

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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TIMOTHY C. PIGFORD, et al.,  
Plaintiffs,  
v.  
MIKE JOHANNNS, Secretary,  
The United States Department  
of Agriculture,  
Defendant.

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Civil Action No. 97-1978 (PLF)

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CECIL BREWINGTON, et al.,  
Plaintiffs,  
v.  
MIKE JOHANNNS, Secretary,  
The United States Department  
of Agriculture,  
Defendant.

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Civil Action No. 98-1693 (PLF)

MONITOR’S THIRD PROGRESS REPORT ON AMENDED DECISIONS

I. BACKGROUND

On July 9, 2007, the Monitor filed a report with the Court regarding “amended” Adjudicator decisions that were issued in Track A of the claims process in this case.<sup>1</sup> The Monitor’s report focused on certain amended Adjudicator decisions that affected or may have affected class members’ cash relief or debt relief. The Monitor’s July 9, 2007, report described

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<sup>1</sup> Previous Monitor reports on amended decisions include: Monitor’s Report on Amended Adjudicator Decisions (Apr. 7, 2006); Monitor’s Interim Follow-up Report on Amended Adjudicator Decisions (Dec. 14, 2006); Monitor’s Progress Report on Amended Adjudicator Decisions (Jan. 16, 2007);

the Monitor's investigation of the relief class members had received and the tasks that remained to ensure that class members received the appropriate cash relief and debt relief.

On August 20, 2007, the Court issued a Minute Order requiring the Monitor to report to the Court on or before October 11, 2007, regarding the implementation tasks described in the Monitor's July 9, 2007, report. The Court directed the Monitor to report on whether those implementation tasks have been completed, and what, if any, tasks remain to be completed.

The Monitor submits this progress report to comply with the Court's August 20, 2007, Order. As described more fully below, the Monitor's investigation of class members' cash relief is now complete. The Monitor's and the parties' work regarding debt relief is ongoing. The parties have agreed to a list of tasks to complete the debt relief work, and to a timetable for the completion of those tasks. The Monitor recommends that the Court order the Monitor to report again on the progress of debt relief implementation on or before February 8, 2008, at which point some of the major tasks should be complete.

## II. CASH RELIEF PAYMENTS

With this report, the Monitor provides charts that set forth data that the Monitor obtained from the Facilitator and from the United States Department of Agriculture (USDA) regarding the cash relief for each class member who received an amended Adjudicator decision that affected his or her cash relief. The Monitor shared this data with the parties. The charts are attached as Exhibit A and Exhibit B to this report and are identified below as:

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Monitor's Second Progress Report on Amended Adjudicator Decisions (Mar. 29, 2007); and Monitor's Report and Recommendations on Amended Decisions (July 9, 2007).

Exhibit A: Cash Relief Data for Claims with “Substantive” Amendments<sup>2</sup>; and

Exhibit B: Cash Relief Data for Claims with “Technical” Amendments.

The charts use the same unique identifiers for each claim as those used in the charts attached to the Monitor’s April 7, 2006, report on amended Adjudicator decisions.<sup>3</sup> The Monitor is filing under seal duplicate copies of the charts that list both the unique claimant identification numbers and the claim numbers.<sup>4</sup>

At the time of the Monitor’s July 9, 2007, report, nearly all of the class members who received amended Adjudicator decisions, and who were entitled to cash relief payments, had received those cash relief payments. Only three class members were still awaiting payment of some or all of their cash relief. The Facilitator has informed the Monitor that two of those three class members have been paid the full amount of their cash relief. USDA has informed the Monitor that a payment of \$3,000 in non-credit relief for the third class member is currently being processed. Once this payment has been issued, all cash relief payments will have been made to class members who received amended Adjudicator decisions that affected their cash relief.

The parties report no remaining disagreements with regard to the final cash relief award for any class member who received an amended Adjudicator decision affecting the class member’s cash relief.

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<sup>2</sup> The distinction between “substantive” and “technical” amendments is explained in the Monitor’s Report on Amended Adjudicator Decisions, at 6-7, and Exhibit A, Letter from the Facilitator, at 1 (Apr. 7, 2006).

<sup>3</sup> Unique identifiers are used to protect the privacy of individual class members.

<sup>4</sup> Copies of the charts filed under seal with this report have been provided to Class Counsel and to the government.

### III. DEBT RELIEF IMPLEMENTATION

The Monitor's July 9, 2007, report described the Monitor's efforts to determine the proper scope of debt relief for class members who received amended Adjudicator decisions that affected or may have affected the debt relief they were entitled to receive under the Consent Decree and the Debt Relief Stipulation and Order.<sup>5</sup>

The Monitor's July 9, 2007, report further described the remaining steps necessary to ensure appropriate implementation of *Pigford* debt relief in the amended decisions groups. The report explained that completion of the debt relief work would require the following steps:

1. Determine the loans subject to debt relief in certain cases;
2. Confirm refunds of payments and offsets in certain cases,
3. Confirm implementation of a system by which USDA county offices will have access to accurate information regarding *Pigford* debt forgiveness for each class member; and
4. Provide certain records to verify debt relief results.

In addition to the information needed to complete the Monitor's investigation of the debt relief provided to class members who received amended Adjudicator decisions, the Monitor's July 9, 2007, report outlined tasks identified by the parties as needed to correct problems in the implementation of debt relief for all prevailing class members who are entitled to debt relief. These tasks included the implementation of various systems by USDA to ensure that the full

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<sup>5</sup> Under the Consent Decree and the February 7, 2001, Debt Relief Stipulation and Order, class members who prevail on credit claims are entitled to forgiveness of all outstanding debts identified by the Adjudicator as "affected by" discrimination. In addition, class members are entitled to "forward sweep" debt relief for all subsequent loans incurred in the same loan program(s) as the loan(s) identified by the Adjudicator as having been affected by discrimination, from the date of the first event upon which a finding of discrimination is based through the end of the class period. The Monitor's July 9, 2007, report described in detail the two-step process for determining the debts that are subject to debt relief and the steps the Monitor had taken to investigate USDA's implementation of debt relief. *See* Monitor's Report and Recommendations on Amended Decisions, at 16-22 (July 9, 2007).

benefits of debt relief are provided to each class member who is entitled to debt relief. The parties have agreed to a timetable for the completion of these debt relief tasks. The Monitor will continue to work with the parties to complete the tasks necessary to ensure proper implementation of debt relief for every class member who is entitled to debt relief under the Consent Decree and the Debt Relief Stipulation and Order.

#### IV. CONCLUSION

The Monitor has completed the investigation requested by the Court regarding the cash relief awarded to class members who received certain amended Adjudicator decisions. Exhibits A and B to this report contain the information that the Monitor obtained from the Facilitator and from USDA regarding each class member who received an amended Adjudicator decision that affected the class member's cash relief. Class counsel and USDA have reviewed the data and the decisions issued by the Adjudicator for each class member and have raised no substantive concern with the cash relief awarded to any affected class member.

The Monitor continues to work with Class Counsel and with USDA to complete the investigation and reporting requested by the Court regarding the debt relief provided to class members who received amended Adjudicator decisions. The Monitor has identified the information needed to complete the Monitor's investigation of the debt relief for class members who received amended Adjudicator decisions. The parties have agreed to a list of tasks and a timetable for the completion of the tasks necessary to complete proper implementation of debt relief for all class members who are entitled to *Pigford* debt relief.

Several significant tasks are scheduled to be completed by January 31, 2008. Therefore, the Monitor recommends that the Court order the Monitor to continue to work with the parties

and to report to the Court on or before February 8, 2008, regarding the debt relief issues identified in this report.

Dated: October 11, 2007.

Respectfully submitted,

s/Randi Ilyse Roth  
Randi Ilyse Roth  
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Exhibit A - Cash Relief Data for Claims With Substantive Amendments

October 11, 2007

Claim No.	Unique Claimant ID Number	Original Decision Date	Amended Decision Date	Second Amended Decision Date	Original Cash Relief	Amended Cash Relief	Second Amended Cash Relief	Petition Filed: Yes/No	Source of Petition	Monitor Decision Outcome	Re-Examination Cash Relief Outcome	Claimant's Entitlement to Cash Relief	Cash Relief Distributed
	44	9/15/1999	10/12/2001		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	45	9/14/1999	9/26/2001		\$50,000	\$50,000		Yes	Pro Se	Ordered Re-Examination	\$50,000.00	\$50,000.00	\$50,000.00
	46	11/10/1999	10/11/2000		\$50,000 and Non-Credit Relief	Denied		Yes	CLASS COUNSEL	Petition Denied		\$0.00	\$0.00
	47	9/15/1999	11/10/1999		Non-Credit Relief	\$50,000 and Non-Credit Relief		No				\$53,000.00	\$53,000.00
	48	9/15/1999	11/10/1999		\$50,000 and Non-Credit Relief	Non-Credit Relief		No				\$3,000.00	\$3,000.00
	49	11/1/1999	5/23/2001		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	50	9/15/1999	11/10/1999		\$50,000	\$50,000 and Non-Credit Relief		No				\$53,000.00	\$53,000.00
	51	9/15/1999	11/10/1999		\$50,000	\$50,000 and Non-Credit Relief		No				\$53,000.00	\$53,000.00
	52	9/22/1999	11/10/1999		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	53	9/22/1999	11/10/1999		\$50,000	Non-Credit Relief		No				\$3,000.00	\$3,000.00
	54	10/11/1999	4/5/2001		\$50,000	\$50,000		Yes	USDA	Ordered Re-Examination	Claimant Denied Relief	\$0.00	\$50,000.00
	55	11/3/1999	11/15/2001		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	56	10/20/1999	1/3/2000		\$50,000	Non-Credit Relief		Yes	Pro Se	Petition Denied		\$3,000.00	\$3,000.00
	57	10/22/1999	11/24/1999		\$50,000	Non-Credit Relief		Yes	USDA	Petition Denied		\$3,000.00	\$3,000.00
	58	1/3/2000	7/11/2001		Denied	\$50,000		No				\$50,000.00	\$50,000.00
	59	11/4/1999	2/29/2000	6/14/2001	\$50,000	Non-Credit Relief	Non-Credit Relief	Yes	Pro Se	Ordered Re-Examination	\$50,000.00	\$53,000.00	\$53,000.00
	60	11/4/1999	11/1/2000	11/8/2000	\$50,000	Non-Credit Relief	Non-Credit Relief	Yes	USDA	Ordered Re-Examination	\$3,000.00	\$3,000.00	Payment in process
	61	11/19/1999	7/11/2001	7/24/2001	\$50,000 and Non-Credit Relief	\$50,000 and Non-Credit Relief	\$50,000	No				\$50,000.00	\$50,000.00
	62	11/5/1999	7/11/2001	7/24/2001	\$50,000	\$50,000	\$50,000	Yes	CLASS COUNSEL USDA	Ordered Re-Examination	\$50,000.00	\$50,000.00	\$50,000.00

Claim No.	Unique Claimant ID Number	Original Decision Date	Amended Decision Date	Second Amended Decision Date	Original Cash Relief	Amended Cash Relief	Second Amended Cash Relief	Petition Filed: Yes/No	Source of Petition	Monitor Decision Outcome	Re-Examination Cash Relief Outcome	Claimant's Entitlement to Cash Relief	Cash Relief Distributed
	63	2/9/2000	1/24/2001	6/14/2001	\$50,000	Non-Credit Relief	Non-Credit Relief	Yes	USDA	Petition Denied		\$3,000.00	\$3,000.00
	64	1/12/2000	8/23/2000		\$50,000	Non-Credit Relief		Yes	CLASS COUNSEL	Petition Denied		\$3,000.00	\$3,000.00
	65	2/24/2000	1/24/2001	1/31/2001	\$50,000	Denied	\$50,000	Yes	USDA	Petition Denied		\$50,000.00	\$50,000.00
	66	3/21/2001	3/21/2001	3/21/2001	\$50,000	\$50,000	\$50,000	No				\$50,000.00	\$50,000.00

**Pigford v. Johanns**  
**Exhibit B - Cash Relief Data for Claims With Technical Amendments**  
**October 11, 2007**

Claim No.	Unique Claimant ID Number	Original Decision Date	Amended Decision Date	Second Amended Decision Date	Original Cash Relief	Amended Cash Relief	Second Amended Cash Relief	Petition Filed: Yes/No	Source of Petition	Monitor Decision Outcome	Re-Examination Cash Relief Outcome	Claimant's Entitlement to Cash Relief	Cash Relief Distributed
	70	11/4/1999	8/23/2000		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	72	9/15/1999	11/10/1999		\$50,000	Denied		Yes	Pro Se	Ordered Re-Examination	Claimant Denied Relief	\$0.00	\$0.00
	75	9/15/1999	7/9/2002		Denied	\$50,000		No				\$50,000.00	\$50,000.00
	77	11/1/1999	12/20/1999		Denied	\$50,000		No				\$50,000.00	\$50,000.00
	83	9/15/1999	5/24/2000		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	84	9/14/1999	12/1/1999		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	87	11/19/1999	12/1/1999		Denied	Denied		Yes	CLASS COUNSEL	Ordered Re-Examination	\$50,000.00	\$50,000.00	\$50,000.00
	91	10/20/1999	10/20/1999		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	92	10/11/1999	10/24/2001		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	93	10/11/1999	4/19/2000		\$50,000	\$50,000		Yes	Pro Se	Petition Denied		\$50,000.00	\$50,000.00
	95	10/22/1999	11/8/2000		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	98	10/22/1999	12/1/1999		\$50,000	Denied		Yes	CLASS COUNSEL	Ordered Re-Examination	\$50,000.00	\$50,000.00	\$50,000.00
	101	11/5/1999	4/26/2000		\$50,000	Denied		Yes	CLASS COUNSEL	Ordered Re-Examination	\$50,000.00	\$50,000.00	\$50,000.00
	102	11/5/1999	10/21/2005		Denied	Denied		Yes	CLASS COUNSEL	Ordered Re-Examination	\$50,000.00	\$50,000.00	\$50,000.00
	103	11/3/1999	5/9/2001		Non-Credit Relief	Non-Credit Relief		No				\$3,000.00	\$3,000.00
	107	10/22/1999	3/16/2000		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	108	10/22/1999	3/16/2000		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	5	11/5/1999	2/29/2000	6/14/2001	\$50,000	Non-Credit Relief	Non-Credit Relief	Yes	Pro Se	Petition Denied		\$3,000.00	\$3,000.00
	121	11/3/1999	1/28/2000		Denied	\$50,000		No				\$50,000.00	\$50,000.00
	125	10/29/1999	10/24/2001	11/15/2001	\$50,000	\$50,000	\$50,000	No				\$50,000.00	\$50,000.00

Claim No.	Unique Claimant ID Number	Original Decision Date	Amended Decision Date	Second Amended Decision Date	Original Cash Relief	Amended Cash Relief	Second Amended Cash Relief	Petition Filed: Yes/No	Source of Petition	Monitor Decision Outcome	Re-Examination Cash Relief Outcome	Claimant's Entitlement to Cash Relief	Cash Relief Distributed
	130	11/1/1999	1/28/2000		Denied	\$50,000		No				\$50,000.00	\$50,000.00
	134	11/1/1999	7/11/2001	8/30/2001	\$50,000	\$50,000	\$50,000	No				\$50,000.00	\$50,000.00
	136	11/3/1999	7/11/2001		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	137	11/1/1999	8/30/2001		\$50,000	\$50,000		Yes	CLASS COUNSEL	Ordered Re-Examination	\$50,000.00	\$50,000.00	\$50,000.00
	149	11/4/1999	11/24/1999		Denied	\$50,000		No				\$50,000.00	\$50,000.00
	150	11/4/1999	7/9/2002		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	154	11/5/1999	7/11/2001		Denied	\$50,000		No				\$50,000.00	\$50,000.00
	157	12/8/1999	12/20/1999		Denied	Denied		Yes	Pro Se	Petition Denied		\$0.00	\$0.00
	59	11/4/1999	2/29/2000	6/14/2001	\$50,000	Non-Credit Relief	Non-Credit Relief	Yes	Pro Se	Ordered Re-Examination	\$50,000.00	\$50,000.00	\$53,000.00
	161	11/5/1999	11/8/2001		\$50,000 and Non-Credit Relief	\$50,000		No				\$50,000.00	\$50,000.00
	162	11/12/1999	1/24/2001		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	164	2/29/2000	9/20/2000		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	171	6/14/2000	9/6/2000		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	67	2/9/2000	2/9/2000		\$50,000	\$50,000		Yes	USDA	Ordered Re-Examination	\$3,000.00	\$3,000.00	\$3,000.00
	19	12/20/1999	2/29/2000	6/14/2001	\$50,000 and Non-Credit Relief	Non-Credit Relief	Non-Credit Relief	Yes	USDA	Ordered Re-Examination	\$50,000 and Non-Credit	\$53,000.00	\$53,000.00
	182	12/1/1999	12/1/1999		Denied	Denied		Yes	CLASS COUNSEL	Ordered Re-Examination	\$50,000.00	\$50,000.00	\$50,000.00
	188	11/5/1999	11/15/2001		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	189	11/5/1999	4/26/2000		Non-Credit Relief	Denied		Yes	Pro Se	Petition Denied		\$0.00	\$0.00
	61	11/19/1999	7/11/2001	7/24/2001	\$50,000 and Non-Credit Relief	\$50,000 and Non-Credit Relief	\$50,000	No				\$50,000.00	\$50,000.00
	193	11/12/1999	8/23/2000		\$50,000	\$50,000		Yes	USDA	Ordered Re-Examination	Claimant Denied Relief	\$0.00	\$0.00
	62	11/5/1999	7/11/2001	7/24/2001	\$50,000	\$50,000	\$50,000	Yes	CLASS COUNSEL	Ordered Re-Examination	\$50,000.00	\$50,000.00	\$50,000.00
	199	12/1/1999	12/8/1999		\$50,000	Denied		Yes	CLASS COUNSEL	Petition Denied		\$0.00	\$0.00

Claim No.	Unique Claimant ID Number	Original Decision Date	Amended Decision Date	Second Amended Decision Date	Original Cash Relief	Amended Cash Relief	Second Amended Cash Relief	Petition Filed: Yes/No	Source of Petition	Monitor Decision Outcome	Re-Examination Cash Relief Outcome	Claimant's Entitlement to Cash Relief	Cash Relief Distributed
	202	5/31/2000	7/11/2001		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	203	12/8/1999	1/28/2000		Denied	Denied		Yes	CLASS COUNSEL	Petition Denied		\$0.00	\$0.00
	204	2/24/2000	4/5/2000		\$50,000	Denied		Yes	CLASS COUNSEL	Ordered Re-Examination	\$50,000.00	\$50,000.00	\$50,000.00
	206	1/12/2000	8/9/2000		\$50,000	Denied		No				\$0.00	\$0.00
	216	8/2/2000	8/16/2000	8/30/2000	\$50,000	\$50,000	\$50,000	No				\$50,000.00	\$50,000.00
	217	11/19/1999	12/1/1999		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	230	1/3/2000	3/16/2000		\$50,000 and Non-Credit Relief	\$50,000		No				\$50,000.00	\$50,000.00
	69	1/3/2000	2/29/2000		Non-Credit Relief	Non-Credit Relief		No				\$3,000.00	\$3,000.00
	266	1/12/2000	5/10/2000		Denied	\$50,000		No				\$50,000.00	\$50,000.00
	271	3/29/2000	4/26/2000		Denied	Denied		No				\$0.00	\$0.00
	41	1/28/2000	2/29/2000	1/24/2001	\$50,000	Non-Credit Relief	Non-Credit Relief	Yes	USDA	Petition Denied		\$50,000.00	\$50,000.00
	299	2/24/2000	11/8/2000		\$50,000	\$50,000		No				\$50,000.00	\$50,000.00
	354	6/14/2000	7/5/2000		Denied	\$50,000		No				\$50,000.00	\$50,000.00
	355	4/12/2000	4/19/2000		Denied	\$50,000		No				\$50,000.00	\$50,000.00
	378	7/11/2001	8/8/2001	8/10/2004	Non-Credit Relief	Non-Credit Relief	Non-Credit Relief	No				\$3,000.00	\$3,000.00
	431	4/18/2001	5/2/2001		Denied	Denied		Yes	Pro Se	Petition Denied		\$0.00	\$0.00