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52,961 F

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

52,961 F

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TIMOTHY PIGFORD, <u>et al.</u> ,)
)
Plaintiffs)
)
v.	Civil Action No. 97-1978 (PLF))
)
DAN GLICKMAN, Secretary,)
United States Department of Agriculture,)
)
Defendant.)
<hr/>)
CECIL BREWINGTON, <u>et al.</u> ,)
)
Plaintiffs,)
)
v.	Civil Action No. 98-1693 (PLF))
)
DAN GLICKMAN, Secretary,)
United States Department of Agriculture,)
)
Defendant.)
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ORDER

On April 14, 1999, the Court entered an Opinion and signed a Consent Decree which finally settled these two class action lawsuits brought against the United States Department of Agriculture for discrimination in the processing of African American farmers' applications for credit and/or benefit programs and discrimination in the handling of complaints of discrimination filed with the Department of Agriculture. As part of the Consent Decree, the parties agreed that the Court is to

appoint an independent Monitor to be paid by the Department of Agriculture who shall remain in office for a period of five years and shall not be removed except for good cause. See ¶ 12(a), April 14, 1999 Consent Decree. The Monitor is to report directly to this Court, the Secretary of Agriculture, plaintiffs' class counsel and defendant's counsel with respect to the implementation of the Consent Decree; to resolve any problems that any class member may have with respect to any aspect of the Decree; to direct the facilitator, adjudicator or arbitrator to reexamine claims where the Monitor determines that "a clear and manifest error" has occurred and has resulted or is likely to result in "a fundamental miscarriage of justice;" and to be available to class members and the public through a toll-free telephone number and otherwise in order to facilitate the lodging of complaints with respect to the implementation and enforcement of the Consent Decree. See ¶ 12(b), Consent Decree.

Under the terms of the Consent Decree, plaintiffs' class counsel and defendant's counsel each submitted the names of two persons for consideration by the Court for the independent Monitor position. The Court then received written submissions from each of the four candidates and interviewed each personally. After counsel for the parties informed the Court that many more claims had been filed than originally anticipated, the Court asked both plaintiffs' class counsel and defendant's counsel to explain in writing their respective views as to how they viewed the Monitor's operations in light of the probable increased workload, including issues of office space, staffing and budget. After receiving counsels' submissions, the Court forwarded them to the four monitor candidates and asked each for a further written submission in response to the letters submitted by counsel. The Court now has received and carefully reviewed those submissions.

While the Court is extremely impressed with the qualifications and commitment of each of the four monitor candidates, it has concluded that Randi Ilyse Roth is the best qualified person to serve as independent Monitor in this case. This decision is based upon Ms. Roth's background, experience and in-depth knowledge and understanding of the U.S. Department of Agriculture and, in particular, of the substantive Department of Agriculture programs within which the class members' complaints arose. It is also based upon Ms. Roth's extensive experience in legal education and advocacy in and on behalf of African American farming communities. Accordingly, it is hereby

ORDERED, pursuant to paragraph 12(a) of the Consent Decree, that Randi Ilyse Roth, Executive Director of the Farmers' Legal Action Group, Incorporated, 46 East Fourth Street, Suite 1301, Saint Paul, Minnesota 55101, telephone no. 651-223-5400, is appointed as the independent Monitor under the Consent Decree, effective January 18, 2000, with all the responsibilities and obligations required under the letter and spirit of the Decree. The Court understands that Ms. Roth intends to commence operations on or about March 1, 2000, after approximately six weeks of intensive preparation for taking on the responsibilities of the office. All calls from class members and the public should continue to be directed to the Facilitator, Poorman-Douglas Corporation, at 1-800-646-2873; the Facilitator will forward all messages to the Monitor once the Monitor's operations commence.

The Court understands that it is Ms. Roth's intention to designate Stephen Carpenter, a staff attorney at the Farmers' Legal Action Group, as her Deputy or Senior Counsel. The Court further understands that the Monitor will need to hire additional staff and that she and her staff will need to be reasonably compensated for their time, the expenses of the office (including but not limited to reasonable rental costs for private office space), and necessary travel. Pursuant to paragraph 12(a) of

the Consent Decree, the Monitor's fees and expenses shall be paid by the United States Department of Agriculture, and the Court will remain available to assure that adequate compensation and funding are provided with a minimum of delay and administrative difficulties.

SO ORDERED.

PAUL L. FRIEDMAN
United States District Judge

DATE: