

Order

For the foregoing reasons, the wages of Petitioner shall be subjected to administrative wage garnishment at the rate of 15% of disposable pay, or such lesser amounts as may be specified in 31 CFR § 285.11 (i).

Copies of this decision and order shall be served upon the parties by the hearing clerk's office.

January 24, 2013.

James P. Hurt
Hearing Officer

Copies to Andrew Ison
Esther McQuaid
Dale Thurer