



CCPA-57

July 12, 1971

This is in response to your letter of May 13, 1971, concerning the Federal Wage Garnishment Law (Title III of the Consumer Credit Protection Act).

With regard to your first question, we assume you are referring to Title III, and not to penalties for noncompliance with the court order. It is our position that the amount of an individual's earnings withheld by means of any legal or equitable procedure for payment of any debt may not exceed the restrictions imposed by section 303(a) of Title III. In this connection, you may wish to refer to the decision in the case of Higgins v. Wilkerson, decided in the Federal District Court for Kansas, August 20, 1970.

In addition, an employer who withholds exempt earnings beyond the regular pay day for the pay period in question may be in violation of the Fair Labor Standards Act. When the payment to a third person of moneys withheld pursuant to a Court order exceeds that permitted by section 303(a), the excess will not be considered equivalent to the payment of wages to the employee for purpose of the Fair Labor Standards Act. (See section 531.39)

In your second question, the creditor's action would seem to be in violation of the Court's order. It may also be in violation of State law.

The third part of your inquiry appears to be a matter of State law. Moreover, as previously indicated, there may be a violation of the Fair Labor Standards Act where an employer withholds a garnishment payment in excess of that allowed under section 303(a) of Title III. It should also be pointed out that where State law provides for more limited garnishments than Title III, the State law will prevail.

In answer to the fourth part of your inquiry, an employer must pay his employee the amount of his exempt earnings on the regular pay day for the pay period in which the wages are earned.

The answer to question one should also reply to the last part of your inquiry. An employer who withholds an amount in excess of that allowed under section 303(a) for payment of a garnishment may be in violation of the Fair Labor Standards Act. He may also be in violation of the Courts' garnishment order.

Sincerely,

Horace E. Menasco  
Administrator