

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	
Sheila P. Richardson, n/k/a)	AWG Docket No. 11-0354
)	
Sheila P. Wood,)	
)	
Petitioner)	Decision and Order

1. The hearing by telephone was held as scheduled on September 20, 2011. Sheila P. Wood, the Petitioner, formerly known as Sheila P. Richardson (“Petitioner Wood”), represents herself (appears *pro se*).

2. 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. 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

mary.kimball@stl.usda.gov 314.457.5592 phone
314.457.4426 FAX

Summary of the Facts Presented

3. USDA Rural Development’s Exhibits, plus Narrative, Witness & Exhibit List, were filed on September 2, 2011, and are admitted into evidence, together with the testimony of Ms. Kimball, and together with RX 8 and the Additional Narrative and Exhibits filed September 29, 2011.

4. Petitioner Wood’s completed “Consumer Debtor Financial Statement” plus the accompanying documents filed on September 15, 2011; plus Petitioner Wood’s Hearing

Request including all accompanying documents, are admitted into evidence, together with the testimony of Petitioner Wood.

5. Petitioner Wood owes to USDA Rural Development **\$11,158.70** in repayment of a USDA Farmers Home Administration loan borrowed in 1990 for a home in Kentucky, the balance of which is now unsecured (“the debt”).

6. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$11,158.70**, would increase the current balance by \$3,124.44, to \$14,283.14. *See* USDA Rural Development Exhibits, esp. RX 5.

7. The amount Petitioner Wood borrowed from USDA Farmers Home Administration in 1990 was \$42,000.00. By the time of the short sale on September 3, 1998, Petitioner Wood’s debt had grown to \$55,064.28.

\$40,679.70	unpaid principal
9,319.55	unpaid interest, and
<u>5,065.03</u>	unpaid fees (real estate taxes and insurance)
\$55,064.28	
=====	

RX 4, page 1.

From the sale of the home (for \$41,500.00), \$38,494.11 was applied to reduce the balance.¹ Since the short sale (1998), no additional interest has accrued, and collections since then (\$5,411.47 net) have further reduced the balance, to **\$11,158.70** as of August 31, 2011. RX 4 and RX 5.

8. Petitioner Wood works as a part-time cook, making \$9.25 per hour 30-32 hours per week on average. Petitioner Wood’s gross pay averages less than \$1,200.00 per month; her disposable pay (within the meaning of 31 C.F.R. § 285.11) is roughly \$1,000.00 per month. [Disposable income is gross pay minus income tax, Social Security, Medicare, and health insurance withholding; and in certain situations minus other employee benefits contributions that are required to be withheld.]

¹ RX 8 shows that “Net Proceeds of 38715.11 were sent through the US Attorney; RX 8 shows also that 38494.11 was the amount received by USDA Rural Development. The Additional Narrative states that the \$221.00 difference between \$38,715.11 and \$38,494.11 can only be explained by saying the funds were routed through the US Attorney’s Office and they deducted a fee.

9. Numerous *offsets* during the past 10 years, probably mostly Federal income tax refunds, have reduced the balance substantially (by \$5,411.47). In addition to *offsets*, garnishment up to 15% of Petitioner Wood's disposable pay can occur unless she cannot withstand garnishment in that amount without hardship. 31 C.F.R. § 285.11. Although garnishment at 15% of Petitioner Wood's disposable pay could yield roughly \$150.00 per month in repayment of the debt, she cannot withstand garnishment in that amount without financial hardship. Petitioner Wood has a child still in high school to support, her 18 year-old daughter, in addition to herself. Although she is supposed to receive child support, the child support is not being paid. Petitioner Wood's reasonable and necessary living expenses exceed her disposable pay, even before her monthly payments on her other debts are considered. *See* Consumer Debtor Financial Statement. Although Petitioner Wood has the support of her husband, he is **not** liable to repay the debt at issue here. Petitioner Wood's disposable pay (within the meaning of 31 C.F.R. § 285.11) does **not** currently support garnishment and **no** garnishment is authorized through **October 2013**. To prevent hardship, potential garnishment to repay "the debt" (*see* paragraph 5) must be limited to **0%** of Petitioner Wood's disposable pay through **October 2013**; then, beginning no sooner than November 2013, following review of Petitioner Wood's financial circumstances to determine what amount of garnishment she can withstand without financial hardship, garnishment up to 15% of Petitioner Wood's disposable pay is authorized. 31 C.F.R. § 285.11.

10. Petitioner Wood is responsible and willing and able to negotiate the disposition of the debt with Treasury's collection agency.

Discussion

11. Through **October 2013**, **no** garnishment is authorized. Then, beginning no sooner than November 2013, following review of Petitioner Wood's financial circumstances to determine what amount of garnishment she can withstand without financial hardship, garnishment up to 15% of Petitioner Wood's disposable pay is authorized. *See* paragraphs 8, 9 and 10. I encourage **Petitioner Wood and Treasury's collection agency to negotiate** the repayment of the debt. Petitioner Wood, 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**. You may want to request apportionment of debt between 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

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

13. Petitioner Wood owes the debt described in paragraphs 5, 6 and 7.
14. **Garnishment is authorized**, as follows: **through October 2013, no** garnishment. Then, beginning no sooner than November 2013, following review of Petitioner Wood's financial circumstances to determine what amount of garnishment she can withstand without financial hardship, garnishment up to 15% of Petitioner Wood's disposable pay. 31 C.F.R. § 285.11.
15. Repayment of the debt may also occur through *offset* of Petitioner Wood's **income tax refunds** or other **Federal monies** payable to the order of Ms. Wood.

Order

16. Until the debt is repaid, Petitioner Wood 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).
17. USDA Rural Development, and those collecting on its behalf, are **not** authorized to proceed with garnishment through October 2013. Beginning no sooner than November 2013, following review of Petitioner Wood's financial circumstances to determine what amount of garnishment she can withstand without financial hardship, garnishment up to 15% of Petitioner Wood's disposable pay is authorized. 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 29th day of September 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

Hearing Clerk's Office
U.S. Department of Agriculture
South Building Room 1031
1400 Independence Avenue, SW
Washington DC 20250-9203
202-720-4443
Fax: 202-720-9776