

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

In re: )  
 ) **AWG Docket No. 11-0037**  
Donya R. Tomberlin )  
 )  
Petitioner ) **Decision and Order**

1. The hearing by telephone was held January 4, 2011. Donya R. Tomberlin, the Petitioner (“Petitioner Tomberlin”), failed to appear. [She failed to appear by telephone; she did not provide a phone number where she could be reached.]

2. 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. 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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3. I encourage **Petitioner Tomberlin 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 7.5% of Petitioner Tomberlin’s disposable pay through April 2011; and up to 15% of Petitioner Tomberlin’s disposable pay thereafter. Petitioner Tomberlin, obviously, will have to make herself available to the collection agency if she wants to negotiate. *See* paragraph 9.

4. This is Petitioner Tomberlin’s case (she filed the Petition), and in addition to failing to be available for the hearing, Petitioner Tomberlin failed to file with the Hearing Clerk any information. Petitioner Tomberlin’s deadline for that was December 29, 2010.

### Summary of the Facts Presented

5. Petitioner Tomberlin owes to USDA Rural Development a balance of **\$29,175.56**, in repayment of a Farmers Home Administration / United States Department of Agriculture loan (now USDA / Rural Housing Service) made in 1989 for a home in Georgia, the balance of which is now unsecured (“the debt”). *See* USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed December 14, 2010 and January 13, 2011), 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 **\$29,175.56** would increase the current balance by \$8,169.16, to \$37,344.72. *See* USDA Rural Development Exhibits, esp. RX 10.

7. I cannot determine whether Petitioner Tomberlin’s disposable pay supports garnishment without creating hardship. 31 C.F.R. § 285.11. Petitioner Tomberlin failed to file a completed “Consumer Debtor Financial Statement”. I cannot calculate Petitioner Tomberlin’s disposable pay (after subtracting income tax, social security, Medicare, health insurance, and any other “eligible” withholding from her gross pay), because there is no evidence to use for such calculations. I cannot calculate Petitioner Tomberlin’s current reasonable and necessary living expenses. Nevertheless, I have taken into account RX 7 (dated in 2000) in limiting the potential garnishment to no more than 7.5% of Petitioner Tomberlin’s disposable pay through April 2011; and up to 15% of Petitioner Tomberlin’s disposable pay thereafter. 31 C.F.R. § 285.11.

8. Petitioner Tomberlin is responsible and willing and able to negotiate the disposition of the debt with Treasury’s collection agency.

### Discussion

9. Through April 2011, garnishment up to 7.5% of Petitioner Tomberlin’s disposable pay; and thereafter, garnishment up to 15% of Petitioner Tomberlin’s disposable pay; is authorized. *See* paragraphs 7 and 8. I encourage **Petitioner Tomberlin and the collection agency to negotiate promptly** the repayment of the debt. Petitioner Tomberlin, 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 Tomberlin, 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

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

11. Petitioner Tomberlin owes the debt described in paragraphs 5 and 6.

12. **Garnishment is authorized**, as follows: through April 2011, garnishment up to 7.5% of Petitioner Tomberlin's disposable pay; and thereafter, garnishment up to 15% of Petitioner Tomberlin's disposable pay. 31 C.F.R. § 285.11.

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

Order

14. Until the debt is repaid, Petitioner Tomberlin 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).

15. USDA Rural Development, and those collecting on its behalf, are authorized to proceed with garnishment, up to 7.5% of Petitioner Tomberlin's disposable pay through April 2011; and garnishment up to 15% of Petitioner Tomberlin's disposable pay thereafter. 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 14<sup>th</sup> day of January 2011

s/ Jill S. Clifton

Jill S. Clifton  
Administrative Law Judge

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