

4. This is Petitioner Kafka's case (she filed the Petition), and in addition to failing to be available for the hearing on March 4, 2011, Petitioner Kafka failed to file with the Hearing Clerk a representative pay stub (or pay stubs), or a completed Consumer Debtor Financial Statement, or any information responsive to my "Hearing Will Resume" notice mailed to her on February 10, 2011.

Summary of the Facts Presented

5. Petitioner Kafka owes to USDA Rural Development a balance of **\$37,812.62**, in repayment of a Farmers Home Administration / United States Department of Agriculture loan (now USDA / Rural Housing Service), made in 1990 for a home in Texas. The balance is now unsecured ("the debt"). See USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed November 8, 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 **\$37,812.62** would increase the current balance by \$10,587.53, to \$48,400.15. See USDA Rural Development Exhibits, esp. RX 7.

7. I cannot determine whether Petitioner Kafka's disposable pay supports garnishment without creating hardship. 31 C.F.R. § 285.11. Petitioner Kafka failed to file a completed "Consumer Debtor Financial Statement". I cannot calculate Petitioner Kafka'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 Kafka's current reasonable and necessary living expenses, although Petitioner Kafka's letter does state that she is married with 4 children. Since I do not have the information I would need to determine whether garnishment would create hardship, garnishment up to 15% of Petitioner Kafka's disposable pay is authorized. 31 C.F.R. § 285.11.

8. Petitioner Kafka is responsible and able to negotiate the disposition of the debt with the U.S. Department of the Treasury or its collection agency.

Discussion

9. Garnishment is authorized, up to 15% of Petitioner Kafka's disposable pay. See paragraphs 7 and 8. I encourage **Petitioner Kafka and the collection agency to negotiate promptly** the repayment of the debt. Petitioner Kafka, 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 Kafka, 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 Kafka and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.
11. Petitioner Kafka owes the debt described in paragraphs 5 and 6.
12. **Garnishment is authorized**, as follows: up to 15% of Petitioner Kafka's disposable pay. 31 C.F.R. § 285.11.
13. Repayment of the debt may also occur through *offset* of Petitioner Kafka's **income tax refunds** or other **Federal monies** payable to the order of Ms. Kafka.

Order

14. Until the debt is repaid, Petitioner Kafka 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 15% of Petitioner Kafka'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 9th day of March 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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