

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) **AWG Docket No. 11-0141**
Milissa Taylor, f/k/a)
Milissa A. Utter,)
)
Petitioner) **Decision and Order**

1. The hearing was held by telephone, as scheduled, on April 13, 2011. Milissa Taylor, formerly known as Milissa A. Utter, the Petitioner (“Petitioner Taylor”), failed to appear. She failed to appear by telephone; no one answered the telephone number she had provided on her Hearing Request (there was a recording), and she did not provide any other 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 Taylor 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 Taylor’s disposable pay. Petitioner Taylor, obviously, will have to make herself available to the collection agency if she wants to negotiate. *See* paragraph 10.

4. This is Petitioner Taylor's case (she filed the Petition), and in addition to failing to be available for the hearing on April 13, 2011, Petitioner Taylor failed to file with the Hearing Clerk a completed Consumer Debtor Financial Statement, or any information responsive to my Order issued March 9, 2011.

Summary of the Facts Presented

5. Petitioner Taylor owes to USDA Rural Development a balance of **\$41,884.54** (as of March 3, 2011), in repayment of a United States Department of Agriculture / Rural Housing Service *Guarantee* (see RX 3, esp. p. 2) for a loan made in 2006, the balance of which is now unsecured ("the debt"). Petitioner Taylor borrowed to buy a home in Illinois. See USDA Rural Development Exhibits RX 1 through RX 8 which I admit into evidence, together with the Narrative, Witness & Exhibit List (filed March 9, 2011), and the testimony of Mary Kimball.

6. This *Guarantee* establishes an **independent** obligation of Petitioner Taylor, "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 3, p. 2.

7. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$41,884.54** would increase the current balance by \$11,727.67, to \$53,612.21. RX 8.

8. I cannot determine whether Petitioner Taylor's disposable pay supports garnishment without creating hardship. 31 C.F.R. § 285.11. I cannot calculate Petitioner Taylor'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 Taylor's current reasonable and necessary living expenses. Since I do not have the information I would need to determine whether garnishment would create hardship, garnishment up to 15% of Petitioner Taylor's disposable pay is authorized. 31 C.F.R. § 285.11.

9. Petitioner Taylor is responsible and able to negotiate the disposition of the debt with the U.S. Department of the Treasury or its collection agency.

Discussion

10. Garnishment is authorized, up to 15% of Petitioner Taylor's disposable pay. *See* paragraphs 4 and 8. I encourage **Petitioner Taylor and the collection agency** to **negotiate promptly** the repayment of the debt. Petitioner Taylor, 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 Taylor, 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

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

12. Petitioner Taylor owes the debt described in paragraphs 5, 6 and 7.

13. **Garnishment is authorized**, as follows: up to 15% of Petitioner Taylor's disposable pay. 31 C.F.R. § 285.11.

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

Order

15. Until the debt is repaid, Petitioner Taylor 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).

16. USDA Rural Development, and those collecting on its behalf, are authorized to proceed with garnishment, up to 15% of Petitioner Taylor'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 18th day of April 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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