

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	[AWG]
Angelena Lang,)	Docket No. 12-0078
)	
Petitioner)	Decision and Order

Appearances:

Angelena Lang, the Petitioner, representing herself (appearing *pro se*); and

Michelle Tanner, Appeals Coordinator, United States Department of Agriculture, Rural Development, Centralized Servicing Center, St. Louis, Missouri, for the Respondent (USDA Rural Development).

1. The hearing by telephone was held on January 31 and February 8, 2012. Angelena Lang, also known as Angelena K. Lang, formerly known as Angelena K. Pigott, the Petitioner (“Petitioner Lang”), participated, representing herself (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 Michelle Tanner.

Summary of the Facts Presented

3. Petitioner Lang’s completed “Consumer Debtor Financial Statement,” was filed on January 25, 2012, together with her Hardship Letter dated November 1, 2011, and her email message dated January 24, 2012, and are all admitted into evidence, together with the testimony of Petitioner Lang, together with her Hearing Request and all accompanying documents (filed November 18, 2011).
4. USDA Rural Development’s Exhibits RX 1 through RX 7, plus Narrative, Witness & Exhibit List, were filed on December 30, 2011, and are admitted into evidence, together with the testimony of Michelle Tanner. Also admitted into evidence are USDA Rural Development’s exhibits filed on February 3, 2012: Exhibits RX 8 through RX 10; plus Narrative and Exhibit List.

5. Petitioner Lang owes to USDA Rural Development a balance of **\$21,207.76** (as of December 29, 2011) in repayment of a United States Department of Agriculture Rural Housing Service loan borrowed in 2001 (RX 1), for a home in Florida. The balance is now unsecured (“the debt”). *See* USDA Rural Development Exhibits RX 1 through RX 10, plus Narratives, etc. (filed December 30, 2011, and February 3, 2012). [**The loan balance has changed** from the December 29, 2011 balance of \$21,207.76 (excluding collection costs), **because garnishment is ongoing** (*see* RX 6); the balance will have therefore been reduced and will continue to change.

6. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$21,207.76** would increase the current balance by \$5,938.17, to \$27,145.93. *See* USDA Rural Development Exhibits, esp. RX 6, p. 6.

7. The amount Petitioner Lang borrowed in 2001 was \$91,745.00. RX 1. The loan was accelerated for foreclosure on December 24, 2003. The property was to be sold on June 2, 2005. Petitioner Lang’s Chapter 13 bankruptcy filed on May 11, 2005 prevented the sale. The bankruptcy was dismissed on August 27, 2007. The foreclosure sale was then held on June 30, 2008. USDA Rural Development Narrative, and RX 6, esp. p. 1.

\$ 88,164.95	Unpaid Principal Balance prior to foreclosure sale
\$ 21,820.83	Unpaid Interest Balance prior to foreclosure sale
<u>\$ 13,049.93</u>	“Fees” which means unpaid real estate taxes and unpaid insurance premiums), plus \$72.19 interest on fees
\$ 123,095.71	
- <u>94,800.00</u>	Funds applied from the foreclosure sale
\$ 28,235.71	Total Amount Due, after foreclosure sale proceeds applied
=====	

RX 6, p. 1, and USDA Rural Development Narratives. [USDA Rural Development was in first place and did not pay the second and third lien holders. *See* Narrative and Exhibits filed February 3, 2012.]

Collections from Treasury (from Petitioner Lang, mostly garnishment but also *offsets*) leave **\$21,207.76** unpaid as of December 29, 2011 (excluding the potential remaining collection fees). *See* RX 6 and USDA Rural Development Narrative.

8. Petitioner Lang’s Consumer Debtor Financial Statement and testimony persuade me that garnishment at 15% of Petitioner Lang’s disposable pay has caused Petitioner Lang financial hardship. Petitioner Lang works as a Procurement Associate. Petitioner Lang’s

disposable pay (within the meaning of 31 C.F.R. § 285.11) is between [REDACTED] and [REDACTED] per month, based on the amounts that have been garnished. RX 6, pp. 2-4, and Petitioner Lang's Hardship Letter, stating that, "There is a wage garnishment on my pay for about [REDACTED] a month". [Disposable income is gross pay minus income tax, Social Security, Medicare, and health insurance withholding; and in certain situations minus other employee benefits contributions that are required to be withheld.]

9. Petitioner Lang and her husband have children to support. They need considerable time to recover from the financial hardship created by his service to our country. He serves in the Florida National Guard. Six months prior to his deployment, he lost his job working for a temporary agency and could not find another because of the short time (6 months) remaining before deployment. He had no income during that 6 months. He was deployed to Iraq for one year. Upon return from Iraq, because he had hurt his knee, he required knee surgery and had to stay at a base in Georgia for 4 months (about mid-December 2010 through March 2011). When back in Florida the jobs he found at first paid poorly (car sales, pest control), until the job he began in November 2011. Petitioner Lang and her husband have catching up to do financially. She receives child support, and her husband pays child support. Their living expenses are understated.

10. To prevent hardship, potential garnishment to repay "the debt" (*see* paragraph 5) must be limited to **0%** of Petitioner Lang's disposable pay through December 2013; then **up to 7%** of Petitioner Lang's disposable pay beginning January 2014 through December 2014; then **up to 15%** of Petitioner Lang's disposable pay thereafter. 31 C.F.R. § 285.11.

11. Petitioner Lang, you may want to negotiate the disposition of the debt with Treasury's collection agency.

Discussion

12. Through December 2013, no garnishment is authorized. Beginning January 2014 through December 2014, garnishment up to 7% of Petitioner Lang's disposable pay is authorized; and thereafter, garnishment up to 15% of Petitioner Lang's disposable pay is authorized. *See* paragraphs 8, 9 and 10. I encourage **Petitioner Lang and the collection agency to negotiate** the repayment of the debt. Petitioner Lang, 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 Lang, 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. Petitioner Lang, you may want to have someone else with you on the line if you call.

Findings, Analysis and Conclusions

13. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Lang and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.
14. Petitioner Lang owes the debt described in paragraphs 5, 6 and 7.
15. **Garnishment is authorized**, as follows: through December 2013, **no** garnishment. Beginning January 2014 through December 2014, garnishment **up to 7%** of Petitioner Lang's disposable pay; and thereafter, garnishment **up to 15%** of Petitioner Lang's disposable pay. 31 C.F.R. § 285.11.
16. I am **NOT** ordering any amounts already collected prior to implementation of this Decision, whether through *offset* or garnishment of Petitioner Lang's pay, to be returned to Petitioner Lang.
17. Repayment of the debt may occur through *offset* of Petitioner Lang's **income tax refunds** or other **Federal monies** payable to the order of Ms. Lang (whether or not garnishment is authorized).

Order

18. Until the debt is repaid, Petitioner Lang 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).
19. USDA Rural Development, and those collecting on its behalf, are **not** authorized to proceed with garnishment through December 2013. Beginning January 2014 through December 2014, garnishment **up to 7%** of Petitioner Lang's disposable pay is authorized; and garnishment **up to 15%** of Petitioner Lang's disposable pay thereafter. 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 21st day of February 2012

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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