

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

Pigford, et al., v. Veneman; Civil Action No. 97-1978 D.D.C. (PLF)  
Brewington, et al., v. Veneman; Civil Action No. 98-1693 D.D.C. (PLF)

**DECISION OF ADJUDICATOR ON REEXAMINATION:**

SUSSIE WHITE  
LOUIS WHITE, DECEASED  
RT 2 BOX 456  
NATCHEZ, MS 39120

Claim #: 7362  
SSN: MISSING  
SSN: 426-32-3907

Having reviewed and considered the Claim Sheet and Election Form and any additional materials submitted by the Claimant and his/her counsel, together with all materials submitted by the United States Department of Agriculture and the United States Department of Justice, including the Petition for Monitor Review, any response thereto, and Monitor's findings, the Adjudicator hereby finds that the Claimant has established, through substantial evidence, that he/she is entitled to relief under the standards set forth in the Consent Decree. Specifically, the Claimant established by substantial evidence that he/she:

- (A) owned or leased, or attempted to own or lease, farm land;
- (B) applied for a specific loan at a USDA county office between January 1, 1981, and December 31, 1996;
- (C) the loan was denied, provided late, approved for a lesser amount than requested, encumbered by restrictive conditions, or USDA failed to provide appropriate loan service;
- (D) such treatment was less favorable than that accorded specifically identified, similarly situated white farmers; and
- (E) USDA's treatment of the loan application led to economic damage to the Claimant.

This Decision on Reexamination is final and amends the original decision issued to the Claimant on December 20, 1999. Pursuant to the terms of the settlement, neither the government nor the Claimant may respond or object to this Decision on Reexamination.

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SUSSIE WHITE  
Claim #: 7362  
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## REEXAMINATION

### DECISION OF ADJUDICATOR ON REEXAMINATION

The Monitor has granted Claimant's<sup>1</sup> Petition for Review and directed the Adjudicator to reexamine this claim in light of additional evidence. In his Claim Sheet and Election Form, Claimant stated that he owned 80 acres of farmland in Jefferson County, Mississippi where he raised cattle and harvested hay. Claimant planned to grow cotton, corn, and watermelons. In 1983, Claimant applied for an Operating Loan that was denied. USDA officials told Claimant that funds were short, but might be available at a later date. Claimant named two white farmers (Farmers A and B) who also raised cattle and harvested hay, and received Operating Loans in 1983. Claimant stated that he was raised on a farm and had a wealth of farming experience. Due to the denial of USDA credit, Claimant had to obtain high-interest loans from local banks, which started a never-ending cycle of borrowing in order to pay off high-interest loans. In addition, Claimant was not able to purchase new farm machinery or repair the old machines, and subsequently lost all of his farming equipment valued at \$53,000. Claimant was forced to stop farming in 1997. In its Claim Response, USDA stated that it had no farm loan files for Claimant. USDA also stated that to be eligible for USDA farm credit, a borrower must be unable to obtain adequate credit elsewhere at reasonable rates and terms. USDA provided no responsive evidence pertaining to Farmers A and B. The Adjudicator denied this claim on the ground that it was not supported by substantial evidence of discrimination, noting that Claimant was able to obtain credit elsewhere and did not establish that it was inadequate, or that the terms and rates were unreasonable.

The Monitor allowed Claimant to supplement the record with: (1) a clarification of the claim as an "attempt to apply" claim; (2) the names of two additional white farmers (Farmers C and D) who allegedly received 1983 Operating Loans; (3) Financing Statements for Farmers C and D, filed by USDA in March 1982 and April 1983, respectively; (4) documents pertaining to the private credit Claimant received between 1986 and 1991, showing interest rates between 15% and nearly 24%; and (5) a sworn statement from Claimant's widow. Claimant's widow stated that Claimant's private financing did not cover his farming operation and was not sufficient for him to make payments on some machinery or make repairs on others. The Financing Statement for Farmer D identified as debtors Farmer D and a woman with the same last name, presumably his spouse. The Monitor allowed USDA to supplement the record with the results of computer database searches and e-mails reflecting the results of archived record searches for Farmers A through D, showing that no archived records were located for any of the named white farmers. USDA did not conduct any searches for the second name listed on the Financing Statement for Farmer D.

The Court has delegated to the Monitor sole authority to determine whether to allow supplemental evidence, submitted through the petition process, to be included in the record before the Adjudicator. See Pigford v. Glickman, 185 F.R.D. 82 (D.D.C. 1999) (Order of Reference). The Monitor's decision on supplementation is final and is not subject to review by

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<sup>1</sup> Claimant died after filing his claim. The Petition for Review was submitted on behalf of the deceased Claimant by his wife. The decedent shall be referred to as Claimant throughout this decision.

01/09/2000 12:07 PM 402 333 0300  
0004/003

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**REEXAMINATION**

the Adjudicator. Accordingly, the Adjudicator must consider all supplemental evidence admitted by the Monitor into the record on reexamination.

Claimant has established by substantial evidence that he is entitled to recover under the terms of the Consent Decree. The Consent Decree defines substantial evidence as "such relevant evidence as appears in the record before the adjudicator that a reasonable person might accept as adequate to support a conclusion after taking into account other evidence in the record that fairly detracts from that conclusion." *Id.* at 96, n.10 (citing Consent Decree, ¶1(I)). Claimant has established that: (1) he owned farmland; (2) he unsuccessfully attempted to apply for a 1983 Operating Loan; (3) similarly situated white farmers received USDA loans when Claimant could not; and (4) he suffered economic damages as a result. With his Petition, Claimant provided a Financing Statement showing that USDA filed a security interest in Farmer D's chattel in 1983. This document is inconsistent with the purported absence of archived records of loans to Farmer D. USDA offered no explanation as to why it would have filed a Financing Statement in Farmer D's chattel if Farmer D was not a USDA debtor. In addition, USDA did not identify the parameters of its archived record search, and did not conduct a search of any kind for the second person named on the Financing Statement. Finally, USDA regulations provide that if an applicant is able to obtain sufficient credit to meet his actual needs at reasonable rates and terms, he is not eligible for USDA loans. However, the evidence of the interest rates Claimant was forced to pay, together with the allegation that he was not able to make payments or repairs on critical farm machinery, established that he was not able to obtain sufficient credit to meet his actual needs.

Moreover, Claimant has met the requirements of the Constructive Application Principles agreed to by the parties to the Consent Decree to ensure that claimants in "attempt to apply" cases made bona fide efforts to obtain USDA credit for farming purposes. Here, Claimant alleged the year that he attempted to apply (1983), the type of loan sought (Operating Loan), the planned use of the funds (to cover equipment costs and expand his operation to include additional crops), and has provided considerable detail about his farm equipment and efforts to finance his operation. Claimant has therefore established by substantial evidence that he was subject to discriminatory treatment in the denial of the opportunity to apply for a 1983 Operating Loan.

Accordingly, as required by the Consent Decree, Claimant shall receive a \$50,000 cash payment, shall be relieved of any USDA Operating Loan debt incurred by Claimant between January 1, 1983 and December 31, 1996, and shall receive 25% of the cash payment and any debt relief in tax credits.

IT IS SO ORDERED.

01/03/2006 12:07 FAX 202 339 8300  
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REEXAMINATION

RELIEF

You are entitled to:

1. A payment by USDA of \$50,000 as relief for your credit claim or claims; and,
2. Injunctive relief as provided in paragraphs 11(c)-(d) of the Consent Decree; and,
3. Tax relief as described in paragraph 9(a)(iii)(C) of the Consent Decree; and,
4. Debt Relief as provided by the Adjudicator.

Decision is Final

This reexamination decision is final. You have no further rights to petition the Monitor regarding this decision. You may not seek review in any court or before any tribunal of (a) this decision; (b) any other aspect of your Track A claim; or (c) any claim you could have asserted under the Consent Decree.

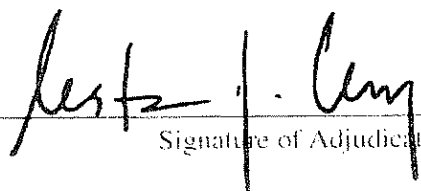
If you'd like to discuss this decision with Class Counsel, you may contact them at:

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Date: December 30, 2005

  
\_\_\_\_\_  
Signature of Adjudicator

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**FACSIMILE COVER SHEET**

DATE: January 6, 2006	PAGES (Including Cover): 5
TO: Earl White	FROM: Scott M. Perry
FAX # 707-455-1844	

Case/Reference: None

Person Transmitting: Whitney

Copy Sent Via Mail: YES\_ NO X

*COMMENTS:*

Dear Earl, I am so sorry to hear about the loss of your mother. In the brief time I spent with her, I know she was one special person. I really wish we could have given her this great news. Enclosed is a copy of the Court's decision. This is a fax of a fax so it may be hard to read. Once I receive a hard copy, I will send it to you. In the meantime, I will find out what the status of the claim is given the situation and will get back to you as soon as I can.

Scott

IF THERE IS A PROBLEM, PLEASE CALL (202) 628-8100

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