

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	AWG Docket No. 10-0359
Sebastian Diego,)	
)	
Petitioner)	Decision and Order

1. The hearing was held October 6, 2010. Sebastian Diego, the Petitioner (“Petitioner Diego”) failed to appear. [He did not provide any telephone number where he could be reached; no one answered at the number on his Hearing Request dated in April 2010.] 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
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4300 Goodfellow Blvd
St Louis MO 63120-1703

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3. I encourage **Petitioner Diego and the collection agency** to work together to **establish a repayment schedule** rather than immediately proceeding with garnishment, even though this Decision authorizes garnishment, up to 15% of Petitioner Diego’s disposable pay. Petitioner Diego, obviously, will have to make himself available to the collection agency if he wants to negotiate. *See* paragraph 9.

4. This is Petitioner Diego’s case (he filed the Petition), and in addition to failing to be available for the hearing, Petitioner Diego failed to file with the Hearing Clerk any information. Petitioner Diego’s deadline for that was September 28, 2010.

Summary of the Facts Presented

5. Petitioner Diego owes to USDA Rural Development a balance of **\$30,307.81** (as of August 2, 2010) in repayment of a mortgage loan guarantee made by USDA Rural Development in 2004 for a home in Alabama, the balance of which is now unsecured (“the debt”). *See* USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed August 26, 2010), which are admitted into evidence, together with the testimony of Ms. Kimball.
6. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$30,307.81** would increase the current balance by \$8,486.19, to \$38,794.00. *See* USDA Rural Development Exhibits, esp. RX-5.
7. Petitioner Diego failed to file financial information or anything in response to my Order dated August 13, 2010; consequently there is no evidence before me regarding Petitioner Diego’s disposable pay or any 31 C.F.R. § 285.11 factors. I must presume that Petitioner Diego’s disposable pay supports garnishment, up to 15% of Petitioner Diego’s disposable pay.
8. Petitioner Diego is responsible and capable of negotiating the disposition of the debt with Treasury’s collection agency.

Discussion

9. I encourage **Petitioner Diego and the collection agency to negotiate promptly** the repayment of the debt. Petitioner Diego, 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 Diego, you may choose to offer to compromise the debt for an amount you are able to pay, to settle the claim for less.

Findings, Analysis and Conclusions

10. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Diego and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.
11. Petitioner Diego owes the debt described in paragraphs 5 and 6.
12. Garnishment is authorized, up to 15% of Petitioner Diego’s disposable pay. 31 C.F.R. § 285.11.
13. Repayment of the debt may also occur through *offset* of Petitioner Diego’s **income**

tax refunds or other **Federal monies** payable to the order of Mr. Diego.

Order

14. Until the debt is fully paid, Petitioner Diego 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).

15. USDA Rural Development, and those collecting on its behalf, are authorized to proceed with garnishment, up to 15% of Petitioner Diego's disposable pay.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 6th day of October 2010

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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