

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

JUN 29 2006

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

TIMOTHY C. PIGFORD, <u>et al.</u> ,)
)
Plaintiffs,)
)
v.)
)
MIKE JOHANNNS, Secretary of)
Agriculture,)
)
Defendant.)

Case No. 97-1978 (PLF)

CECIL BREWINGTON, <u>et al.</u> ,)
)
Plaintiffs,)
)
v.)
)
MIKE JOHANNNS, Secretary of)
Agriculture,)
)
Defendant.)

Case No. 98-1693 (PLF)

STIPULATION AND ORDER

WHEREAS in late 1999 and early 2000 defendant identified a group of the Consent Decree Adjudicator's decisions in these actions in which credit relief was awarded to class members who had filed Claim Sheet and Election Forms in which the class members alleged discrimination under the "conservation loan" program, and which defendant maintained were actually non-credit claims; and

WHEREAS the parties conferred and agreed that conservation loan claims involving non-credit programs, including the Conservation Reserve Program and the Agricultural Conservation Program, were non-credit claims; and

WHEREAS, with the parties' agreement, the Consent Decree Adjudicator reviewed the decisions in which credit relief was awarded in cases in which the class members had asserted discrimination in a "conservation loan;" and

WHEREAS the Consent Decree Adjudicator issued "amended decisions" in certain of those cases to provide only the relief available in a successful non-credit claim; and

WHEREAS the parties now wish to reinstate the Adjudicator's original decisions awarding credit relief to the affected class members;

NOW, THEREFORE, plaintiffs and defendant hereby agree and stipulate as follows:

1. Except as provided in ¶ 4, below, the amended decisions the Consent Decree Adjudicator sent to class members whose claim numbers appear on Exhibit 1 hereto shall be vacated and the Adjudicator's original decisions in those cases shall be reinstated. Defendant shall have 120 days from the date this Stipulation and Order is entered to file a petition for reexamination with the Consent Decree Monitor in the case of any such claim. Any petition for reexamination filed pursuant to this paragraph shall be limited to the issue of whether the claim in question alleged discrimination in a farm credit program, or in a non-credit program.

2. Subject to defendant's right to file petitions for reexamination as provided in ¶ 1, above, the class members whose claim numbers appear on Exhibit 1 hereto shall be entitled to the relief provided in ¶ 9(a)(iii) (and ¶ 9 (b)(iii) (if applicable) of the Consent Decree entered in these actions (unless otherwise excluded under ¶ 4 below).

3. Any payments that may be made under ¶ 9(a)(iii)(B) of the Consent Decree entered in these actions to a class member covered by paragraph 1, above, shall be made to the Consent Decree Facilitator. The Facilitator shall then transmit the payment to the class member, except in the case of a class member whose claim previously was paid pursuant to ¶ 9(b)(iii)(A), in which

case the Facilitator shall pay the sum of \$3,000 to the Department of Agriculture from each such payment, and shall transmit the remainder of the payment to the class member.

4. The amended decision issued to any class member whose claim number appears on Exhibit 1 hereto and who previously filed a timely petition with the Consent Decree Monitor for reexamination of his/her amended decision shall not be vacated.

5. Except as provided in ¶ 3, above, no class member whose claim number appears on Exhibit 1 hereto shall be required to return to defendant any benefits the class member previously received under ¶¶ 9(a)(iii) or 9(b)(iii) of the Consent Decree.

6. A copy of this Stipulation and Order and a copy of the class member's original decision shall be mailed by the Facilitator to every class member whose claim number is listed on Exhibit 1 hereto (unless otherwise excluded under ¶ 4 above).

7. Any person who objects to this Stipulation and Order shall file his or her objections in writing no later than 30 calendar days from the date of its entry.

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Class Counsel

DATE: 6/29/06

SO ORDERED.

A handwritten signature in black ink, appearing to read "Paul L. Friedman", written over a horizontal line.

PAUL L. FRIEDMAN

United States District Judge

EXHIBIT 1

Exhibit 1

The claim numbers listed below are those of the Class Members in the “conservation loan” group described in the Monitor’s report of April 7, 2006.¹

The list on the left side of this page identifies the Class Members in the “conservation loan” group for whom amended decisions will be vacated and original decisions will be reinstated (subject to the government’s right to file petitions) as a result of this stipulation and order.

The list on the right side of this page identifies the Class Members in the “conservation loan” group who previously filed a timely petition with the Monitor. Pursuant to paragraph four of this stipulation and order, these claimants’ amended decisions will not be vacated.

<u>Claim Numbers of Class Members for Whom Amended Decisions Will Be Vacated and Original Decisions Will Be Reinstated (Subject to Government’s Right to Petition)</u>		<u>Claim Numbers of Class Members for Whom Amended Decisions Will Not be Vacated</u>
1765	5720	214
1901	5733*	1902
2760	6262	2619
2807	7029	2866
3462	7263	3272
3490	8076	3574
3726	8167	3622
4331*	9794	6073
5071	10658	6108
5303	11973	6773
5401	12185	7090
5551	12371	7672
5572	13668	
5581	15112	

¹ The claims identified in this exhibit are identical to the “conservation loan” group claims with unique identifier numbers 1 through 43 listed in Exhibit B to the Monitor’s Report on Amended Adjudicator Decisions filed April 7, 2006, except as follows: 1) Claim No. 4257 has been settled separately and is omitted; 2) Claim Nos. 10288 and 10423 are omitted because the Adjudicator’s amended decisions awarded credit relief and the class members have been paid compensation for credit claims.

* Because USDA has already paid compensation for credit claims to class members with Claim Nos. 4331 and 5733, no additional compensation will be paid for those claimants’ credit claims.