

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) **AWG Docket No. 11-0030**
Robert Daum)
)
Petitioner) **Decision and Order**

1. Robert Daum, also known as Robert T. Daum, the Petitioner (“Petitioner Daum”), represents himself (appears *pro se*). The hearing by telephone was held on January 19 and on April 14, 2011.

2. Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and is 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
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4300 Goodfellow Blvd
St Louis MO 63120-1703

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3. I encourage **Petitioner Daum and the collection agency** to work together to **establish a repayment schedule** rather than immediately proceeding with garnishment, even though this Decision **authorizes garnishment beginning November 2011**. Petitioner Daum, obviously, will have to make himself available to the collection agency if he wants to negotiate. *See* paragraph 10.

Summary of the Facts Presented

4. USDA Rural Development's Exhibits, plus Narrative, Witness & Exhibit List, were filed on December 16, 2010, and are admitted into evidence, together with the testimony of Ms. Kimball.
5. Petitioner Daum did not file a "Consumer Debtor Financial Statement" or copies of his pay stub(s), or other financial information, but he did testify, and his testimony is admitted into evidence.
6. Petitioner Daum owes to USDA Rural Development **\$19,781.57** (as of November 29, 2010) in repayment of a Rural Housing Service loan made in 1995 for a home in Tennessee, the balance of which is now unsecured ("the debt").
7. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$19,781.57** would increase the current balance by \$5,538.84, to \$25,320.41. *See* USDA Rural Development Exhibits, esp. RX 6.
8. Petitioner Daum works long hours as a home appliances technician, going from place to place working from his van. He supports his son as well as himself; for 7 years he was a "single parent." Petitioner Daum is making payments to the Internal Revenue Service for back taxes; he may have additional tax liability. To prevent hardship, potential garnishment to repay "the debt" (*see* paragraph 6) must be limited to **0%** of Petitioner Daum's disposable pay through October 2011; then up to **15%** of Petitioner Daum's disposable pay thereafter. 31 C.F.R. § 285.11.
9. Petitioner Daum is responsible and willing and able to negotiate the disposition of the debt with Treasury's collection agency.

Discussion

10. Through October 2011, no garnishment is authorized. Beginning November 2011, garnishment up to 15% of Petitioner Daum's disposable pay is authorized. *See* paragraphs 8 and 9. I encourage **Petitioner Daum and the collection agency to negotiate promptly** the repayment of the debt. Petitioner Daum, 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 Daum, you may ask that the debt be **apportioned separately** to you and your co-borrower, Linda W. Daum. 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 Daum and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.
12. Petitioner Daum owes the debt described in paragraphs 6 and 7.
13. **Garnishment is authorized**, as follows: through October 2011, **no** garnishment. Beginning November 2011, garnishment up to 15% of Petitioner Daum's disposable pay. 31 C.F.R. § 285.11.
14. Repayment of the debt may also occur through **offset** of Petitioner Daum's **income tax refunds** or other **Federal monies** payable to the order of Mr. Daum.

Order

15. Until the debt is repaid, Petitioner Daum shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in his 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 **not** authorized to proceed with garnishment through October 2011. Beginning November 2011, garnishment up to 15% of Petitioner Daum's disposable pay is authorized. 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 19th day of April 2011

s/Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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