

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) **AWG Docket No. 11-0081**
Constance Abbott)
)
Petitioner) **Decision and Order**

1. The hearing by telephone was held as scheduled, February 11, 2011. Constance Abbott, the Petitioner, also known as Constance G. Abbott, formerly known as Constance G. LaBrie (“Petitioner Abbott”), failed to appear. [She failed to appear by telephone; she did not provide a phone number where she could be reached.]

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. 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

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3. I encourage **Petitioner Abbott and the collection agency** to work together to **establish a repayment schedule** rather than immediately proceeding with garnishment, even though this Decision authorizes garnishment, up to 15% of Petitioner Abbott’s disposable pay. Petitioner Abbott, obviously, will have to make herself available to the collection agency if she wants to negotiate. *See* paragraph 9.

4. This is Petitioner Abbott’s case (she filed the Petition), and in addition to failing to be available for the hearing, Petitioner Abbott failed to file with the Hearing Clerk any information. Petitioner Abbott’s deadline for that was February 7, 2011.

Summary of the Facts Presented

5. Petitioner Abbott owes to USDA Rural Development a balance of **\$6,609.99**, in repayment of two Farmers Home Administration / United States Department of Agriculture loans (now USDA / Rural Housing Service), made in 1982 and in 1989 for a home in Maine. The balance is now unsecured (“the debt”). *See* USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed January 24, 2011), which are admitted into evidence, together with the testimony of Ms. Kimball.

6. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$6,609.99** would increase the current balance by \$1,850.80, to \$8,460.79. *See* USDA Rural Development Exhibits, esp. RX 5.

7. I cannot determine whether Petitioner Abbott’s disposable pay supports garnishment without creating hardship. 31 C.F.R. § 285.11. Petitioner Abbott failed to file a completed “Consumer Debtor Financial Statement”. I cannot calculate Petitioner Abbott’s disposable pay (after subtracting income tax, social security, Medicare, health insurance, and any other “eligible” withholding from her gross pay), because there is no evidence to use for such calculations. I cannot calculate Petitioner Abbott’s current reasonable and necessary living expenses. Consequently, garnishment up to 15% of Petitioner Abbott’s disposable pay is authorized. 31 C.F.R. § 285.11.

8. Petitioner Abbott is responsible and willing and able to negotiate the disposition of the debt with Treasury’s collection agency.

Discussion

9. Garnishment is authorized, up to 15% of Petitioner Abbott’s disposable pay. *See* paragraphs 7 and 8. I encourage **Petitioner Abbott and the collection agency to negotiate promptly** the repayment of the debt. Petitioner Abbott, 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 Abbott, 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

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

11. Petitioner Abbott owes the debt described in paragraphs 5 and 6.
12. **Garnishment is authorized**, as follows: up to 15% of Petitioner Abbott's disposable pay. 31 C.F.R. § 285.11.
13. Repayment of the debt may also occur through *offset* of Petitioner Abbott's **income tax refunds** or other **Federal monies** payable to the order of Ms. Abbott.

Order

14. Until the debt is repaid, Petitioner Abbott 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).
15. USDA Rural Development, and those collecting on its behalf, are authorized to proceed with garnishment, up to 15% of Petitioner Abbott'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 11th day of February 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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