

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) **AWG Docket No. 10-0265**
Candice Russell)
)
Petitioner) **Decision and Order**

1. The telephone hearing was held as scheduled on August 20, 2010. Ms. Candice Russell, also known as Candice Elaine Russell, the Petitioner (“Petitioner Russell”) failed to appear (by telephone; Ms. Russell failed to provide a telephone number where she could be reached). 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.

2. 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. Petitioner Russell owes to USDA Rural Development a balance of **\$99,505.31** (as of July 6, 2010) in payment of a promise to reimburse made in 2004 (RX-1, especially p. 2) (“the debt”). *See* USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed July 26, 2010), which are admitted into evidence.

4. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$99,505.31** would increase the current balance by \$27,861.49, to \$127,366.80. *See* USDA Rural Development Exhibits, esp. RX-5.

5. Petitioner Russell's Hearing Request signed February 10, 2010, stated that she does not owe the full amount of the debt, for the following reason: "Home sold by Trust on 02/26/09 for \$102,000.00." Proceeds from the sale of the property were indeed \$102,000.00, as Petitioner Russell states. *See* RX-2. When the \$102,000.00 was applied to the \$208,846.24 debt (including not only principal and interest, but also a protective advance to pay taxes and insurance, and all the liquidation and property sale costs paid by the lender), more than \$100,000.00 still remained due, even after \$6,813.75 in "recoveries/credits/reductions" was applied. The itemization is detailed on RX-2.

6. Petitioner Russell failed to file financial information or anything in response to my Order dated June 29, 2010; consequently there is no evidence before me regarding Petitioner Russell's disposable pay or any 31 C.F.R. § 285.11 factors. I must presume that Petitioner Russell's disposable pay supports garnishment.

Discussion

7. Garnishment is authorized. *See* paragraph 6. I encourage **Petitioner Russell and Treasury's collection agency** to **negotiate promptly** the repayment of the debt. Petitioner Russell, this will require **you** to telephone the collection agency about two to three weeks after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner Russell, 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

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

9. Petitioner Russell owes the debt described in paragraphs 3 and 4.

10. Garnishment is authorized, up to 15% of Petitioner Russell's disposable pay.

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

Order

12. Until the debt is repaid, Petitioner Russell 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).

13. USDA Rural Development, and those collecting on its behalf, are 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 26th day of August 2010

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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