

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	AWG Docket No. 11-0160
Leonard Morse,)	
)	
Petitioner)	Decision and Order

1. The hearing by telephone was held as scheduled May 19, 2011. Leonard E. Morse, the Petitioner (“Petitioner Morse”), failed to appear. [Petitioner Morse failed to appear by telephone for the hearing May 19, 2011; he failed to provide a phone number where he could be reached.]¹ Petitioner Morse represents himself (appears *pro se*).

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
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

3. I encourage **Petitioner Morse 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 Morse’s disposable pay. *See* 31 C.F.R. § 285.11. Petitioner Morse, obviously, will have to make himself available to the collection agency if he wants to negotiate. *See* paragraph 11.

¹ The phone number on Petitioner Morse’s Hearing Request is the number we called. Petitioner Morse did not provide any other phone number. We got a “generic” recording and left messages requesting him to return our call, but he did not.

4. This is Petitioner Morse's case (he filed the Petition), and in addition to failing to be available for the hearing, Petitioner Morse failed to file with the Hearing Clerk any information, such as a completed Consumer Debtor Financial Statement. Petitioner Morse's deadline for filing was May 12, 2011 (*see* my Order filed April 20, 2011).

Summary of the Facts Presented

5. Petitioner Morse owes to USDA Rural Development a balance of **\$36,188.44** (as of March 15, 2011), in repayment of United States Department of Agriculture / Rural Housing Service *Guarantee* (*see* RX 3, esp. p. 2) for a loan made in 2006 by First Midwest Bank of Dexter, for a home in Missouri, the balance of which is now unsecured ("the debt"). *See* USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed April 21, 2011), which are admitted into evidence, together with the testimony of Ms. Kimball.

6. This Guarantee establishes an **independent** obligation of Petitioner Morse, "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."

7. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$36,188.44** would increase the current balance by \$10,132.76, to \$46,321.20. *See* USDA Rural Development Exhibits, esp. RX 10.

8. Petitioner Morse has provided no information about his income and expenses and no indication of hardship. I have no way of evaluating the factors to be considered under 31 C.F.R. § 285.11; consequently I must presume that Petitioner Morse can withstand garnishment up to 15% of Petitioner Morse's disposable pay.

9. Petitioner Morse's Hearing Request states: I was informed the account was settled when the house was resold. While the Bank did not seek more money from Petitioner Morse, the Bank filed a claim with USDA Rural Development, and USDA Rural Development paid a loss claim of \$38,174.44 to the Bank on August 14, 2009. RX 4, p.7.

10. Petitioner Morse is responsible and able to negotiate the disposition of the debt with Treasury's collection agency.

Discussion

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

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

13. Petitioner Morse owes the debt described in paragraphs 5, 6 and 7.

14. **Garnishment is authorized**, up to 15% of Petitioner Morse's disposable pay. 31 C.F.R. § 285.11.

15. This Decision does not prevent repayment of the debt through *offset* of Petitioner Morse's **income tax refunds** or other **Federal monies** payable to the order of Mr. Morse.

Order

16. Until the debt is repaid, Petitioner Morse 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).

17. USDA Rural Development, and those collecting on its behalf, are authorized to proceed with garnishment, up to 15% of Petitioner Morse'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 20th day of May 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

Hearing Clerk's Office
U.S. Department of Agriculture
South Building Room 1031
1400 Independence Avenue, SW
Washington DC 20250-9203
202-720-4443
Fax: 202-720-9776