

**UNITED STATES DEPARTMENT OF AGRICULTURE**  
**BEFORE THE SECRETARY OF AGRICULTURE**

In re: )  
 ) **AWG Docket No. 10-0306**  
Brandy Bickett, )  
 )  
Petitioner ) **Decision and Order**

1. The hearing by telephone was held on September 29 and October 14, 2010. Ms. Brandy Bickett, the Petitioner (“Petitioner Bickett”), represents herself (appears *pro se*). 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.

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

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Summary of the Facts Presented

3. Petitioner Bickett owes to USDA Rural Development a balance of **\$38,646.44** in repayment of United States Department of Agriculture / Rural Housing Service **Guarantee** (see RX-1, esp. p. 2) for a loan made by Main Financial, Inc. in 2005 for a home in the state of Washington, 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.

4. This Guarantee establishes an **independent** obligation of Petitioner Bickett, “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." See the *Guarantee*, RX-1, esp. p. 2.

5. The amount that USDA Rural Development paid to the lender was **\$38,646.44**. Consequently, that amount is what Petitioner Bickett owes to USDA Rural Development under the *Guarantee*. RX-3.

6. The amount Petitioner Bickett borrowed was \$97,448.00 in 2005. At the time of the foreclosure sale in 2008, \$93,952.92 was the Unpaid Principal Balance. Accrued interest owed, \$7,771.66, RX-3 (\$7,457.35, plus \$314.31, RX-2, pp 6 & 7), was added to the amount due. Also added to the amount due, were expenses, including advances to pay taxes and insurance, property preservation and maintenance costs, closing costs, broker commission, and the like. The total debt added up to \$114,952.08. RX-3. The sale of the real estate owned (REO) paid a significant portion of the debt (net proceeds from REO sale were shown as \$61,765.17, RX-2, p.7; then adjusted in Petitioner Bickett's favor to \$73,000.00, RX-3). After subtracting from the total debt, \$73,000.00 from the REO, and additional "recoveries/credits/reductions" in Petitioner Bickett's favor, the remaining debt was **\$38,646.44**. RX-3.

7. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$38,646.44** would increase the current balance by \$10,821.00, to \$49,467.44. See USDA Rural Development Exhibits, esp. RX-5.

8. Admitted into evidence are the testimony of Petitioner Bickett, Petitioner Bickett's documents filed in November 2010, including her pay stubs and her Consumer Debtor Financial Statement; and Petitioner Bickett's Hearing Request statements. Petitioner Bickett provides for herself and four dependent young children. (I assume there are four; Mason's name is shown twice on Petitioner Bickett's Consumer Debtor Financial Statement.) Petitioner Bickett's Consumer Debtor Financial Statement contains little detail, and she may have understated her "Monthly Expenses" on her Consumer Debtor Financial Statement. Petitioner Bickett did not provide pay records or any pay information about her second job as a billing coordinator. Petitioner Bickett works full-time as a medical records clerk earning \$16.11 per hour and works a second job as a billing coordinator.

9. I calculate Petitioner Bickett's gross pay (at 80 regular hours each two weeks) to be [REDACTED] per month; and her disposable pay (gross pay minus Federal, Social Security, Medicare, Workers Comp, AFLAC and dental insurance withholding) to be [REDACTED] per month. Those figures are for her medical records clerk pay. Petitioner Bickett's reasonable

and necessary living expenses are equal to or greater than her disposable pay each month from her work as a medical records clerk. Petitioner Bickett owes delinquent taxes, [REDACTED] from 2009.

10. In evaluating the factors to be considered under 31 C.F.R. § 285.11, I find that Petitioner Bickett has small children at home, and she works full-time and has a second job in addition. Although Garnishment at 15% of Petitioner Bickett's disposable pay would yield roughly [REDACTED] per month in repayment of the debt, she cannot withstand garnishment in that amount without hardship for her family and herself. To prevent hardship, potential garnishment to repay "the debt" (*see* paragraph 3) must be limited to zero per cent (0%) of Petitioner Bickett's disposable pay through June 30, 2011; and no more than 5% of Petitioner Bickett's disposable pay thereafter. 31 C.F.R. § 285.11.

11. Petitioner Bickett is responsible and willing and able to negotiate the repayment of the debt with Treasury's collection agency.

#### Discussion

12. Through June 30, 2011, NO garnishment is authorized. Thereafter, garnishment up to 5% of Petitioner Bickett's disposable pay is authorized. *See* paragraphs 8, 9 and 10. I encourage **Petitioner Bickett and the collection agency to negotiate promptly** the repayment of the debt. Petitioner Bickett, 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 Bickett, you may ask that the debt be apportioned separately to you and the co-borrower; 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

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

14. Petitioner Bickett owes the debt described in paragraphs 3, 4, 5, 6 and 7.

15. **Through June 30, 2011, NO garnishment is authorized.** Thereafter, garnishment **up to 5%** of Petitioner Bickett's disposable pay is authorized. 31 C.F.R. § 285.11.

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

Order

17. Until the debt is repaid, Petitioner Bickett 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).

18. USDA Rural Development, and those collecting on its behalf, are **NOT** authorized to proceed with garnishment **through June 30, 2011**. Thereafter, USDA Rural Development, and those collecting on its behalf, are authorized to proceed with garnishment, **up to 5%** of Petitioner Bickett'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 30<sup>th</sup> day of November 2010

s/ Jill S. Clifton

Jill S. Clifton  
Administrative Law Judge

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