

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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<b>In re BLACK FARMERS DISCRIMINATION LITIGATION</b>	)	
	)	<b>Misc. No. 08-mc-0511 (PLF)</b>
<b>This document relates to:</b>	)	
<b>ALL CASES</b>	)	
	)	

**UNOPPOSED MOTION TO MODIFY FINAL ORDER AND JUDGMENT  
AND MEMORANDUM IN SUPPORT**

Pursuant to Federal Rule of Civil Procedure 60(b), Plaintiffs hereby move this Court to further modify the final Order and Judgment (Docket No. 231) (hereinafter “Settlement Order”) approving the Settlement Agreement entered between the parties (Docket No. 170, Ex. 2) in accordance with the attached Proposed Order. The Settlement Order previously was modified on September 14, 2012 to allow certain limited groups of claimants to file claims and/or rectify previously-filed incomplete claims after the May 11, 2012 Claim Deadline (Docket No. 304), and again on February 14, 2013 to allow a then-recently identified, and limited in number, group of individuals to refile their claims on behalf of the proper claimant (Docket No. 346).

Plaintiffs now seek a further modification of the Settlement Order for two limited purposes: (1) to modify the “claim determination” letters, which notify claimants of the results of the adjudication of their claims, and (2) to authorize the use of up to \$200,000 of the Settlement Funds for the payment of reasonable costs incurred by the Track A and Track B Neutrals in connection with future work related to the implementation of the Settlement Agreement.

Specifically, Plaintiffs seek to substitute new Exhibits A and B to the February 18, 2010 Settlement Agreement, as revised and executed on May 13, 2011, for those currently appended to the Settlement Agreement. This modification is necessary to ensure a more informative communication with claimants regarding the determinations of their claims and the amounts awarded, and one tailored to their particular circumstances. At the time that Exhibits A and B were drafted and presented to this Court, the Parties had not begun to implement the claims adjudication process and could not have foreseen the extent of the variation among claim submissions, the resulting complexity of the claims adjudication under the standards set forth in the Settlement Agreement, and, therefore, the need to communicate to claimants information different from that originally anticipated regarding the adjudication of their claims. In recognition of these developments, the Claims Administrator and Class Counsel have undertaken to:

- propose clarifying changes to the Track A and Track B Claim Determination Letters, currently Exhibits A and B to the Settlement Agreement, respectively, which would streamline and also tailor the communication to the particular circumstance of the claim;
- develop new Track A Approval Determination Letters to notify claimants of approval where multiple claims were filed on behalf of the same Estate and no Legal Representative had been appointed, or where multiple claimants had filed separate claims for a single farming operation (which, under the terms of the Settlement Agreement, are limited to *one* Track A Award); and
- draft inserts to accompany the Claim Determination Letters that, *inter alia*, would (a) explain the requirement of a Legal Representative for prevailing Estates or

Incapacitated Claimants before the Claims Administrator may send an Award check, and the types of documentation required by the Claims Administrator to establish that a Legal Representative has been appointed or designated; and (b) explain to prevailing claimants the mechanics of Tax Payments and Loan Payments by the Claims Administrator on the claimant's behalf to the Internal Revenue Service ("IRS") and the USDA's Farm Services Agency ("USDA/FSA"), respectively.

As set forth more fully below, Class Counsel believe that these proposed modifications will assist the Claims Administrator in communicating more detailed and useful information to claimants reflecting the results of the adjudication of their particular claims – some of which the Parties could not have anticipated back when they negotiated the Settlement Agreement (because the patterns of claim submissions, and resulting claims adjudications, were not yet known).

With respect to the use of a limited amount of the Settlement Funds to compensate the Track A and Track B Neutrals for settlement-related work they may perform following the Preliminary Final Accounting, Class Counsel believe that the Neutrals should receive reasonable compensation if such future settlement-related work is required. The Settlement Agreement currently provides for compensation to the Claims Administrator and the Ombudsman for settlement implementation work following the Preliminary Final Accounting (Settlement Agreement § V.E.7) but is silent with respect to comparable compensation for the Neutrals. The revisions to Section V.E of the Settlement Agreement proposed herein would address this issue.

Pursuant to Local Rule 7(m), Class Counsel have conferred with counsel for the Defendant and Defendant does not oppose this Motion.

#### **I. PROPOSED MODIFICATIONS TO EXHIBITS A AND B**

The specific modifications to Exhibits A and B to the Settlement Agreement proposed by Class Counsel are as follows:

**A. Exhibit A**

Exhibit A to the Settlement Agreement currently is a “Track A Claim Determination Form” and, as drafted, would be used to notify Track A claimants both of approvals and denials of their claims, and, for those with approved claims, would accompany a Track A Award check. The Form also includes brief explanations of payments made to the IRS and to USDA/FSA for approved claims, and provides an accounting as to the amounts paid, and the claimant’s total Track A Award.

By comparison, the proposed revised Exhibit A would be sent *only* to claimants whose claims were approved.<sup>1</sup> *See* proposed Exh. A. The revised form also would include information about the loans approved for debt relief and a caution that the Loan Award payment may not satisfy the entire amount of outstanding USDA loans, notification that the names of co-claimants and any privately-retained counsel will be printed on the Award check<sup>2</sup> and that Award checks payable to Estates or Incapacitated Claimants will be released only to the authorized Legal Representative, and more detailed information regarding the Tax Award and Loan Award and the potential impact of failing to pay any outstanding debt remaining on USDA loans. The

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<sup>1</sup> An Exhibit A.7 (“Track A Claim Denial”) is proposed as a separate Claim Determination Letter to communicate to unsuccessful Track A claimants the denial of their claim, the reason(s) therefore, and the potential impact of the denial on the claimant’s outstanding USDA loan obligations.

<sup>2</sup> The proposed revised Determination Letter also notifies the claimant that if he or she retained private counsel to submit the claim on his or her behalf the Award check would be sent to that attorney, and further reminds the claimant that the Settlement Agreement limits the fee that the attorney may charge to two percent of the Total Track A Award (which amount would be listed on the “Check Stub,” *see* proposed Exh. A.6).

proposed Track A Approval Letter advises the claimant that the check will be mailed within 45 days of the Approval Letter.<sup>3</sup>

Variations on this letter, specific to the circumstances, are proposed for situations where multiple Track A claims were filed on behalf of the same Estate and the Estate's claim was approved (*see* proposed Exh. A.1 – “Track A Approval for Competing Heirs”), or where multiple claimants were determined to have filed separate claims but all such claims involved the same farming operation, and a claim for that farming operation was approved (*see* proposed Exh. A.2 – “Track A Approval for a Single Farming Operation”). In each case, issues specific to the particular circumstances of that category of claim are addressed, *e.g.*, “competing heirs” are advised that the Award check will be made payable to the Estate and that they have one year from the date of the Track A Approval Letter to identify to the Claims Administrator a court-appointed Legal Representative; while multiple claimants for a single farming operation are advised that the Settlement Agreement prohibits more than one award for a single farming operation, and notes that the award is to be shared equally among the members of the single farming operation (whose names are listed).

The inserts that Class Counsel propose to have the Claims Administrator include in the mailing of the Track A Claim Determination Letters for approved claims are:

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<sup>3</sup> Section V.E.8.a of the Settlement Agreement requires that both the Track A Claim Determination Letters and the Award checks be mailed within 30 calendar days of the Settlement Funds being deposited in the Designated Account for the benefit of the Class. Because Class Counsel anticipate that the Track A Approval Letters will be mailed in advance of the receipt of funds into the Designated Account, mailing the Award check within 45 days of Track A Approval Letter should ensure compliance with Section V.E.8.a. of the Settlement Agreement.

- “Information Regarding Awards and Taxes” (proposed Exh. A.3), which explains that the award is taxable income, that a tax payment will be made by the Claims Administrator to the Internal Revenue Service on the claimant’s behalf, that the Loan Award also will be paid directly to USDA on the claimant’s behalf, and reiterates the two percent cap on attorneys’ fees chargeable by privately-retained counsel;
- “Proof of Legal Representation” (proposed Exh. A.4), which explains the concept of “legal representative” for Estates and for Incapacitated Claimants, and identifies the documentation required by the Claims Administrator to release an Award check to a Legal Representative for an Estate or Incapacitated Claimant;
- “Notice to Claimant that Check was Sent to Attorney” (proposed Exh. A.5), which advises the claimant that the Claims Administrator has mailed the Award check, payable jointly to the claimant and the attorney, to the attorney, if an attorney had been privately retained by the claimant to submit the claim; and
- “Check Stub” (proposed Exh. A.6), which accompanies the Award check and identifies the components of the Total Track A Award to the claimant.

**B. Exhibit B**

The current Track B Claim Determination Form (Exh. B to the Settlement Agreement), like its Track A counterpart, is drafted to notify claimants of both approvals and denials of claims, with both boxes designating the amount and explanation of a Track B Award, and the reasons for denial of the claim, to be completed as appropriate. As reported in the July 8, 2013 Status Report Regarding Projected Timeline for Completion of Claims Process (Docket No. 367), however, it is anticipated that no Track B claims will be approved. Class Counsel therefore believe that a streamlined form, *see* “Track B Denial” (proposed Exh. B), which simply

notifies the claimant that the claim was denied and indicates the reason therefore, would provide a more clear and efficient communication to the Track B claimants.

## **II. PROPOSED MODIFICATIONS TO SECTION V.E**

Class Counsel anticipate the possibility that the Track A and Track B Neutrals may be required to undertake certain work related to the implementation of the Settlement Agreement after the Preliminary Final Accounting has been filed with the Court pursuant to Section V.E.7 of the Settlement Agreement. While this section of the Settlement Agreement contemplates that both the Claims Administrator and Ombudsman will receive reasonable compensation for work related to implementation of the Settlement Agreement performed following the Preliminary Final Accounting, the Settlement Agreement is silent with respect to comparable compensation for the Neutrals. To address this situation and to permit payment of the Track A and B Neutrals in the event they are required to perform future settlement-related work, Class Counsel propose that Section V.E.7 of the Settlement Agreement be modified to include the language and renumbering reflected in italics as follows:

**Section V.E.7:** "Within thirty (30) calendar days of receipt of all Track A and Track B Claim Determination Forms (Exs. A and B), the Claims Administrator shall prepare the Preliminary Final Accounting and submit it to Lead Class Counsel, the Secretary and the Court. The Preliminary Final Accounting shall identify: (1) the number and amount of all Final Track A Liquidated Awards, Final Track A Loan Awards, Final Track A Tax Awards, and Final Track B Awards (shown in Part III of the completed Track A and Track B Determination Forms); (2) the Implementation Costs incurred to date; (3) a good faith estimate of Implementation Costs necessary for the Claims Administrator to perform its final duties under this Agreement; (4) *Implementation Costs necessary for the Track A and Track B Neutrals to perform their final duties under this Agreement (but not to exceed \$200,000)*; (5) the Ombudsman Costs incurred to date; (6) a good faith estimate of Ombudsman Costs necessary for the Ombudsman to perform its final duties under this Agreement; (7) the amount of the Fee Award; (8) the sum of Track B Fees incurred by Track B Class Members, and (9) the amounts that the Secretary already has paid for interim Implementation Costs, interim Common Benefit Fees, and Ombudsman Costs, and the status of these funds.

With respect to payment for the performance of final duties under this Agreement by the Track A and Track B Neutrals, Class Counsel further propose that the Track A and Track B Neutrals shall be paid out of the funds appropriated by Congress for the purpose of this Settlement Agreement. Within 12 months after the Court enters an Order approving the Distribution of Funds pursuant to Section IV.H of the Settlement Agreement, the Track A and Track B Neutrals shall submit a final invoice to the Court for approval. Copies of the final invoice shall be made available to the USDA and Class Counsel, who agree that the amount set forth in the final invoice shall be paid by the USDA so long as that amount does not exceed \$200,000. The parties agree that, if the amount on the final invoice exceeds \$200,000, the amount over \$200,000 shall not be borne by the USDA. Subject to the terms of this motion, upon receipt of the final invoice from the Track A and Track B Neutrals, the Court will enter an order approving the final invoice for payment.

Upon the Court's order approving the final invoice for the Track A and Track B Neutrals, and ordering payment of the final invoice for the Track A and Track B Neutrals, the USDA shall, within twenty (20) days of such order, provide the U.S. Department of Treasury with all necessary forms and documentation to direct payment to the Designated Account for the costs of the Track A and Track B Neutrals to perform their final duties under the Agreement in the amount approved by the Court. Accordingly, Class Counsel propose that Section V.E.13 of the Settlement Agreement be renumbered as V.E.14 and that the following new Section V.E.13 be added:

**(New) Section V.E.13:** "In the event the Court enters an Order pursuant to Section IV.H of the Settlement Agreement approving the distribution of funds pursuant to the Preliminary Final Accounting submitted by the Claims Administrator, the U.S. Department of the Agriculture shall set aside out of the 2010 Funds plus any remaining 2008 Funds the estimated \$200,000 in funding authorized for the payment of the Track A and B Neutrals for the completion of their final duties under the Settlement Agreement

(as authorized by Section V.E.7(4) of the Settlement Agreement, as amended). The U.S. Department of the Agriculture shall have no obligation to transfer this estimated \$200,000 until the Track A and Track B Neutrals submit to the Court a final invoice setting forth their final Implementation Costs, which costs shall not exceed \$200,000. Any such invoice(s) by the Track A and Track B Neutrals shall be submitted to the Court, and copies provided to the Secretary and Class Counsel, within 12 months of the date of the Court's Order pursuant to Section IV.H of the Settlement Agreement approving the distribution of funds pursuant to the Preliminary Final Accounting submitted by the Claims Administrator. Within twenty (20) days of the Court's Order approving the final invoice(s) for the Track A and Track B Neutrals, the U.S. Department of the Agriculture shall deposit the payment amount(s) set forth in the Track A and Track B Neutrals' final invoice(s) into the Designated Account. The Parties agree that the Secretary shall pay the amount(s) set forth in the Track A and Track B Neutrals' final invoices up to a total of \$200,000.

### **CONCLUSION**

For the foregoing reasons, Class Counsel respectfully request the Court to enter the attached Proposed Order, to: (1) substitute the proposed Exhibit A and its attachments, A.1 through A.7, for Exhibit A in the Settlement Agreement; (2) substitute proposed Exhibit B for Exhibit B in the Settlement Agreement; and (3) modify Section V.E.7 and add new Section V.E.13 of the Settlement Agreement as provided above.

Respectfully submitted,

/s/ Henry Sanders

Henry Sanders  
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Tel: (334) 875-9264  
Fax: (334) 875-9853

/s/ Andrew H. Marks

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Fax: (305) 858-5261

/s/ Gregorio A. Francis

Gregorio A. Francis  
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20 North Orange Avenue, #1600  
Orlando, FL 32801  
Tel: (407) 420-1414

**CERTIFICATE OF SERVICE**

I certify that on August 19, 2013, I served a copy of the above on all counsel of record by filing a copy via the ECF system.

/s/ Andrew H. Marks  
Andrew H. Marks

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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	)	
<b>In re BLACK FARMERS DISCRIMINATION</b>	)	
<b>LITIGATION</b>	)	
	)	
	)	<b>Misc. No. 08-mc-0511 (PLF)</b>
<b>This document relates to:</b>	)	
	)	
<b>ALL CASES</b>	)	
	)	

**[PROPOSED] ORDER**

Upon consideration of the Consent Motion to Amend Final Order and Judgment, and the entire record herein, it is hereby

ORDERED that the Order and Judgment (Docket No. 231) entered by this Court on October 27, 2011, as amended by the Orders entered on September 14, 2012 (Docket No. 304) and on February 14, 2013 (Docket No. 346), be and hereby is amended as follows:

31. In place of Exhibit A to the Settlement Agreement, the attached Exhibit A and the variations on Claim Determination Letters used to communicate claim determinations to Track A claimants in Exhibits A.1, A.2, A.3, A.4 A.5, A.6, and A.7 shall be inserted as Exhibits to the Settlement Agreement;

32. In place of Exhibit B to the Settlement Agreement, the attached Exhibit B shall be inserted as Exhibit B to the Settlement Agreement.

33. Section V.E.7 of the Settlement Agreement is modified to read as follows:

"Within thirty (30) calendar days of receipt of all Track A and Track B Claim Determination Forms (Exs. A and B), the Claims Administrator shall prepare the Preliminary Final Accounting and submit it to Lead Class Counsel, the Secretary and the Court. The Preliminary Final Accounting shall identify: (1) the number and amount of all Final Track A Liquidated Awards, Final Track A Loan Awards, Final Track A Tax

Awards, and Final Track B Awards (shown in Part III of the completed Track A and Track B Determination Forms); (2) the Implementation Costs incurred to date; (3) a good faith estimate of Implementation Costs necessary for the Claims Administrator to perform its final duties under this Agreement; (4) Implementation Costs necessary for the Track A and Track B Neutrals to perform their final duties under this Agreement (but not to exceed \$200,000); (5) the Ombudsman Costs incurred to date; (6) a good faith estimate of Ombudsman Costs necessary for the Ombudsman to perform its final duties under this Agreement; (7) the amount of the Fee Award; (8) the sum of Track B Fees incurred by Track B Class Members, and (9) the amounts that the Secretary already has paid for interim Implementation Costs, interim Common Benefit Fees, and Ombudsman Costs, and the status of these funds.

34. Section V.E.13 of the Settlement Agreement shall be renumbered as V.E.14 and the following new Section V.E.13 is hereby added:

“In the event the Court enters an Order pursuant to Section IV.H of the Settlement Agreement approving the distribution of funds pursuant to the Preliminary Final Accounting submitted by the Claims Administrator, the U.S. Department of the Agriculture shall set aside out of the 2010 Funds plus any remaining 2008 Funds the estimated \$200,000 in funding authorized for the payment of the Track A and B Neutrals for the completion of their final duties under the Settlement Agreement (as authorized by Section V.E.7(4) of the Settlement Agreement, as amended). The U.S. Department of the Agriculture shall have no obligation to transfer this estimated \$200,000 until the Track A and Track B Neutrals submit to the Court a final invoice setting forth their final Implementation Costs, which costs shall not exceed \$200,000. Any such invoice(s) by the Track A and Track B Neutrals shall be submitted to the Court, and copies provided to the Secretary and Class Counsel, within 12 months of the date of the Court’s Order pursuant to Section IV.H of the Settlement Agreement approving the distribution of funds pursuant to the Preliminary Final Accounting submitted by the Claims Administrator. Within twenty (20) days of the Court’s Order approving the final invoice(s) for the Track A and Track B Neutrals, the U.S. Department of the Agriculture shall deposit the payment amount(s) set forth in the Track A and Track B Neutrals’ final invoice(s) into the Designated Account. The Parties agree that the Secretary shall pay the amount(s) set forth in the Track A and Track B Neutrals’ final invoices up to a total of \$200,000.”

In all other respects, the Order and Judgment as previously entered and modified by the court shall remain in full force and effect.

SO ORDERED.

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PAUL L. FRIEDMAN  
United States District Judge

Date: \_\_\_\_\_

# **EXHIBIT A**

**In re Black Farmers Discrimination Litigation**  
**Claims Administrator**  
**PO Box 4028**  
**Portland, OR 97208-4028**

**Exhibit A**  
**TRACK A APPROVAL**  
**(no competing heirs or multiple claimants for single farming operation)**

<<Mail ID>>  
<<Name 1>>  
<<Name 2>>  
<<Address 1>>  
<<Address 2>>  
<<City>><<State>><<Zip>>  
<<Foreign Country>>

<<Tracking No. >>

**A copy of this letter was sent to:**

<<Name 1>>  
<<Name 2>>  
<<Address 1>>  
<<Address 2>>  
<<City>><<State>><<Zip>>  
<<Foreign Country>>

**In re Black Farmers Discrimination Litigation**  
Civil Action No. 1:08-mc-0511 (PLF)

<<Date>>

**“TRACK A” CLAIM DETERMINATION FORM**

**PART I. CLAIMANT INFORMATION**

<<Claimant:>>  
<<Claimant’s Name (First, Middle, Last)>>  
<<Claimant’s Mailing Address>>  
<<City, State Zip>>

<<Attorney:>>  
<<Attorney’s Name (First, Middle, Last), if applicable>>  
<<Firm Name>>  
<<Attorney’s Mailing Address>>  
<<City, State Zip>>

<<Submitter:>>  
<<Submitter’s Name (First, Middle, Last), if applicable>>  
<<Submitter’s Mailing Address>>  
<<City, State Zip>>

<<Co-Claimant:>>  
<<Co-Claimant’s Name (First, Middle, Last)>>  
<<Co-Claimant’s Mailing Address>>  
<<City, State Zip>>

**PART II. SUMMARY OF CLAIM DETERMINATION**

The Track A claim that you submitted for the above-named Claimant to the Non-Judicial Claims Process under the Settlement Agreement in *In Re Black Farmers Discrimination Litigation*, No. 1:08-mc-0511 (PLF) has been reviewed. A Court-appointed Neutral (“Track A Neutral”) has determined that the claim is **APPROVED**.

Based on the materials you submitted, the following claims (if checked) were **APPROVED**:

- Track A Credit Claim**                       **Track A Non-Credit Claim**
- Debt Relief**

The following loans were approved for Debt Relief:

Loan Number	Original Loan Amount	Amount of Debt Relief

**PART III. EXPLANATION OF APPROVED CLAIM AWARD**

**AWARD AMOUNT:** The final amount of the Total Track A Award is estimated at \$\_\_\_\_.\* This amount includes a Track A Tax Award payment in the estimated amount of \$\_\_\_\_\_ made to the IRS to pay the potential federal tax liability arising from the receipt of the Total Track A Award, as explained in the section of this letter captioned “TAXES” (see below). If granted, debt relief on the loan(s) referenced above is included in the total Track A Award. A check for the remaining amount is anticipated to be sent in the next 45 days (unless otherwise noted below).

<< FOLLOWING LANGUAGE ONLY IF APPLICABLE>>\* This amount is less than a full Track A Award because you are receiving a partial award for a different claim (under a different tracking number) and, under the terms of the Settlement Agreement, a Claimant may not receive more than \$50,000 as a Track A Liquidated Award.

**CHECK PAYABLE TO ATTORNEY:** If you (or any of your Co-Claimants) retained your own attorney to submit this claim, the check will be made payable jointly to you and your attorney and will be sent to the attorney. Banks should require a signature from each person whose name appears on the check in order to deposit the check. You will need to work with your attorney to get the check deposited so that you can divide the proceeds. Please note that under the Settlement Agreement, the attorney may not charge more than two percent (2 %) of the Total Track A Award as a fee for submitting the claim.

**CO-CLAIMANTS:** If Co-Claimants were included on the claim form, their names will also be written on the check. Banks should require a signature from each person whose name appears on the check in order to deposit the check. You will need to work with your Co-Claimant(s) and attorney, if you hired one, to get the check deposited so that you can split the proceeds.

**ESTATES OR INCAPACITATED CLAIMANTS:** If the claim was filed on behalf of an Estate or an Incapacitated

Claimant, the check will be made payable to the Estate or Incapacitated Claimant. The check will be sent to the authorized Legal Representative as the representative of the Estate or as the representative of the Incapacitated Claimant. If an attorney was retained to assist in the filing of this claim on behalf of the Estate or Incapacitated Claimant, the check will be mailed to the attorney.

<<FOLLOWING LANGUAGE ONLY IF APPLICABLE>>**PROOF OF LEGAL REPRESENTATION:** Proof of legal representation for the above-named Estate or Incapacitated Claimant has not been provided. **A check for the award amount will not be sent until acceptable proof of legal representation is provided.** You have up to one (1) year from the date of this letter to submit required proof that you are the authorized Legal Representative. Please refer to the insert "Proof of Legal Representation," for additional information on acceptable proof of legal representation.

**TAXES:** You (or the Estate or the Incapacitated Claimant) are responsible for compliance with all applicable federal, state, and local tax requirements that arise as a result of the receipt of a Track A Award. As noted above, a Track A Tax Award payment estimated in the amount of \$ \_\_\_\_\_ is being or will be made on your behalf (or, if the claim was filed on behalf of an Estate or Incapacitated Claimant, the payment will be made on behalf of the Estate or the Incapacitated Claimant) to the IRS in view of the potential federal tax liability arising from the receipt of this Track A Award. If there are Co-Claimants, the Tax Award payment will be divided proportionately among you and your Co-Claimants. Please note that the amount being paid as a Track A Tax Award to the IRS may or may not be sufficient to cover all federal taxes you, your Co-Claimant(s), the Estate or the Incapacitated Claimant owe as a result of receipt of the Track A Award. Alternatively, this amount may in some cases be more than you, your Co-Claimant(s), the Estate or the Incapacitated Claimant owe in federal taxes and you (or they) may be entitled to some refund. For this reason, you are encouraged to consult a tax professional regarding the impact of these payments on your, your Co-Claimants', the Estate's, or the Incapacitated Claimant's tax liability. The IRS has a Taxpayer Advocate Service that may be able to answer some of your tax questions. They can be reached at 1-877-ASKTAS1 (1-877-275-8271).

**IMPACT ON OUTSTANDING LOAN OBLIGATIONS:**

**If this claim was not approved for Debt Relief,** please note that if you, your Co-Claimant(s), the Estate or the Incapacitated Claimant are not current on loan payments owed to the USDA, the Secretary of Agriculture may, in view of the denial of the Debt Relief claim, proceed immediately with any loan acceleration or foreclosure proceedings he believes are appropriate.

**If this claim was approved for Debt Relief as part of the Track A Award,** it is possible that the payment made to the USDA/FSA on your behalf, or on behalf of your Co-Claimant(s), the Estate or the Incapacitated Claimant did not satisfy the entire amount outstanding on your, the Estate's or the Incapacitated Claimant's USDA/FSA loan(s). In that event, you, your Co-Claimant(s), the Estate or the Incapacitated Claimant are responsible for paying the remainder of the outstanding debt on these loans. Interest on the debt will continue to accrue unless and until the debt is paid in full, and USDA/FSA maintains any and all options for servicing and recovering outstanding debt, including but not limited to acceleration and foreclosure.

**THIS DECISION IS FINAL. IT IS NOT REVIEWABLE BY THE CLAIMS ADMINISTRATOR, THE TRACK A NEUTRAL, THE TRACK B NEUTRAL, THE COURT, OR ANY OTHER PARTY OR BODY, JUDICIAL OR OTHERWISE.**

**QUESTIONS:** If you have any questions, you may contact the Claims Administrator at 1-877-810-8110.

# **EXHIBIT A.1**

**In re Black Farmers Discrimination Litigation**  
**Claims Administrator**  
**PO Box 4028**  
**Portland, OR 97208-4028**

**Exhibit A.1**  
**COMPETING HEIRS APPROVAL**

<<Mail ID>>  
<<Name 1>>  
<<Name 2>>  
<<Address 1>>  
<<Address 2>>  
<<City>><<State>><<Zip>>  
<<Foreign Country>>

<<Tracking No. >>

**A copy of this letter was sent to:**

<<Name 1>>  
<<Name 2>>  
<<Address 1>>  
<<Address 2>>  
<<City>><<State>><<Zip>>  
<<Foreign Country>>

**In re Black Farmers Discrimination Litigation**  
Civil Action No. 1:08-mc-0511 (PLF)

<<Date>>

**“TRACK A” CLAIM DETERMINATION FORM**

**PART I. CLAIMANT INFORMATION**

<<Claimant:>>  
<<Claimant’s Name (First, Middle, Last)>>  
<<Claimant’s Mailing Address>>  
<<City, State Zip>>

<<Attorney:>>  
<<Attorney’s Name (First, Middle, Last), if applicable>>  
<<Firm Name>>  
<<Attorney’s Mailing Address>>  
<<City, State Zip>>

<<Submitter:>>  
<<Submitter’s Name (First, Middle, Last), if applicable>>  
<<Submitter’s Mailing Address>>  
<<City, State Zip>>

<<Co-Claimant:>>  
<<Co-Claimant’s Name (First, Middle, Last)>>  
<<Co-Claimant’s Mailing Address>>  
<<City, State Zip>>

**PART II. SUMMARY OF CLAIM DETERMINATION**

The Track A claim that you submitted to the Non-Judicial Claims Process under the Settlement Agreement in *In Re Black Farmers Discrimination Litigation*, No. 1:08-mc-0511 (PLF) on behalf of the Estate named above has been reviewed.

A Court-appointed Neutral (“Track A Neutral”) has determined that multiple claims were filed on behalf of this Estate. Under the Settlement Agreement, if more than one claim is filed for a single Estate and a claim is approved, only one award may be granted. A claim filed for this Estate has been **APPROVED**. The Estate will receive only one award.

Other claims for this Estate were filed by:

<<Name 1>> <<Tracking No. >>  
 <<Name 2>>  
 <<City>><<State>><<Zip>>  
 <<Foreign Country>>

<<Name 1>> <<Tracking No. >>  
 <<Name 2>>  
 <<City>><<State>><<Zip>>  
 <<Foreign Country>>

<<Name 1>> <<Tracking No. >>  
 <<Name 2>>  
 <<City>><<State>><<Zip>>  
 <<Foreign Country>>

Based on the materials submitted, the following claims (if checked) were **APPROVED**:

- Track A Credit Claim**                       **Track A Non-Credit Claim**  
 **Debt Relief**

The following loans were approved for Debt Relief:

Loan Number	Original Loan Amount	Amount of Debt Relief

**PART III. EXPLANATION OF APPROVED CLAIM AWARD**

**AWARD AMOUNT:** The final amount of the Total Track A Award is estimated at \$\_\_\_\_. This amount includes a Track A Tax Award payment in the estimated amount of \$\_\_\_\_ made to the IRS to pay the potential federal tax liability arising from the receipt of the Total Track A Award, as explained in the section of this letter captioned “TAXES” (see below). If granted, debt relief on the loan(s) referenced above is included in the total

Track A Award. A check for the remaining amount will be sent after proof of legal representation is provided for the Estate (see below).

**PROOF OF LEGAL REPRESENTATION:** Multiple individuals filed claims for the Estate; however, only the duly appointed Legal Representative of the Estate may be sent the award. **Proof of legal representation for the Estate has not been provided.** Once proof of legal representation is provided, the check will be made payable to the Estate and sent to the authorized Legal Representative as the representative of the Estate. **The check for the award cannot be sent until proof of legal representation for the Estate is provided.** The Legal Representative has one (1) year from the date of this letter to provide acceptable documents providing that he or she is the authorized Legal Representative of the Estate. The award for the Estate will be held for one (1) year, and **the funds will be released only upon receipt of proof of legal representation of the Estate.** Multiple individuals filed claims for the Estate; however, **only the individual who provides proof of legal representation will receive the award for the Estate.** Please refer to the insert "Proof of Legal Representation," for additional information on acceptable proof of legal representation.

**CHECK PAYABLE TO ATTORNEY:** If an attorney was retained on behalf of the Estate to submit this claim, the check will be made payable jointly to the Estate and to the attorney and will be sent to the attorney after proof of legal representation is provided. Banks should require a signature from each person whose name appears on the check in order to deposit the check. You will need to work with that attorney to get the check deposited so that you can divide the proceeds. **Please note that under the Settlement Agreement, the attorney may not charge more than two percent (2 %) of the Total Track A Award as a fee for submitting the claim.**

**TAXES:** The Estate's Legal Representative is responsible for the Estate's compliance with all applicable federal, state, and local tax requirements that arise as a result of the receipt of a Track A Award. As noted above, a Track A Tax Award payment in the estimated amount of \$ \_\_\_\_\_ is being or will be made on behalf of the Estate to the IRS in view of the Estate's potential federal tax liability arising from receipt of this Award. Please note that the amount being paid as a Track A Tax Award to the IRS may or may not be sufficient to cover all federal taxes that the Estate owes as a result of receipt of the Track A Award. Alternatively, this amount may in some cases be more than the Estate owes in federal taxes and the Estate may be entitled to some refund. For this reason, you are encouraged to consult a tax professional regarding the impact of these payments on the Estate's personal tax liability. The IRS has a Taxpayer Advocate Service that may be able to answer some of your tax questions. They can be reached at 1-877-ASKTAS1 (1-877-275-8271).

**IMPACT ON OUTSTANDING LOAN OBLIGATIONS:**

**If the Estate was not approved for Debt Relief,** please note that if the Estate is not current on loan payments owed the USDA, the Secretary of Agriculture may, in view of the denial of the Estate's Debt Relief claim, proceed immediately with any loan acceleration or foreclosure proceedings he believes are appropriate.

**If the Estate was approved for Debt Relief as part of its Track A Award,** it is possible that the payment did not satisfy the entire amount outstanding on the Estate's USDA/FSA loan. In that event, the Legal Representative is responsible for paying the remainder of the Estate's outstanding debt. Interest on that debt will continue to accrue unless and until the debt is paid in full, and USDA/FSA maintains any and all options for servicing and recovering outstanding debt, including but not limited to acceleration and foreclosure.

**THIS DECISION IS FINAL. IT IS NOT REVIEWABLE BY THE CLAIMS ADMINISTRATOR, THE TRACK A NEUTRAL, THE TRACK B NEUTRAL, THE COURT, OR ANY OTHER PARTY OR BODY, JUDICIAL OR OTHERWISE.**

**QUESTIONS:** If you have any questions, you may contact the Claims Administrator at 1-877-810-8110.

## **EXHIBIT A.2**

**In re Black Farmers Discrimination Litigation**  
**Claims Administrator**  
**PO Box 4028**  
**Portland, OR 97208-4028**

**Exhibit A.2**  
**APPROVAL WHERE MULTIPLE**  
**CLAIMANTS FOR SINGLE**  
**FARMING OPERATION (“SFO”)**

<<Mail ID>>  
<<Name 1>>  
<<Name 2>>  
<<Address 1>>  
<<Address 2>>  
<<City>><<State>><<Zip>>  
<<Foreign Country>>

<<Tracking No. >>

**A copy of this letter was sent to:**

<<Name 1>>  
<<Name 2>>  
<<Address 1>>  
<<Address 2>>  
<<City>><<State>><<Zip>>  
<<Foreign Country>>

**In re Black Farmers Discrimination Litigation**  
Civil Action No. 1:08-mc-0511 (PLF)

<<Date>>

**“TRACK A” CLAIM DETERMINATION FORM**

**PART I. CLAIMANT INFORMATION**

<<Claimant:>>  
<<Claimant’s Name (First, Middle, Last)>>  
<<Claimant’s Mailing Address>>  
<<City, State Zip>>

<<Attorney:>>  
<<Attorney’s Name (First, Middle, Last), if applicable>>  
<<Firm Name>>  
<<Attorney’s Mailing Address>>  
<<City, State Zip>>

<<Submitter:>>  
<<Submitter’s Name (First, Middle, Last), if applicable>>  
<<Submitter’s Mailing Address>>  
<<City, State Zip>>

<<Co-Claimant:>>  
<<Co-Claimant’s Name (First, Middle, Last)>>  
<<Co-Claimant’s Mailing Address>>  
<<City, State Zip>>

**PART II. SUMMARY OF CLAIM DETERMINATION**

The Track A claim that you submitted on behalf of the above-named Claimant to the Non-Judicial Claims Process under the Settlement Agreement in *In Re Black Farmers Discrimination Litigation*, No. 1:08-mc-0511 (PLF) has been reviewed. A Court-appointed Neutral (“Track A Neutral”) has determined that your claim is **APPROVED**.

However, under the Settlement Agreement, the Track A Neutral may grant only one award per farming operation. A single farming operation is one where two or more individuals or entities collectively raise and/or cultivate crops, livestock, fish, timber, or other farm commodities to be sold for profit. The Track A Neutral has determined that *more than one claim has been filed relating to the same farming operation referenced in your claim form*. The Track A Neutral has also determined that one or more of these claims has met all of the required elements of proof under the substantial evidence standard and is **APPROVED**. As a result, the Award for this farming operation is to be shared among members of the farming operation named below:

<<Name 1>>	<<Tracking No. >>
<<Name 2>>	
<<City>><<State>><<Zip>>	
<<Foreign Country>>	

<<Name 1>>	<<Tracking No. >>
<<Name 2>>	
<<City>><<State>><<Zip>>	
<<Foreign Country>>	

<<Name 1>>	<<Tracking No. >>
<<Name 2>>	
<<City>><<State>><<Zip>>	
<<Foreign Country>>	

<<FOLLOWING LANGUAGE ONLY IF APPLICABLE>> Under the Settlement Agreement, if more than one claim is filed for a single Estate and a claim is approved, only one award may be granted to the Estate. The award for the Estate will be made payable to the Estate, and mailed to the Court-appointed Legal Representative. Please see section entitled “PROOF OF LEGAL REPRESENTATION” below for additional information. Other claims for the above-named Estate were filed by:

<<Name 1>>	<<Tracking No. >>
<<Name 2>>	
<<City>><<State>><<Zip>>	
<<Foreign Country>>	

<<Name 1>>	<<Tracking No. >>
<<Name 2>>	
<<City>><<State>><<Zip>>	
<<Foreign Country>>	

<<Name 1>>	<<Tracking No. >>
------------	-------------------

<<Name 2>>  
 <<City>><<State>><<Zip>>  
 <<Foreign Country>>

Based on the materials submitted, the following claims (if checked) were **APPROVED**:

- Track A Credit Claim**                       **Track A Non-Credit Claim**
- Debt Relief**

The following loans were approved for Debt Relief:

Loan Number	Original Loan Amount	Amount of Debt Relief

**PART III. EXPLANATION OF APPROVED CLAIM AWARD**

**AWARD AMOUNT:** The final amount of the Total Track A Award is estimated at \$\_\_\_\_, to be divided among the members of the farming operation listed above. This amount includes a Track A Tax Award payment in the estimated amount of \$\_\_\_\_, made to the IRS to pay the potential federal tax liability for the members of the farming operation listed above arising from the receipt of the Total Track A Award, as explained in the section of this letter captioned "TAXES" (see below). If granted, debt relief on the loan(s) referenced above is included in the total Track A Award. A check for the remaining amount is anticipated to be sent in the next 45 days (unless otherwise noted below).

<<FOLLOWING LANGUAGE ONLY IF APPLICABLE>>The Track A Neutral has also determined that you had a separate farming operation that is entitled to a separate award. This separate award amount is less than a full Track A Award because you are receiving a partial award for the single farming operation noted above and, under the terms of the Settlement Agreement, a Claimant may not receive more than \$50,000 as a Track A Liquidated Award. This separate award will be included in your check.

**CHECK PAYABLE TO ATTORNEY:** If you retained your own attorney to submit this claim, the check will be made payable jointly to you and your attorney and sent to the attorney. Banks should require a signature from each person whose name appears on the check in order to deposit the check. You will need to work with your attorney to get the check deposited so that you can split the proceeds. Please note that under the Settlement Agreement, such attorneys may not charge you more than two percent (2%) of the Total Track A Award as a fee for filing your claim.

**ESTATES OR INCAPACITATED CLAIMANTS:** If the claim was filed on behalf of an Estate or an Incapacitated Claimant, the check will be made payable to the Estate or Incapacitated Claimant. The check will be sent to the authorized Legal Representative as the representative of the Estate or as the representative of the Incapacitated Claimant. If you retained an attorney to assist you in filing the claim on behalf of the Estate or Incapacitated Claimant, the check will be mailed to the attorney.

<<FOLLOWING LANGUAGE ONLY IF APPLICABLE>>**PROOF OF LEGAL REPRESENTATION:** Proof of legal

representation for the above-named Estate has not been provided. **A check for the award amount will not be sent until acceptable proof of legal representation is provided.** You have up to one (1) year from the date of this letter to submit required proof that you are the authorized Legal Representative. Please refer to the insert "Proof of Legal Representation," for additional information on acceptable proof of legal representation.

<<FOLLOWING LANGUAGE ONLY IF APPLICABLE>>**PROOF OF LEGAL REPRESENTATION:** Proof of legal representation for the above-named Incapacitated Claimant has not been provided. **A check for the award amount will not be sent until acceptable proof of legal representation is provided.** You have up to one (1) year from the date of this letter to submit required proof that you are the authorized Legal Representative. Please refer to the insert "Proof of Legal Representation," for additional information on acceptable proof of legal representation.

<<FOLLOWING LANGUAGE ONLY IF APPLICABLE>>**PROOF OF LEGAL REPRESENTATION:** Multiple individuals filed claims for the Estate; however, only the duly appointed Legal Representative of the Estate may be sent the award. **Proof of legal representation for the Estate has not been provided.** Once proof of legal representation is provided, the check will be made payable to the Estate and sent to the authorized Legal Representative as the representative of the Estate. **The check for the award cannot be sent until proof of legal representation for the Estate is provided.** The Legal Representative has one (1) year from the date of this letter to provide acceptable documents providing that he or she is the authorized Legal Representative of the Estate. The award for the Estate will be held for one (1) year, and **the funds will be released only upon receipt of proof of legal representation of the Estate.** Multiple individuals filed claims for the Estate; however, **only the individual who provides proof of legal representation will receive the award for the Estate.** Please refer to the insert "Proof of Legal Representation," for additional information on acceptable proof of legal representation.

**TAXES:** You (or the Estate or Incapacitated Claimant) are responsible for compliance with all applicable federal, state, and local tax requirements that arise as a result of the receipt of a Track A Award, or your proportionate share of the Award. As noted above, a Track A Tax Award payment estimated in the amount of \$ \_\_\_\_\_ is being or will be made on your behalf (or, if filed on behalf of an Estate or Incapacitated Claimant, on behalf of the Estate or the Incapacitated Claimant) to the IRS in view of the potential federal tax liability arising from the receipt of your share of this Track A Award. Please note that the amount being paid as a Track A Tax Award to the IRS may or may not be sufficient to cover all federal taxes you, the Estate or the Incapacitated Claimant owe as a result of receipt of the Track A Award. Alternatively, this amount may in some cases be more than you, the Estate or the Incapacitated Claimant owe in federal taxes and you (or they) may be entitled to some refund. For this reason, you are encouraged to consult a tax professional regarding the impact of these payments on your, the Estate's, or the Incapacitated Claimant's tax liability. The IRS has a Taxpayer Advocate Service that may be able to answer some of your tax questions. They can be reached at 1-877-ASKTAS1 (1-877-275-8271).

#### **IMPACT ON OUTSTANDING LOAN OBLIGATIONS:**

**If this claim was not approved for Debt Relief,** please note that if you, the Estate or the Incapacitated Claimant are not current on loan payments owed to the USDA, the Secretary of Agriculture may, in view of the denial of the Debt Relief claim, proceed immediately with any loan acceleration or foreclosure proceedings he believes are appropriate.

**If this claim was approved for Debt Relief as part of the Track A Award,** it is possible that the payment made

to the USDA/FSA on your behalf, on behalf of the Estate or the Incapacitated Claimant did not satisfy the entire amount outstanding on your, the Estate's or the Incapacitated Claimant's USDA/FSA loan. In that event, you, the Estate or the Incapacitated Claimant are responsible for paying the remainder of the outstanding debt on these loans. Interest on the debt will continue to accrue unless and until the debt is paid in full, and USDA/FSA maintains any and all options for servicing and recovering outstanding debt, including but not limited to acceleration and foreclosure.

**THIS DECISION IS FINAL. IT IS NOT REVIEWABLE BY THE CLAIMS ADMINISTRATOR, THE TRACK A NEUTRAL, THE TRACK B NEUTRAL, THE COURT, OR ANY OTHER PARTY OR BODY, JUDICIAL OR OTHERWISE.**

**QUESTIONS:** If you have any questions, you may contact the Claims Administrator at 1-877-810-8110.

## **EXHIBIT A.3**

*In re Black Farmers Discrimination Litigation*  
Claims Administrator  
PO Box 4028  
Portland, OR 97208-4028

**Exhibit A.3**

## INFORMATION REGARDING AWARDS & TAXES

### **Non- Class Counsel Attorney:**

If you hired your own attorney and that attorney filed a claim on your behalf (or on behalf of an Estate or Incapacitated Claimant), their name is also written on the check. Banks should require a signature from each person whose name appears on the check in order to deposit the check. You will need to work with your attorney to get the check deposited so that you can each get the money that you are entitled to under the Settlement Agreement. Under the Settlement Agreement, an attorney's share may not exceed two percent (2%) of your Total Track A Award.

### **Loan Award:**

If you (or the Estate or Incapacitated Claimant) received a Track A Loan Award (also referred to as Debt Relief) as part of your Track A Award, it is possible that the payment did not satisfy the entire amount outstanding on the USDA/FSA loan. In that event, you (or the Estate or Incapacitated Claimant) are responsible for paying the remainder of the outstanding debt. Interest on the debt will continue to accrue unless and until the debt is paid in full, and USDA/FSA maintains any and all options for servicing and recovering outstanding debt, including but not limited to acceleration and foreclosure. The Track A Loan Award as specified on the check stub has been paid directly to the USDA.

### **Award is Taxable Income:**

You (or the Estate or Incapacitated Claimant) are responsible for compliance with all applicable federal, state, and local tax requirements that arise as a result of the receipt of a Track A Award. A Track A Tax Award payment will be made on your behalf (or the Estate's behalf or the Incapacitated Claimant's behalf) to the IRS in view of the potential federal tax liability arising from receipt of the Total Track A Award. However, no payment will be made to state or local taxing authorities, so you (or the Estate or Incapacitated Claimant) will be responsible for paying any taxes owed on the Total Track A Award to state and local governments. Please note that the amount being paid to the IRS as a Track A Tax Award may or may not be sufficient to cover all federal taxes you (or the Estate or Incapacitated Claimant) may owe as a result of receipt of the Total Track A Award. Alternatively, this amount may in some cases be more than you (or the Estate or Incapacitated Claimant) owe in federal taxes and you may be entitled to some refund. For this reason, you are encouraged to consult a tax professional regarding the impact of these payments on your or (or the Estate's or Incapacitated Claimant's) tax liability. The IRS has a Taxpayer Advocate Service that may be able to answer some of your tax questions. They can be reached at 1-877-ASKTAS1 (1-877-275-8271).

The tax payment might not be made to the IRS until March or April 2014. Therefore, if you file your 2013 tax return in January or February 2014, it is possible that the IRS will not yet have a record of the tax deposit, and therefore may send a tax bill to you. If that happens, you should contact your regional IRS office.

**Tax Forms:**

You will be sent a tax form in January 2014 (referred to as a 1099 Form) documenting the amount paid to you (or the Estate or Incapacitated Claimant), or on your behalf, as your Total Track A Award. Please notify the Claims Administrator of any address changes so that any necessary tax forms can be sent to your most current address. Filing tax forms by the applicable deadline is your responsibility. If you are due a refund, you will not receive it unless you file a tax return.

**Estate:**

The Legal Representative is responsible for distributing the Track A Liquidated Award awarded according to the terms of the deceased's will, if there was one, or consistent with the laws governing distribution of assets of those who die without a will. In addition, the Legal Representative is responsible for proper reporting of the distribution of the award to the proper tax authorities. If you have questions, you should consult a lawyer or other professional who handles estate and probate matters.

**Other Questions:**

The Claims Administrator cannot provide legal or tax advice, please consult a legal or tax professional. If you have other questions, please contact the Claims Administrator at 1-877-810-8110 or visit the website at [www.blackfarmercase.com](http://www.blackfarmercase.com).

## **EXHIBIT A.4**

*In re Black Farmers Discrimination Litigation*  
Claims Administrator  
PO Box 4028  
Portland, OR 97208-4028

**Exhibit A.4**

## **PROOF OF LEGAL REPRESENTATION**

As the Claim Determination letter states, the claim submitted on behalf of the Estate or Incapacitated Claimant was successful, and the Estate or Incapacitated Claimant is entitled to a payment, plus (in addition to a possible payment to the USDA/FHS for debt relief) a payment to the Internal Revenue Service ("IRS") to offset federal taxes which may be due as a result of the payment. However, the documents that have been submitted are insufficient to establish the authorized Legal Representative for the Estate or Incapacitated Claimant. Therefore, the award cannot be sent until acceptable documentation is provided to indicate the identity and appointment of the authorized Legal Representative. The Claims Administrator cannot provide legal advice and requirements may vary by state, but the following information is provided to assist you in obtaining the correct documentation.

### **ESTATES**

#### **WHAT IS A LEGAL REPRESENTATIVE FOR AN ESTATE?**

The Legal Representative is an individual appointed by a court who is responsible for distributing the Track A Award according to the terms of the deceased's will, if there was one, or consistent with the laws governing distribution of assets of those who die without a will. As a result, the Claims Administrator must ensure that the Award check is sent to someone who has been court-approved to exercise this responsibility.

#### **WHAT ARE ACCEPTABLE DOCUMENTS TO ESTABLISH AN ESTATE'S LEGAL REPRESENTATIVE?**

The only documents which are acceptable to establish that you are the Legal Representative of the Estate are documents issued by a court which state that you are the Legal Representative, Executor, Personal Representative or Administrator of the Estate of the deceased. Documents such as a funeral program, an obituary or statements from family members are ***not*** sufficient. Documents showing that you inherited property from the deceased (such as a will) or which establish your family relationship (such as birth certificates or death certificates) are ***not*** sufficient. Documents indicating the decedent's desire that you be appointed Executor of his or her Estate (such as a will or Power of Attorney) are ***not*** sufficient. There can be multiple family members or persons who inherit property, but only one Legal Representative.

#### **HOW DO I BECOME A LEGAL REPRESENTATIVE FOR THE ESTATE?**

The procedure for being appointed Legal Representative of an Estate varies from state to state. The Claims Administrator cannot assist you with this process. If you have questions, you should consult a lawyer who handles estate and probate matters.

#### **SEVERAL PEOPLE SUBMITTED CLAIMS FOR THE ESTATE BUT ONLY ONE CLAIM WAS APPROVED. WHAT DO WE DO?**

There can be multiple family members or other persons who submitted a claim on behalf of the Estate but the Estate is entitled to only one Award. These family members or other persons may be entitled to inherit from the Estate's award, but there can be only one Legal Representative. The family members and heirs should work together to determine who should seek appointment as the Legal Representative for the Estate. The Claims Administrator cannot assist with this process. If you have questions, you should consult a lawyer who

handles estate and probate matters.

## **INCAPACITATED CLAIMANTS**

### **WHAT IS A LEGAL REPRESENTATIVE FOR AN INCAPACITATED CLAIMANT?**

The Legal Representative is an individual appointed by a court or otherwise designated by a legal document to be responsible for making decisions, managing financial affairs and performing other tasks for another individual who is unable to do so for himself or herself because of mental or physical limitations. The Legal Representative is responsible for receiving the Award on behalf of the Claimant and ensuring the proper allocation of such funds for the benefit of the Claimant. As a result, the Claims Administrator must ensure that the Award check is sent to someone who has been court-approved or otherwise designated to exercise this responsibility.

### **WHAT ARE ACCEPTABLE DOCUMENTS TO ESTABLISH AN INCAPACITATED CLAIMANT'S LEGAL REPRESENTATIVE?**

You may establish that you are the Legal Representative of the Incapacitated Claimant by submitting documents issued by a court which state that you are the Legal Representative, Personal Representative or Guardian of the Incapacitated Claimant. In addition, sworn, notarized or verified documents such as Power of Attorney, a Trust Agreement or other similar documents that specifically grant you authority to handle the Incapacitated Claimant's affairs are acceptable. Documents or statements from family members are ***not*** sufficient. Documents showing that you will inherit property from the Incapacitated Claimant (such as a will) or which establish your family relationship (such as birth certificates or death certificates) are ***not*** sufficient. There can be multiple family members or persons who are related to or assist the Incapacitated Claimant, but only one Legal Representative.

### **HOW DO I BECOME A LEGAL REPRESENTATIVE FOR INCAPACITATED CLAIMANT?**

The procedure for being appointed or designated as the Legal Representative of an Incapacitated Claimant varies from state to state. The Claims Administrator cannot assist you with this process. If you have questions, you should consult a lawyer who handles guardianship and related domestic matters.

### **SEVERAL PEOPLE SUBMITTED CLAIMS FOR THE INCAPACITATED CLAIMANT BUT ONLY ONE CLAIM WAS APPROVED. WHAT DO WE DO?**

There can be multiple family members or other persons who submitted a claim on behalf of an Incapacitated Claimant but the Incapacitated Claimant is entitled to only one award. The family members should work together, with the Incapacitated Claimant if possible, to determine who should seek appointment or designation as the Legal Representative for the Incapacitated Claimant. The Claims Administrator cannot assist with this process. If you have questions, you should consult a lawyer who handles guardianship and related domestic matters.

## **GENERAL ISSUES**

### **SOMEONE ELSE HAS BEEN APPOINTED LEGAL REPRESENTATIVE BUT I SUBMITTED THE CLAIM. WHAT SHOULD I DO?**

The person who submits the claim is not always the person who is appointed the Legal Representative. The Award check will be sent **only** to the Legal Representative of the claimant. The Legal Representative should submit the documents authorizing him or her to act as Legal Representative to the address below.

**HOW LONG DO I HAVE TO SUBMIT THIS DOCUMENTATION?**

You have one (1) year from the date of the Claim Determination letter to submit the required proof that you (or other person) are the authorized Legal Representative for the Estate or the Incapacitated Claimant.

**I HAVE THE DOCUMENTS. WHERE SHOULD I SEND THEM?**

Once you have obtained the proof of legal representation, please send a copy of the documents to:

*In re Black Farmers Discrimination Litigation*

Claims Administrator

PO Box 4028

Portland, OR 97208-4028

**I SUBMITTED THE DOCUMENTS. HOW LONG UNTIL THE CHECK IS SENT?**

The documents must be reviewed to determine if they are sufficient. If the documents are not sufficient, then you will receive written notification. If the documents are sufficient to establish the legal representation, it will take several weeks from the time the Claims Administrator receives the documents for the check to be issued.

**OTHER QUESTIONS?**

Please contact the Claims Administrator at 1-877-810-8110 or visit the website at [www.blackfarmercase.com](http://www.blackfarmercase.com).

## **EXHIBIT A.5**

***In re Black Farmers Discrimination Litigation***  
**Claims Administrator**  
**PO Box 4028**  
**Portland, OR 97208-4028**

**Exhibit A.5**  
**NOTICE THAT CHECK SENT TO ATTORNEY**

<<Mail ID>>  
<<Name 1>>  
<<Name 2>>  
<<Address 1>>  
<<Address 2>>  
<<City>><<State>><<Zip>>  
<<Foreign Country>>

<<Tracking No. >>

***In re Black Farmers Discrimination Litigation***  
Civil Action No. 1:08-mc-0511 (PLF)

<<Date>>

**THE AWARD CHECK WAS SENT TO YOUR ATTORNEY**

**CLAIMANT INFORMATION:**

<<Claimant:>>  
<<Claimant's Name (First, Middle, Last)>>  
<<Claimant's Mailing Address>>  
<<City, State Zip>>

<<Attorney:>>  
<<Attorney's Name (First, Middle, Last), if applicable>>  
<<Firm Name>>  
<<Attorney's Mailing Address>>  
<<City, State Zip>>

<<Submitter:>>  
<<Submitter's Name (First, Middle, Last), if applicable>>  
<<Submitter's Mailing Address>>  
<<City, State Zip>>

<<Co-Claimant:>>  
<<Co-Claimant's Name (First, Middle, Last)>>  
<<Co-Claimant's Mailing Address>>  
<<City, State Zip>>

A check was issued pursuant to the terms of the Settlement in *In re Black Farmers Discrimination Litigation*, No. 08-mc-0511 (PLF). A claim for a Track A Award was submitted on behalf of the above-named Claimant under that Settlement and the claim was determined to be timely and valid. The check constitutes full satisfaction of the claim.

The check for the award in the Settlement has been sent to the above-named attorney. This check is made payable jointly to you (or the Estate or Incapacitated Claimant on whose behalf you filed the claim) and your attorney. Also note that if there are Co-Claimants, their names will also be written on the check. Banks should require a signature from each person whose name appears on the check in order to deposit the check. You will need to work with your Co-Claimant(s)

and attorney, if you hired one, to get the check deposited so that you can split the proceeds. Please note that under the Settlement Agreement, the attorney may not charge more than two percent (2 %) of the Total Track A Award as a fee for submitting the claim.

**QUESTIONS:** If you have any questions, you may contact the Claims Administrator at 1-877-810-8110.

## **EXHIBIT A.6**

IN RE BLACK FARMERS DISCRIMINATION LITIGATION  
CLAIMS ADMINISTRATOR  
PO BOX 4028  
PORTLAND, OR 97208-4028

**Exhibit A.6**

CLAIMANT/ATTORNEY  
CO\_CLAIMANT NAME  
ADDRESS LINE 1  
ADDRESS LINE 2  
CITY STATE ZIPCODE  
COUNTRY

TRACKING NUMBER: #####  
CLAIM NUMBER: #####  
CHECK NUMBER: #####  
CHECK AMOUNT: \$###,###.##  
CHECK DATE: MONTH ##, ####

This check is issued pursuant to the terms of the Settlement in *In re Black Farmers Discrimination Litigation* No. 08-mc-0511 (PLF). You submitted a claim for a Track A Award under that Settlement and the claim was determined to be timely and valid. The enclosed check constitutes full satisfaction of the claim.

**Your total award consists of the following:**

Track A Credit Award (Liquidated Award): \_\_\_\_\_  
Track A Non-Credit Award (Liquidated Award): \_\_\_\_\_  
Track A Loan Award (Paid Directly to USDA): \_\_\_\_\_  
    FSA Loan Number: \_\_\_\_\_  
    FSA Loan Number: \_\_\_\_\_  
    FSA Loan Number: \_\_\_\_\_

**Subtotal** of Track A Credit Award, Non-Credit Award and Loan Award: \_\_\_\_\_

Track A Tax Award (25% of the Subtotal) (Paid Directly to IRS): \_\_\_\_\_

**Total** Track A Award for this Claim: \_\_\_\_\_

**Check Amount:** \_\_\_\_\_  
(Total Track A Award minus Total Loan Award minus Track A Tax Award)

If you have any questions about your award, please contact the Claims Administrator at 1-877-810-8110 or PO Box 4028, Portland, Oregon 97208-4028. Please visit [www.blackfarmercase.com](http://www.blackfarmercase.com) for a list of SunTrust Bank locations.

## **EXHIBIT A.7**

***In re Black Farmers Discrimination Litigation***  
**Claims Administrator**  
**PO Box 4028**  
**Portland, OR 97208-4028**

**Exhibit A.7**  
**TRACK A DENIAL**

<<Mail ID>>  
<<Name 1>>  
<<Name 2>>  
<<Address 1>>  
<<Address 2>>  
<<City>><<State>><<Zip>>  
<<Foreign Country>>

<<Tracking No. >>

**A copy of this letter was sent to:**

<<Name 1>>  
<<Name 2>>  
<<Address 1>>  
<<Address 2>>  
<<City>><<State>><<Zip>>  
<<Foreign Country>>

**In re Black Farmers Discrimination Litigation**  
Civil Action No. 1:08-mc-0511 (PLF)

<<Date>>

**“TRACK A” CLAIM DETERMINATION FORM**

**PART I. CLAIMANT INFORMATION**

<<Claimant:>>  
<<Claimant’s Name (First, Middle, Last)>>  
<<Claimant’s Mailing Address>>  
<<City, State Zip>>

<<Attorney:>>  
<<Attorney’s Name (First, Middle, Last), if applicable>>  
<<Firm Name>>  
<<Attorney’s Mailing Address>>  
<<City, State Zip>>

<<Submitter:>>  
<<Submitter’s Name (First, Middle, Last), if applicable>>  
<<Submitter’s Mailing Address>>  
<<City, State Zip>>

<<Co-Claimant:>>  
<<Co-Claimant’s Name (First, Middle, Last)>>  
<<Co-Claimant’s Mailing Address>>  
<<City, State Zip>>

## **PART II. SUMMARY OF CLAIM DETERMINATION**

The Track A claim that you submitted for the above-named Claimant to the Non-Judicial Claims Process under the Settlement Agreement in *In re Black Farmers Discrimination Litigation*, No. 1:08-mc-0511 (PLF) has been reviewed. A Court-appointed Neutral (“Track A Neutral”) has determined that the claim is **DENIED**.

## **PART III. EXPLANATION OF DENIED CLAIM**

Your claim is **DENIED** because <<FOLLOWING LANGUAGE ONLY AS APPLICABLE>>:

- You failed to prove that you are an African-American farmer.
- You failed to prove that you farmed, or attempted to farm, between January 1, 1981 and December 31, 1996.
- You failed to prove that you owned or leased, or attempted to own or lease, farm land.
- You failed to prove that you applied, or constructively applied, for a specific farm credit transaction or non-credit benefit at a USDA office between January 1, 1981, and December 31, 1996.
- If you asserted that you constructively applied for a loan or non-credit benefit, you failed to prove that you made a bona fide effort to apply for a loan or non-credit benefit.
- If you asserted that you constructively applied for a loan or non-credit benefit, you failed to prove that USDA actively discouraged the application.
- You failed to prove that the farm loan or non-credit benefit for which you applied was denied, provided late, approved for a lesser amount than requested, encumbered by a restrictive condition, or that USDA failed to provide an appropriate loan service.
- You failed to prove that USDA’s treatment of your loan or non-credit benefit application or constructive application led to economic damage to you.
- You failed to prove that you complained of discrimination to an official of the United States Government on or before July 1, 1997, regarding USDA’s treatment of you in response to your application or constructive application.
- The Track A Neutral has determined that your claim does not meet the required elements of the Settlement Agreement under the substantial evidence standard.
- The Track A Neutral has determined that multiple claims were filed on behalf of this Estate. Under the Settlement Agreement, a payment for a prevailing Estate claim may be sent only to the Court-appointed Legal Representative of the Estate. The Track A Neutral has determined that another individual has been appointed the Legal Representative of the Estate. Therefore, you are not entitled to receive the award on behalf of this Estate.
- The Track A Neutral has determined that multiple claims were filed on behalf of this Incapacitated

Claimant. The Track A Neutral has determined that another individual has been appointed the Legal Representative of the Claimant. Therefore, you are not entitled to receive the award on behalf of this Claimant.

- You failed to agree to the terms of the Acknowledgements required in Section 10 of the Claim Form.

**THIS DECISION IS FINAL. IT IS NOT REVIEWABLE BY THE CLAIMS ADMINISTRATOR, THE TRACK A NEUTRAL, THE TRACK B NEUTRAL, THE COURT, OR ANY OTHER PARTY OR BODY, JUDICIAL OR OTHERWISE.**

**IMPACT ON OUTSTANDING LOAN OBLIGATIONS:** Please note that if you, the Estate or Incapacitated Claimant on whose behalf you filed are not current on loan payments owed to the USDA, the Secretary of Agriculture may, in view of the denial of this claim, proceed immediately with any loan acceleration or foreclosure proceedings he believes are appropriate.

**QUESTIONS:** If you have any questions, you may contact the Claims Administrator at 1-877-810-8110.

# **EXHIBIT B**

*In re Black Farmers Discrimination Litigation*  
Claims Administrator  
PO Box 4028  
Portland, OR 97208-4028

<<mail id>>  
<<Name1>>  
<<Name2>>  
<<Address1>>  
<<Address2>>  
<<City>><<State>><<Zip>>  
<<Foreign Country>>

Tracking Number: <<TR#>>

**A copy of this letter was sent to:**

<<Name 1>>  
<<Name 2>>  
<<Address 1>>  
<<Address 2>>  
<<City>><<State>><<Zip>>  
<<Foreign Country>>

**In re Black Farmers Discrimination Litigation**  
Civil Action No. 1:08-mc-0511 (PLF)

<<Date>>

**“TRACK B” CLAIM DETERMINATION FORM**

**PART I. CLAIMANT INFORMATION**

<<Claimant:>>  
<<Claimant’s Name (First, Middle, Last)>>  
<<Claimant’s Mailing Address>>  
<<City, State Zip>>

<<Attorney:>>  
<<Attorney’s Name (First, Middle, Last), if applicable>>  
<<Firm Name>>  
<<Attorney’s Mailing Address>>  
<<City, State Zip>>

<<Submitter:>>  
<<Submitter’s Name (First, Middle, Last), if applicable>>  
<<Submitter’s Mailing Address>>  
<<City, State Zip>>

<<Co-Claimant:>>  
<<Co-Claimant’s Name (First, Middle, Last)>>  
<<Co-Claimant’s Mailing Address>>  
<<City, State Zip>>

**PART II. SUMMARY OF CLAIM DETERMINATION**

The Track B claim that you submitted for the above-named Claimant to the Non-Judicial Claims Process under the Settlement Agreement in *In re Black Farmers Discrimination Litigation*, No. 1:08-mc-0511 (PLF) has been reviewed. A Court-appointed Neutral (“Track B Neutral”) has determined that the claim is **DENIED**.

### **PART III. EXPLANATION OF DENIED CLAIM**

Your claim is **DENIED** because:

- You failed to prove that you are an African-American farmer.
- You failed to prove that you farmed, or attempted to farm, between January 1, 1981 and December 31, 1996.
- You failed to prove that you owned or leased, or attempted to own or lease, farm land.
- You failed to prove that you applied for a specific farm credit transaction or non-credit benefit at a USDA office between January 1, 1981, and December 31, 1996.
- You failed to prove that the farm loan or non-credit benefit for which you applied was denied, provided late, approved for a lesser amount than requested, encumbered by a restrictive condition, or that USDA failed to provide an appropriate loan service.
- You failed to prove that USDA's treatment of your loan application was less favorable than that accorded a specifically identified similarly situated white farmer.
- You failed to prove that USDA's treatment of your loan or non-credit benefit application led to economic damage to you.
- You failed to prove that you complained of discrimination to an official of the United States Government on or before July 1, 1997, regarding USDA's treatment of you in response to your application.

**THIS DECISION IS FINAL. IT IS NOT REVIEWABLE BY THE CLAIMS ADMINISTRATOR, THE TRACK A NEUTRAL, THE TRACK B NEUTRAL, THE COURT, OR ANY OTHER PARTY OR BODY, JUDICIAL OR OTHERWISE.**

**IMPACT ON OUTSTANDING LOAN OBLIGATIONS:** Please note that if you, the Estate or Incapacitated Claimant on whose behalf you filed are not current on loan payments owed to the USDA, the Secretary of Agriculture may, in view of the denial of this claim, proceed immediately with any loan acceleration or foreclosure proceedings he believes are appropriate.

**QUESTIONS:** If you have any questions, you may contact the Claims Administrator at 1-877-810-8110.