

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	AWG Docket No. 10-0350
Patrick Smith)	
)	
Petitioner)	Decision and Order

1. The hearing was held as scheduled October 14, 2010. Patrick Smith, also known as Patrick T. Smith, the Petitioner (“Petitioner Smith”) failed to appear. [He failed to appear by telephone; no one answered at the phone number provided.] 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. I encourage **Petitioner Smith 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 Smith’s disposable pay. Petitioner Smith, obviously, will have to make himself available to the collection agency if he wants to negotiate. *See* paragraph 9.

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

Summary of the Facts Presented

5. Petitioner Smith owes to USDA Rural Development a balance of **\$19,173.59** (as of August 19, 2010) in repayment of a USDA Farmers Home Administration loan in 1990 for a home in Texas, the balance of which is now unsecured (“the debt”). *See* USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed September 20, 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 of **\$19,173.59** would increase the current balance by \$5,368.61, to \$24,542.20. *See* USDA Rural Development Exhibits, esp. RX-5.
7. Petitioner Smith failed to file financial information or anything in response to my Order dated September 1, 2010; consequently there is no evidence before me regarding Petitioner Smith’s disposable pay or any 31 C.F.R. § 285.11 factors. I must presume that Petitioner Smith’s disposable pay supports garnishment, up to 15% of Petitioner Smith’s disposable pay.
8. Petitioner Smith is responsible and capable of negotiating the disposition of the debt with Treasury’s collection agency.

Discussion

9. I encourage **Petitioner Smith and the collection agency** to **negotiate promptly** the repayment of the debt. Petitioner Smith, 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 Smith, 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 Smith and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.
11. Petitioner Smith owes the debt described in paragraphs 5 and 6.
12. Garnishment is authorized, up to 15% of Petitioner Smith’s disposable pay. 31 C.F.R. § 285.11.
13. Repayment of the debt may also occur through *offset* of Petitioner Smith’s **income tax refunds** or other **Federal monies** payable to the order of Mr. Smith.

Order

14. Until the debt is fully paid, Petitioner Smith 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 Smith'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 14th day of October 2010

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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