

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0226

In re: TAYLOR BARKLEY,

Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the timely request by Taylor Barkley (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due to the U.S. Department of Agriculture Forest Service (“USDA”; “Respondent”), and if established, the propriety of imposing administrative wage garnishment. I held a pre-hearing conference with the parties and directed them to file and exchange information and documentation and set the matter for a hearing to commence by telephone on April 23, 2012.

Respondent electronically filed supporting documentation numbered 1 through 60 with the Hearing Clerk, identified as exhibit RX-1, and on the day of the hearing, Respondent filed additional documents identified as RX-2. Petitioner filed a statement of his expenses, together with a copy of an earnings statement, identified as PX-1 and PX-2, respectively. The parties exchanged their exhibits with each other.

The hearing was held as scheduled, and the documents of both parties were admitted to the record. Testimony was given by Respondent’s representative, Michael Chirin and by the Petitioner, who represented himself.

On the basis of the entire record before me, the following Findings of Fact and Conclusions of Law and Order will be entered:

FINDINGS OF FACT

1. Petitioner was employed by USDA in the fall of 2005, and traveled extensively as part of his duties.
2. Expenses related to Petitioner's work-related travel were reimbursed upon Petitioner's submission of travel vouchers to USDA. RX-1 at 14 through 19.
3. Duplicate payments were made to Petitioner for vouchers for travel for the period covering September 29, 2005 through October 17, 2005. RX 1 at 8.
4. The duplicate payments occurred due to administrative error, and not due to any action or inaction of Petitioner Taylor Barkley.
5. Petitioner was aware of being paid at least one of the duplicate amounts and requested information regarding the over-payments and further requested to be billed for the amounts. RX-1 at 10 through 12.
6. Duplicate payments for one voucher, and a partial duplicate for another, were deposited in Petitioner's bank account. RX-2.
7. In June, 2008, USDA sent a bill and demand for payment from Petitioner to an address in Jacksonville, Florida, which correspondence was returned to USDA as undeliverable. RX-1 at 1 through 8.
8. Petitioner credibly testified that he lived in Boise, Idaho at all times relevant to the events involved in this proceeding, and never used an address in Jacksonville, Florida.
9. Petitioner's address in USDA's records was a PO Box in Boise, Idaho. RX-1.
10. At the time the demand for payment was mailed in June, 2008, Petitioner's debt was \$4,474.44, consisting of \$3,581.66 principal, \$334.29 interest, \$75.00 administrative costs and \$483.49 penalty. RX 1 at 6, 7.

11. Petitioner's account was referred to the U.S. Department of Treasury ("Treasury") for collection as required by law. RX-1.

12. When the debt was referred to Treasury, additional penalty and interest had accrued for a total of \$7,234.45. See, Petitioner's account filed with request for hearing.

13. Petitioner was unaware of the status of the debt until he received a letter from Treasury's agents in June, 2011, and he challenged the debt as unsupported by documentation.

14. As of the date of the request for a hearing, the debt at Treasury was \$7,512.54.

15. At the hearing, USDA's representative exercised his authority to waive accumulated interest and penalty, in consideration of USDA's error in creating the debt and the failure to give Petitioner timely notice and demand for payment at his address of record.

16. Petitioner's income tax refund for the current year, 2011, was intercepted by Treasury and applied to offset his account.

17. Petitioner's debt consists of \$3,581.66, minus a credit for his 2011 tax refund, plus the fees, interest and penalty accrued on the debt at Treasury, since June 1, 2011.

18. Petitioner has disposable income from his employment.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.

2. USDA has waived interest and penalty accruing on Petitioner's account.

3. Petitioner's 2011 income tax refund has been applied against the account at Treasury.

4. Petitioner is indebted to USDA-RD in the amount of \$3,581.66, (-) credit for 2011 income tax refund, (+) interest, penalties and fees accruing on the principal since June 1, 2011.

5. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met.

6. Pursuant to the regulations pertaining to debt collection by wage garnishment, Petitioner's disposable income supports wage garnishment at the legal maximum percentage. See, 31 C.F.R. §§ 900-904; 31 U.S.C. §3717.
7. There is no evidence of hardship as defined by law or regulation.
8. The Respondent is entitled to administratively garnish the wages of the Petitioner at the regulatory and statutory maximum of 15%.
9. Wage garnishment shall be suspended for ninety (90) days from the date of this Order, to allow Petitioner time to negotiate payment of the debt with Treasury's agents.
10. Wage garnishment may be imposed as of July 23, 2012.
11. Treasury shall remain authorized to undertake any and all other appropriate collection action.

ORDER

For the foregoing reasons, the wages of Petitioner shall be subjected to administrative wage garnishment after 90 days from the date of this Order.

Petitioner is encouraged to negotiate repayment of the debt with the representatives of Treasury. The toll free number for Treasury's agent is **1-866-910-3101**.

Petitioner is advised that this Decision and Order does not prevent payment of the debt through offset of any federal money payable to Petitioner.

Petitioner is further advised that a debtor who is considered delinquent on debt to the United States may be barred from obtaining other federal loans, insurance, or guarantees. See, 31 C.F.R. § 285.13.

Until the debt is satisfied, Petitioner shall give to USDA-RD or those collecting on its behalf, notice of any change in his address, phone numbers, or other means of contact.

Copies of this Decision and Order shall be served upon the parties and counsel by the Hearing Clerk's Office.

So Ordered this 23rd day of April, 2012 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge