

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

FILED

NOV 17 2000

NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

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TIMOTHY PIGFORD, et al.,

Plaintiffs,

v.

DAN GLICKMAN, Secretary,  
United States Department of Agriculture,

Defendant.

Civil Action No. 97-1978 (PLF) ✓

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CECIL BREWINGTON, et al.,

Plaintiffs,

v.

DAN GLICKMAN, Secretary,  
United States Department of Agriculture,

Defendant.

Civil Action No. 98-1693 (PLF)

ORDER

The Court has received a report from class counsel alleging that an unaffiliated attorney, Shirley Reed, has taken money from a successful Track A claimant as compensation for her legal services. According to class counsel, Ms. Reed has taken one-third of claimant's award, despite the fact that she signed her client's Claim Sheet and Election Form, which explicitly states: "I have not and will not require the farmer to compensate me for assisting him/her."

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Class counsel's allegation, if true, is a very serious matter and was rightfully brought to the attention of the Court. Any attorney who signs a Claim Sheet and Election Form is strictly prohibited from receiving compensation from a claimant under the wording of the Claim Sheet and Election Form and under the terms of the Consent Decree. See Consent Decree ¶ 5(e) (April 14, 1999) ("Each completed claim package must be accompanied by a certification executed by an attorney stating . . . that the attorney has not and will not require the claimant to compensate the attorney for assisting him.").<sup>1</sup> Accordingly, it is hereby

ORDERED that Ms. Reed shall file a report with the Court on or before November 30, 2000, that attaches a sworn affidavit or declaration of counsel; it is


FURTHER ORDERED that Ms. Reed shall indicate in her report and her affidavit/declaration whether she was compensated for assisting the claimant with the preparation of the Claim Sheet and Election Form. If she was not compensated, she shall attempt to explain why the claimant might have made such an allegation. If she was compensated, she shall state (1) whether she has received similar compensation from any other claimant; (2) why she believes that such compensation is appropriate in light of Paragraph 5(e) of the Consent Decree and her signed promise to refuse such compensation; (3) whether and/or when she intends to return the money to the claimant(s); and (4) why the Court should not impose fines and/or sanctions against counsel for her actions; and it is

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<sup>1</sup> Significantly, an attorney's inability to receive compensation from his or her client pursuant to Section 5(e) of the Consent Decree does not preclude counsel from obtaining any relief whatsoever. As in any civil rights case of this nature, claimant's counsel may be able to recover attorneys' fees and costs under the Equal Credit Opportunity Act, 15 U.S.C. § 1691e(d), and/or under the Equal Access to Justice Act, 28 U.S.C. § 2412(d). See Memorandum Opinion and Order of Aug. 28, 2000.

FURTHER ORDERED that, from the date of this Order forward, if a claimant or any person is aware of an attorney who signs a Claim Sheet and Election Form but still requires compensation from a successful claimant, that person shall notify the Monitor in writing immediately. The Monitor shall then order the attorney to provide her with a report that is in all ways identical to the one described above. The attorney shall have no more than two weeks to respond. If after receiving and reviewing the report the Monitor believes that a fine and/or sanction is appropriate, she shall so notify the Court in a Report and Recommendation.

SO ORDERED.

  
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PAUL L. FRIEDMAN  
United States District Judge

DATE: 11/17/50

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