

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

In re: )  
 ) **AWG Docket No. 11-0129**  
William J. Hotz, Jr. )  
 )  
Petitioner ) **Decision and Order**

1. The hearing by telephone was held as scheduled on April 12, 2011. Mr. William J. Hotz, Jr., the Petitioner (“Petitioner Hotz, Jr.”), failed to appear. [He failed to appear by telephone; he was at work and not available at his home phone.]
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 and Marsha Moore. The address for USDA Rural Development for this case is

Mary E. Kimball, Branch Accountant  
USDA / RD New Program Initiatives Branch  
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4300 Goodfellow Blvd  
St Louis MO 63120-1703

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Summary of the Facts Presented

3. Petitioner Hotz, Jr. owes to USDA Rural Development a balance of **\$30,853.74** in repayment of loans that he borrowed in 1998. The loans were from the United States Department of Agriculture, Rural Housing Service, a part of USDA Rural Development. Petitioner Hotz, Jr. borrowed to buy a home in Iowa, and the **\$30,853.74** balance is now unsecured (“the debt”). See USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed March 9 and April 12, 2011), which are admitted into evidence, together with the testimony of Mary Kimball.

4. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$30,853.74** would increase the current balance by \$8,639.05, to \$39,492.79.

5. The amount borrowed from USDA Rural Development was \$40,000.00 in 1988 (\$36,626.43 in the assumed loan, plus \$3,373.57). By the time of the foreclosure sale in 2009, that debt had grown to \$41,370.24. From the sale of the home (for \$8,000.00), \$7,369.62 was applied to the debt. A small escrow refund (\$50.88), plus collections since then, have reduced the balance to **\$30,853.74**, as of April 12, 2011. RX 10.

6. Petitioner Hotz, Jr.'s Consumer Debtor Financial Statement (filed in April 2011), is admitted into evidence, together with his Hearing Request statements (made in December 2010). Petitioner Hotz, Jr.'s pay is about [REDACTED] per month; and his reasonable and necessary living expenses for 3 children and himself are about [REDACTED] per month.

7. Petitioner Hotz, Jr.'s disposable pay does not support garnishment, which would create financial hardship. 31 C.F.R. § 285.11.

8. Petitioner Hotz, Jr. is responsible and willing and able to negotiate the repayment of the debt with Treasury's collection agency.

#### Discussion

9. NO garnishment is authorized. *See* paragraphs 6 & 7. I encourage **Petitioner Hotz, Jr. and the collection agency** to **negotiate promptly** the repayment of the debt. Petitioner Hotz, Jr., this will require **you** to telephone the collection agency after you receive this Decision. Petitioner Hotz, Jr., you may request that the debt be apportioned separately to you and your former wife the co-borrower, and that you be permitted to compromise the debt for an amount you are able to pay, to settle the claim for less. You may ask that you be given consideration for your pay being less than your reasonable and necessary living expenses, particularly since you provide for your children. The toll-free number for you to call is **1-888-826-3127**.

#### Findings, Analysis and Conclusions

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

11. Petitioner Hotz, Jr. owes the debt described in paragraphs 3, 4 and 5.

12. **NO garnishment is authorized**, because garnishment would create financial hardship, especially considering the responsibilities Petitioner Hotz, Jr. carries regarding his children. 31 C.F.R. § 285.11.

13. This Decision does not prevent repayment of the debt through *offset* of Petitioner Hotz, Jr.'s **income tax refunds** or other **Federal monies** payable to the order of Mr. Hotz, Jr.

Order

14. Until the debt is repaid, Petitioner Hotz, Jr. 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).

15. USDA Rural Development, and those collecting on its behalf, are **NOT** authorized to proceed with garnishment.

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

Done at Washington, D.C.  
this 19<sup>th</sup> day of April 2011

s/ Jill S. Clifton

Jill S. Clifton  
Administrative Law Judge

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