



U.S. Department
of Transportation
**Federal Aviation
Administration**

Enterprise Services Center
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169

March 12, 2010

Ex. 6

[REDACTED]
[REDACTED]
[REDACTED]

Ex. 6 Subject: Civil Penalty, FedDebt Case No: [REDACTED], Balance: \$712.44

Ex. 6 Dear Mr. [REDACTED]

GARNISHMENT HEARING DECISION:

This letter presents the findings and conclusions reached after the recent written records hearing that you requested regarding your objection of the collection of a civil penalty through wage garnishment held by the U.S. Department of Transportation (DOT). This decision is rendered pursuant to 49 CFR Part 89, after careful review of your arguments and the accessible and available material records relevant to your account, including any relevant documents that you submitted and those held by DOT.

In your Hearing Request, you stated that the debt or debts described in the notice were not owed and enforceable in the amount stated. DOT's determination regarding your objection is stated in the Discharge Decision enclosed with this decision.

This decision addresses only the following objection: "Existence of the debt – I do not owe the debt." That is, the decision addresses the validity of your debt, e.g. whether it is owed and enforceable, notwithstanding the reasons presented in your Hearing Request.

SUMMARY OF PROCEDURES TO DATE:

The additional information you submitted was received, reviewed, and considered in this review.

EVIDENCE CONSIDERED:

Records from DOT's computer database:

Delphi AR Transactions Screen

FedDebt: Quick search – Debt detail view dated November 25, 2009

FedDebt: BDMOC processing – Case History dated November 25, 2009

File documents held by DOT:

Hearing Request, dated October 21, 2009

Order Assessing Civil Penalty, dated April 2, 2002

Certificate of Service, dated April 2, 2002

“Request for Administrative Wage Garnishing Fair Hearing [REDACTED] vs. Department of Transportation Case Number [REDACTED]”, dated October 23, 2009, from [REDACTED]

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The following documents submitted are not relevant to the determination of whether or not the debt is valid and enforceable and therefore, are excluded from the record:

Tactical Systems Invoice, dated November 15, 1993

California Federal Bank Check Number 792, dated November 15, 1993

“Centralized List of Firearms Dealers and Dealer Inspection Program Notice”, dated December 04, 1998

ANALYSIS AND DETERMINATION REGARDING OBJECTIONS TO GARNISHMENT

Applicable law:

Federal agencies must follow the procedures outlined by the Department of Treasury when collecting money from a debtor’s disposable pay by means of administrative wage garnishment to satisfy delinquent nontax debt owed to the United States. 31 CFR 285.11(a). As permitted, the Department of Transportation has adopted, by reference, the Department of Treasury’s regulations regarding administrative wage garnishment procedures. 49 CFR 89.35. As a general rule, whenever an agency determines that a delinquent debt is owed by an individual, the agency may initiate proceedings administratively to garnish the wages of the delinquent debtor. 31 CFR 285.11(g).

Determination on the validity and enforceability of the debt:

You objected to the debt or debts described in the notice on the basis that they were not owed and enforceable in the amount stated. You argued in your submission that you do not owe the debt because you legally were able to possess the firearm in the State of California and you allege that the FAA Order is based on a firearm with an incorrect serial number. Garnishments of delinquent nontax debts owed to the United States are enforceable notwithstanding any provision of state law, pursuant to 31 U.S.C. 3720D.

According to the administrative record, the FAA issued an Order Assessing Civil Penalty, dated April 2, 2002, pursuant to 49 U.S.C. 46301, and accompanied by a Certificate of Service, dated April 2, 2002. The Order stated that on November 10, 1998, you possessed a loaded firearm in your baggage as you attempted to board a flight at Miami International Airport and failed to declare to American Airlines employees that your luggage contained a loaded weapon. As a result, you violated Section 108.11(c) of the Federal Aviation

Regulations where no individual may transport any explosive, incendiary or a loaded firearm in checked baggage aboard an airplane. The Order was signed by an FAA Official and you acknowledged receipt of such Order. Per the Order, the time period for administrative appeals to the FAA has passed and the Order rendered the debt to the FAA for the civil penalty final.

Based on our review of the record, we conclude that the debt or debts listed in the notice are past due, and are valid and enforceable in the amount stated in the notice and in the below Conclusion.

CONCLUSION

DOT has determined that the debt or debts described in the notice are enforceable, in the amount of \$300.00 in principal and \$412.44 in debt service fees, administrative costs, penalty and accrued interest, by garnishment at the rate of 15 percent of your disposable pay per pay period.

CONSEQUENCES OF THE DECISION

Based on these findings, DOT will order your employer to withhold from your wages 15% of your disposable pay per pay period until the debt determined in the Conclusion is paid in full.

RECONSIDERATION

You may request to have this decision reconsidered based upon the objection(s) you raised here as to the existence, amount, or enforceability of this claim. To obtain reconsideration, you must submit evidence that you did not previously submit that persuades us that we should reconsider our initial decision. We will notify you if we decide to reconsider such decision.

You may also request reconsideration of this decision due to financial hardship. To request either consideration or reconsideration on grounds of financial hardship, you must submit evidence with your request that demonstrates that your financial situation has materially changed since we issued our decision, justifying a reduction in the amount issued under the order. To support a request for reconsideration due to financial hardship, you may request a Financial Disclosure Statement from our customer service representative at: (405) 954-4719 or by mail at AMZ-350, PO Box 25770, Oklahoma City OK, 73125.

Legal Protection From Employer Adverse Action:

Your employer may not discharge you from employment, nor take disciplinary action against you as a result of an Order for Withholding, nor can a prospective employer refuse to employ you as a result of this action or existence of and Order for Withholding.

Limitation Of Scope of Decision:

This determination affects only the debt described in the notice of garnishment, and is separate from any notice of proposed Federal payment offset or garnishment you may have received from a Guarantee Agency. If you received a notice of collection action from a Guarantee Agency, you must present any objections to collection action to that agency.

Sincerely,

Michael Hamner, Hearing Official
Enterprise Services Center, DOT

Enclosures:

Copy of Hearing Request

Copy of Evidence Considered.