

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	AWG Docket No. 10-0330
Billie Dawn Bell,)	
n/k/a Billie Dawn Wedel,)	
)	
Petitioner)	Decision and Order

1. The hearing by telephone was begun as scheduled September 28, 2010 and cannot be resumed, because Billie Dawn Bell, now known as Billie Dawn Wedel, the Petitioner (“Petitioner Wedel”), has failed to appear. [Petitioner Wedel failed to appear by telephone for the hearing September 28, 2010; she has failed to provide a phone number where she could be reached.] Petitioner Wedel represents herself (appears *pro se*).

2. With her Hearing Request, Petitioner Wedel provided communications from counsel (from both Chuck Moss, Esq. in May 2010, and Anthony G. Mitchell, Esq. in May 2010) protesting garnishment and *offset*. I relieved Anthony G. Mitchell, Esq. of any further obligation to represent Petitioner Wedel in this proceeding, now that a divorce action is in progress, with Mr. Mitchell representing Mr. Wedel. Skye Shephard-Wood, Esq., has not entered her appearance in this proceeding. A copy of the email communications on September 28 and 29, 2010 from me to Skye Shephard-Wood and reply, is enclosed with this Decision. Nothing has been filed with the Hearing Clerk since then.

3. Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and is represented by Mary E. Kimball. 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

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4. I encourage **Petitioner Wedel 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 Wedel's disposable pay. *See* 31 C.F.R. § 285.11. Petitioner Wedel, obviously, will have to make herself available to the collection agency if she wants to negotiate. *See* paragraph 11.

5. This is Petitioner Wedel's case (she filed the Petition), and in addition to failing to be available for the hearing, Petitioner Wedel failed to file with the Hearing Clerk any information. Petitioner Wedel's initial deadline for that was September 14, 2010, and even following my September 28, 2010 email, Petitioner Wedel failed to file with the Hearing Clerk any information.

Summary of the Facts Presented

6. Petitioner Wedel owes to USDA Rural Development a balance of **\$16,651.50**, in repayment of United States Department of Agriculture / Rural Housing Service **Guarantee** (*see* RX-1, esp. p. 2) for a loan made in 2006 by JP Morgan Chase Bank, for a home in Oklahoma, the balance of which is now unsecured ("the debt"). *See* USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed August 13, 2010), which are admitted into evidence, together with the testimony of Ms. Kimball.

7. This Guarantee establishes an **independent** obligation of Petitioner Wedel, "I certify and acknowledge that if the Agency pays a loss claim on the requested loan to the lender, I will reimburse the Agency for that amount. If I do not, the Agency will use all remedies available to it, including those under the Debt Collection Improvement Act, to recover on the Federal debt directly from me. The Agency's right to collect is independent of the lender's right to collect under the guaranteed note and will not be affected by any release by the lender of my obligation to repay the loan. Any Agency collection under this paragraph will not be shared with the lender." Thus, the communications from counsel (from both Chuck Moss, Esq. in May 2010, and Anthony G. Mitchell, Esq. in May 2010) protesting garnishment and **offset**, are ineffective, given the **Guarantee** (*see* RX-1, esp. p. 2).

8. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$16,651.50** would increase the current balance by \$4,662.42, to \$21,313.92. *See* USDA Rural Development Exhibits, esp. RX-5.

9. Petitioner Wedel has provided no information about her income and expenses and no indication of hardship. I have no way of evaluating the factors to be considered under 31 C.F.R. § 285.11; consequently I must presume that Petitioner Wedel can withstand garnishment up to 15% of Petitioner Wedel's disposable pay.

10. Petitioner Wedel is responsible and able to negotiate the disposition of the debt with Treasury's collection agency.

Discussion

11. Garnishment up to 15% of Petitioner Wedel's disposable pay is authorized. *See* paragraph 9. I encourage **Petitioner Wedel and the collection agency to negotiate promptly** the repayment of the debt. Petitioner Wedel, this will require **you** to telephone the collection agency after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner Wedel, you may choose to offer to the collection agency to compromise the debt for an amount you are able to pay, to settle the claim for less.

Findings, Analysis and Conclusions

12. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Wedel and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.

13. Petitioner Wedel owes the debt described in paragraphs 6, 7 and 8.

14. **Garnishment is authorized**, up to 15% of Petitioner Wedel's disposable pay. 31 C.F.R. § 285.11.

15. This Decision does not prevent repayment of the debt through *offset* of Petitioner Wedel's **income tax refunds** or other **Federal monies** payable to the order of Ms. Wedel.

Order

16. Until the debt is repaid, Petitioner Wedel shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in her mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).

17. USDA Rural Development, and those collecting on its behalf, are authorized to proceed with garnishment, up to 15% of Petitioner Wedel's disposable pay. 31 C.F.R. § 285.11.

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

Done at Washington, D.C.
this 15th day of November 2010

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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