

4. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$15,393.62** would increase the current balance by \$4,310.21, to \$19,703.83. *See* USDA Rural Development Exhibits, esp. RX 6.

5. The amount borrowed from USDA Rural Development was \$39,750.00 in 1988. By the time of the short sale in 2000, that debt had grown to \$46,134.74:

\$ 41,483.20	Principal Balance prior to short sale
\$ 4,081.25	Interest Balance prior to short sale
<u>\$ 570.29</u>	Fee Balance prior to short sale
\$ 46,134.74	Total Amount Due prior to short sale
<u>=====</u>	
- \$ 205.51	Escrow refund
- <u>\$ 20,000.00</u>	Proceeds from short sale
\$ 25,929.23	Unpaid in 2000

RX 5, p. 1

So the short sale left \$25,929.23 unpaid in 2000. Another \$10,535.61 applied to the debt since then (*offsets* and garnishments), leaves **\$15,393.62** unpaid now (excluding the potential remaining collection fees). *See* RX 5, p. 2.

6. Also admitted into evidence are Petitioner Epperson's testimony and his Hearing Request. Based on what Petitioner Epperson read from his pay stub and explained, he works in maintenance and is paid every 2 weeks at the rate of \$16.26 per hour; he is limited through the end of March to 30 hours per week. I calculate his current gross pay (based on 30 hours per week) to be about \$2,113.80 per month; and his disposable pay (after subtracting Federal, State, and local income tax, social security, Medicare, health insurance, and other withholding) to be about 75% of that, or about \$1,585.35 per month. I calculate Petitioner Epperson's current reasonable and necessary living expenses to be about \$1,500.00 per month, not including the expenses of his 18 year old son, who lives with him; and not including the \$150.00 per month he is paying on a personal loan with a balance of \$1,388.00. While Petitioner Epperson is limited to 30 hours per week, his disposable pay does not support garnishment in any significant amount without creating hardship. 31 C.F.R. § 285.11.

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

Discussion

8. Through June 30, 2011, NO garnishment is authorized. *See* paragraph 6. Thereafter, garnishment is authorized, up to 15% of Petitioner Epperson's disposable pay. I encourage **Petitioner Epperson and the collection agency to negotiate promptly** the repayment of the debt. Petitioner Epperson, this will require **you** to telephone the collection agency after you receive this Decision. Petitioner Epperson, 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. The toll-free number for you to call is **1-888-826-3127**.

Findings, Analysis and Conclusions

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

10. Petitioner Epperson owes the debt described in paragraphs 3, 4 and 5.

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

12. Repayment of the debt may also occur through *offset* of Petitioner Epperson's **income tax refunds** or other **Federal monies** payable to the order of Mr. Epperson.

Order

13. Until the debt is repaid, Petitioner Epperson 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).

14. 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 15% of Petitioner Epperson'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 10th day of January 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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