

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

In re BLACK FARMERS DISCRIMINATION)
LITIGATION)

Misc. No. 08-0511 (PLF)

MEMORANDUM OPINION

This matter is before the Court on lead class counsel's motion [Dkt. No. 496] to designate cy pres beneficiaries and approve partial distribution of cy pres funds pursuant to the settlement agreement. The motion recommends that the Court designate twenty-five non-profit organizations as beneficiaries and distribute specific grant amounts to each under Phase I of the distribution process. Together, the motion recommends distributing up to \$4,308,425 of the total \$12,030,716 cy pres funds, which are the settlement funds remaining after all of the successful claimants have cashed their settlement checks or failed to cash their settlement checks within the time frame allowed by the Court. Specifically, the motion recommends that \$28,425 be distributed to the University of the District of Columbia School of Law under Section V.E.13(a) of the settlement agreement; \$4,180,000 be distributed to the Phase I grantees under Section V.E.13(b) of the settlement agreement; and up to \$100,000 be distributed to the Federation of Southern Cooperatives for the dedicated purpose of organizing and funding a Phase II Conference under the direction of class counsel.

The government filed its response on January 9, 2018, indicating that it would take no position on the motion. No formal opposition to the motion or objection to the proposal has been filed. The Court has received one informal objection, however, from the Black Belt Justice Center, an organization that class counsel did not recommend receive funding as part of

Phase I of the cy pres grant process. The Black Belt Justice Center's informal submission includes its grant application and a request for the Court's review.

Upon review of the motion, the Court sees no reason to find class counsel's recommendations to be unreasonable. To the contrary, a review of the motion and the attached exhibits demonstrates that the recommendations have resulted from a thoughtful process, with specific criteria for identifying and selecting eligible organizations, developed and implemented with the assistance of Farm Aid, Inc., and involving a panel of qualified decision-makers. The Court has confidence in this process and will not undertake a de novo review. The Court will grant the motion to designate the cy pres beneficiaries recommended by class counsel and approve the proposed distribution of funds.

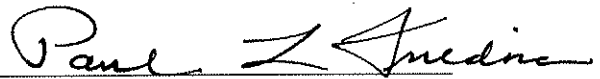
That said, in light of the Black Belt Justice Center's submission, the Court will direct class counsel to undertake a second review of the Black Belt Justice Center's application to determine whether it might be eligible for Phase I funding despite class counsel's initial recommendation. In addition, the Court encourages the Black Belt Justice Center, as well as any other interested applicants, to consult with class counsel regarding their eligibility for funding under Phase II of the cy pres grant process.

Finally, lead class counsel has proposed convening a meeting of Phase I cy pres grant recipient organizations, African-American farmers and ranchers, and other stakeholders for the purpose of developing a shared vision and identifying strategic priorities moving forward. The Court agrees that this "Phase II Conference" will be an important component of the cy pres process and that adequate funding is necessary to make the conference as inclusive and accessible as possible. The Court therefore will approve disbursement of up to \$100,000 of the cy pres funds to the Federation of Southern Cooperatives, an historically significant organization

and the largest of the proposed Phase I cy pres recipients, for the dedicated purpose of organizing and funding the proposed Phase II Conference under the direction of class counsel.

An Order consistent with this Memorandum Opinion shall issue this same day.

SO ORDERED.



PAUL L. FRIEDMAN
United States District Judge

DATE: 1/10/18