

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

In re: )  
 ) **AWG Docket No. 11-0011**  
Traci Zehnder )  
 )  
Petitioner ) **Decision and Order**

1. The hearing was held, by telephone, on December 8, 2010. Ms. Traci Zehnder, the Petitioner (“Petitioner Zehnder”) participated and was represented by Jennifer M. Galloway, Esq.

2. Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and was represented by Ms. Mary 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](mailto:mary.kimball@stl.usda.gov) 314.457.5592 phone  
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3. I encourage **Petitioner Zehnder and the collection agency** to work together to **establish a repayment schedule**. See paragraphs 10 and 11.

Summary of the Facts Presented

4. Petitioner Zehnder owes to USDA Rural Development a balance of **\$39,506.23**, in repayment of a United States Department of Agriculture / Rural Housing Service **Guarantee** (see RX-1, esp. p. 2) for a loan made in 2004, the balance of which is now unsecured (“the debt”). Petitioner Zehnder borrowed to buy a home in Michigan. See USDA Rural Development Exhibits RX-1 through RX-7, which I admit into evidence,

together with the Narrative, Witness & Exhibit List (filed November 8, 2010), and the testimony of Mary Kimball.

5. This *Guarantee* establishes an **independent** obligation of Petitioner Zehnder, “I certify and acknowledge that if the Agency pays a loss claim on the requested loan to the lender, I will reimburse the Agency for that amount. If I do not, the Agency will use all remedies available to it, including those under the Debt Collection Improvement Act, to recover on the Federal debt directly from me. The Agency’s right to collect is independent of the lender’s right to collect under the guaranteed note and will not be affected by any release by the lender of my obligation to repay the loan. Any Agency collection under this paragraph will not be shared with the lender.” RX-1, p. 2.

6. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$39,506.23**, would increase the current balance by \$11,061.74, to \$50,567.97. RX-7.

7. Petitioner Zehnder proved that the responsibility to repay “the debt” is that of her co-borrower, her former husband, Carl John Goschke V. *See* Petitioner Zehnder’s Exhibit 1, which I admit into evidence, together with Petitioner Zehnder’s Narrative, Witness List and Exhibit List (filed December 8, 2010), and the testimony of Petitioner Zehnder. The Judgment of Divorce (Exhibit 1), dated in June 2008, details at page 7 the obligations of Carl John Goschke V. Petitioner Zehnder may well choose to proceed against him for his failures. Nevertheless, USDA Rural Development, and those collecting on its behalf, are entitled to collect from Petitioner Zehnder.

8. Petitioner Zehnder and her son live with her parents, and she receives about \$414.00 child support for her son. Her son requires inhalers and other remedies for asthma and allergies. Petitioner Zehnder’s “Earnings Statement” for Period Ending 12/04/2010 (filed December 8, 2010), and her “Consumer Debtor Financial Statement” with attached 2009 U.S. Income Tax Return (received December 17, 2010 and filed January 5 & 6, 2011) are admitted into evidence. Petitioner Zehnder’s disposable pay (within the meaning of 31 C.F.R. § 285.11) is about \$1,100.00 per month. Garnishment, up to 15% of Petitioner Zehnder’s disposable pay, could yield about \$165.00 per month in payment on “the debt.”

9. Petitioner Zehnder’s reasonable living expenses total about \$1,114.00. These expenses would be far greater if her parents were not providing her and her son with lodging. So long as the child support is timely paid, and her parents continue to provide, Petitioner Zehnder does not have any circumstances of financial hardship (within the meaning of 31 C.F.R. § 285.11).

10. Petitioner Zehnder is responsible and willing and able to negotiate the repayment of the debt with Treasury’s collection agency.

### Discussion

11. **Through July 30, 2011, NO garnishment is authorized.** Thereafter, garnishment up to 15% of Petitioner Zehnder's disposable pay is authorized. I encourage **Petitioner Zehnder and the collection agency to negotiate promptly** the repayment of the debt. Petitioner Zehnder, 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 Zehnder, you may ask that the debt be **apportioned separately** to you and your co-borrower, especially since, pursuant to the Judgment of Divorce, the responsibility to repay the debt is that of your co-borrower, your former husband, Carl John Goschke V.<sup>1</sup> You may choose to offer 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 Zehnder and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.

13. Petitioner Zehnder owes the debt described in paragraphs 4, 5 and 6.

14. **Through July 30, 2011, NO garnishment is authorized.** Thereafter, garnishment is authorized, up to 15% of Petitioner Zehnder's disposable pay. 31 C.F.R. § 285.11.

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

### Order

16. Until the debt is fully paid, Petitioner Zehnder 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 July 30, 2011**. Thereafter, USDA Rural Development,

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<sup>1</sup> You may ask to be given consideration for you having left the house December 24, 2006, when you and the co-borrower separated; for you having given Countrywide your new address, having requested Countrywide for duplicates, and having received nothing from Countrywide about the delinquency or the foreclosure. While the lack of notice to you was not the fault of the USDA / Rural Housing Service, it was not your fault, either.

and those collecting on its behalf, are authorized to proceed with garnishment, up to 15% of Petitioner Zehnder'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 7<sup>th</sup> day of January 2011

s/ Jill S. Clifton

Jill S. Clifton  
Administrative Law Judge

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