

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) **AWG Docket No. 10-0287**
Abraham Torres,)
)
Petitioner) **Decision and Order**

1. The hearing was held by telephone on August 27, 2010. Abraham Torres, the Petitioner (“Petitioner Torres”), did not participate. 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.

2. 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. Petitioner Torres was not available at the telephone number he provided in his Hearing Request, and he provided no other number to be reached for the telephone hearing. The telephone hearing proceeded without Petitioner Torres. I admitted into evidence USDA Rural Development Exhibits RX-1 through RX-5, together with the Narrative, Witness & Exhibit List (filed August 2, 2010). Petitioner Torres failed to file a Consumer Debtor Financial Statement or any documents. Petitioner Torres’ Hearing Request (signed April 7, 2010) stated that he does not owe the debt but gave no reason.

Summary of the Facts Presented

4. Petitioner Torres owes to USDA Rural Development a balance of **\$26,973.70** (as of July 12, 2010), in reimbursement for the amount paid by USDA on the lender’s loss claim for a loan made in 2004 (“the debt”). *See* USDA Rural Development Exhibits and

Narrative.

5. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$26,973.70** would increase the current balance by \$7,552.63, to \$34,526.33. *See* USDA Rural Development Exhibits, especially RX 5.

6. Petitioner Torres failed to file financial information or anything in response to my Order dated June 29, 2010; consequently there is no evidence before me regarding Petitioner Torres' disposable pay or any 31 C.F.R. § 285.11 factors. I must presume that Petitioner Torres' disposable pay supports garnishment.

7. Petitioner Torres is responsible and capable of negotiating the disposition of the debt with Treasury's collection agency.

Discussion

8. I encourage **Petitioner Torres and the collection agency** to **negotiate promptly** the repayment of the debt. Petitioner Torres, this will require **you** to telephone the collection agency about two to three weeks after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner Torres, you may choose to offer 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 Torres and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.

10. Petitioner Torres owes the debt described in paragraphs 4 and 5.

11. Garnishment is authorized, up to 15% of Petitioner Torres' disposable pay. 31 C.F.R. § 285.11.

12. Repayment of the debt may also occur through *offset* of Petitioner Torres' **income tax refunds** or other **Federal monies** payable to the order of Mr. Torres.

Order

13. Until the debt is repaid, Petitioner Torres 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.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 31st day of August 2010

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