

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) **AWG Docket No. 10-0261**
Jeffrey O. Clark,)
)
)
Petitioner) **Decision and Order**

1. The hearing was held by telephone on August 19, 2010. Jeffrey O. Clark, the Petitioner (“Petitioner Clark”), did not participate. Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and was represented by Mary E. Kimball.

2. The address for USDA Rural Development for this case is

Mary E. Kimball, Branch Accountant
USDA / RD New Program Initiatives Branch
Bldg 105 E, FC-22, Post D-2
4300 Goodfellow Blvd
St Louis MO 63120-1703

mary.kimball@stl.usda.gov 314.457.5592 phone
314.457.4426 FAX

3. Petitioner Clark was not available at his home telephone number for the telephone hearing, reportedly because he was at work. The telephone hearing proceeded without Petitioner Clark. I admit into evidence Petitioner Clark’s Consumer Debtor Financial Statement plus one page dated August 12, 2010 (filed August 17, 2010). I admit into evidence Petitioner Clark’s Hearing Request with the six pages attached (filed April 29, 2010). I admit into evidence USDA Rural Development Exhibits RX 1 - RX 5, together with the Narrative, Witness & Exhibit List (filed July 26, 2010).

Summary of the Facts Presented

4. Petitioner Clark owes to USDA Rural Development a balance of **\$25,238.96** (as of July 7, 2010), in repayment of a real estate loan made in March 1990 and reamortized in May 1997 (“the debt”). See USDA Rural Development Exhibits and Narrative.

5. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$25,238.96** would increase the current balance by \$7,066.91, to \$32,305.87. *See* USDA Rural Development Exhibits, especially RX 5.
6. Petitioner Clark owes the debt, even if his former wife (his co-borrower) continued to live in the house after Petitioner Clark had moved out; even if his former wife discharged the debt in bankruptcy.
7. Petitioner Clark is responsible and capable of negotiating the disposition of the debt with Treasury's collection agency.

Discussion

8. I encourage **Petitioner Clark and the collection agency** to **negotiate promptly** the repayment of the debt. Petitioner Clark, this will require **you** to telephone the collection agency about two to three weeks after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner Clark, you may choose to offer to compromise the debt for an amount you are able to pay, to settle the claim for less. Meanwhile, **through August 31, 2011, NO garnishment is authorized**, because Petitioner Clark's income is not adequate to support garnishment. This Decision does not prevent repayment of the debt through *offset* of Petitioner Clark's **income tax refunds** or other **Federal monies** payable to the order of Mr. Clark.

Findings, Analysis and Conclusions

9. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Clark and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.
10. Petitioner Clark owes the debt described in paragraphs 4 and 5.
11. **Through August 31, 2011, NO garnishment is authorized.** 31 C.F.R. § 285.11.

Order

12. Until the debt is repaid, Petitioner Clark shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in his mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).
13. USDA Rural Development, and those collecting on its behalf, are **NOT** authorized to

proceed with garnishment **through August 31, 2011.**

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties, **together with copies of Petitioner Clark's filing August 17, 2010.**

Done at Washington, D.C.
this 19th day of August 2010

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

Hearing Clerk's Office
U.S. Department of Agriculture
South Building Room 1031
1400 Independence Avenue, SW
Washington DC 20250-9203
202-720-4443
Fax: 202-720-9776