

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) **AWG Docket No. 11-0186**
Jaime Garay,)
)
Petitioner) **Decision and Order**

1. The hearing by telephone was held as scheduled on June 14, 2011. Mr. Jaime G. Garay, the Petitioner (“Petitioner Garay”), failed to appear. [He failed to appear by telephone: (a) the phone number Petitioner Garay provided on his Hearing Request was answered by a person who said he did not know Mr. Garay; and (b) Petitioner Garay failed to respond to my Order filed April 20, 2011, which, among other things, instructed him to provide a telephone number for the hearing.]

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

mary.kimball@stl.usda.gov 314.457.5592 phone
314.457.4426 FAX

Summary of the Facts Presented

3. Petitioner Garay owes to USDA Rural Development a balance of **\$7,935.26** in repayment of a loan that he borrowed in 1992. The loan was from the United States Department of Agriculture, Farmers Home Administration. [Farmers Home Administration became Rural Housing Service, a part of USDA Rural Development.] Petitioner Garay borrowed to buy a home in Texas, and the **\$7,935.26** balance is now unsecured (“the debt”).

See USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed April 22 and June 15, 2011), which are admitted into evidence, together with the testimony of Mary Kimball.

4. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$7,935.26** would increase the current balance by \$2,221.87, to \$10,157.13.

5. The amount borrowed from USDA Rural Development was \$37,000.00 in 1992. The loan was re-amortized in 1996 and re-amortized again in 1999. These re-amortizations allowed Petitioner Garay to become current, by adding the delinquent amounts to principal. By the time of the foreclosure sale on May 1, 2001, Petitioner Garay's debt had grown to \$43,167.65.

\$37,149.58	unpaid principal
4,582.94	unpaid interest, and
<u>1,435.13</u>	unpaid fees, probably including real estate taxes
\$43,167.65	
<u><u>=====</u></u>	

RX 5, page 1.

From the sale of the home, \$27,315.00 was applied to the debt. Collections since then have reduced the balance to **\$7,935.26**, as of June 14, 2011. RX 6A.

6. This is Petitioner Garay's case (he filed the Petition), and in addition to failing to be available for the hearing, Petitioner Garay failed to file with the Hearing Clerk any information, such as a completed Consumer Debtor Financial Statement. Petitioner Garay's deadline for filing was June 3, 2011 (*see* my Order filed April 20, 2011). Petitioner Garay failed to file anything; he 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 Garay can withstand garnishment up to 15% of Petitioner Garay's disposable pay.

7. Petitioner Garay is responsible and able to negotiate the repayment of the debt with Treasury's collection agency.

Discussion

8. Garnishment up to 15% of Petitioner Garay's disposable pay is authorized. *See* paragraph 6. I encourage **Petitioner Garay and the collection agency to negotiate**

promptly the repayment of the debt. Petitioner Garay, 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 Garay, 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

9. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Garay and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.
10. Petitioner Garay owes the debt described in paragraphs 3, 4 and 5.
11. **Garnishment is authorized**, up to 15% of Petitioner Garay's disposable pay. 31 C.F.R. § 285.11.
12. Repayment of the debt may also occur through **offset** of Petitioner Garay's **income tax refunds** or other **Federal monies** payable to the order of Mr. Garay.

Order

13. Until the debt is repaid, Petitioner Garay 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).
14. USDA Rural Development, and those collecting on its behalf, are authorized to proceed with garnishment, up to 15% of Petitioner Garay'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 16th day of June 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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