

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	AWG Docket No. 11-0357
Rhonda K. Bowens,)	
)	
Petitioner)	Decision and Order

1. The hearing by telephone was held as scheduled on September 20, 2011. Ms. Rhonda K. Bowens, formerly known as Rhonda K. Trice (“Petitioner Bowens”), did not participate. (Petitioner Bowens did not participate by telephone: she did not provide a phone number in her Hearing Request; she did not provide a phone number as instructed by my Order filed August 30, 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
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
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Summary of the Facts Presented

3. Petitioner Bowens owes to USDA Rural Development a balance of **\$9,146.43** (as of August 27, 2011) in repayment of a United States Department of Agriculture Farmers Home Administration loan made in 1978, for a home in Oklahoma. The balance is now unsecured (“the debt”). See USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed September 2, 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 **\$9,146.43** would increase the current balance by \$2,561.00, to \$11,707.43. *See* USDA Rural Development Exhibits, esp. RX 7.

5. The amount Petitioner Bowens (then Trice) borrowed in 1978 was \$13,000.00. By the time of the short sale in 2001, that debt was \$10,058.62:

\$ 8,954.16	Principal Balance prior to short sale
<u>\$ 1,104.46</u>	Fees Balance prior to short sale
\$ 10,058.62	Total Amount Due prior to short sale
=====	
- <u>\$ -0-</u>	Proceeds from short sale [the lien was declared valueless]
\$ 10,058.62	Unpaid in 2001

RX 6 and USDA Rural Development Narrative.

Another \$ 48.39 applied to the debt from an insurance refund in 2002, plus \$ 863.80 net collection applied to the debt also in 2002, leaves **\$9,146.43** unpaid now (excluding the potential remaining collection fees). *See* RX 6 and USDA Rural Development Narrative.

6. Evidence is required for me to determine whether Petitioner Bowens' disposable pay supports garnishment without creating hardship. 31 C.F.R. § 285.11. Petitioner Bowens failed to file a completed "Consumer Debtor Financial Statement" or anything in response to my Order filed August 30, 2011, so I cannot calculate either Petitioner Bowens' income or her reasonable and necessary living expenses.

7. With no testimony from Petitioner Bowens and no financial information, I cannot calculate Petitioner Bowens' current disposable pay (after subtracting Federal income tax, social security, Medicare, health insurance, and any other "eligible" withholding from her gross pay). I cannot evaluate the factors to be considered under 31 C.F.R. § 285.11, so I must assume that Petitioner Bowens can withstand garnishment without financial hardship.

8. Garnishment up to 15% of Petitioner Bowens' disposable pay is authorized. 31 C.F.R. § 285.11.

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

Discussion

10. Garnishment up to 15% of Petitioner Bowens' disposable pay is authorized. *See* paragraphs 6, 7 and 8. I encourage **Petitioner Bowens and Treasury's collection agency** to **negotiate promptly** the repayment of the debt. Petitioner Bowens, 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 Bowens, 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 Bowens and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.

12. Petitioner Bowens owes the debt described in paragraphs 3, 4 and 5.

13. Garnishment up to 15% of Petitioner Bowens' disposable pay is authorized. 31 C.F.R. § 285.11.

14. Repayment of the debt may also occur through **offset** of Petitioner Bowens' **income tax refunds** or other **Federal monies** payable to the order of Ms. Bowens.

Order

15. Until the debt is repaid, Petitioner Bowens 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).

16. Garnishment up to 15% of Petitioner Bowens'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 27th day of September 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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