

# **The Pigford Shakedown: How the Black Farmers' Cause Was Hijacked by Politicians, Trial Lawyers & Community Organizers -- Leaving Us With a Billion Dollar Tab**

*By Gary Hewson, Peter Schweizer, and Andrew Breitbart*

“It [Pigford] is a fair settlement, it is a just settlement, we think it’s important for congress to fund that settlement. We’re going to continue to make it a priority.”

—President Obama, September 10, 2010 press conference

"[Pigford is] the largest scam against the federal taxpayers in the history of the United States."

—USDA Employee John Stringfellow

“Pigford is the biggest rip-off this country has ever known, and there are lots of people in positions of power that know it.”

—Jimmy Dismuke, Black Farmer and Pigford Whistleblower

When the Shirley Sherrod saga erupted on the nation’s airwaves this past July, most people took the immediate firing and then rehiring of Mrs. Sherrod as a morality tale about the dangers of the media and race in America. But to an experienced political

hand like former San Francisco Mayor Willie Brown, the story had to be about more than that. As he wrote: “As an old pro, though, I know you don’t fire someone without at least hearing their side of the story unless you want them gone in the first place. This woman has been a thorn in the side of the Agriculture Department for years. She was part of a class-action lawsuit against the department on behalf of black farmers in the South. For years, she has been operating a community activist organization not unlike ACORN.”

What Brown was referring to was *Pigford v. Glickman*, a lawsuit originally involving 400 farmers filed against the U.S. Department of Agriculture in 1997. And Brown was correct: Sherrod had played an important role in *Pigford*, including receiving the single biggest settlement on behalf of New Communities, Inc. But what Brown may not have fully understood are the deep veins of truth in what he had written. *Pigford* is not just a class-action lawsuit against Department of Agriculture. It is a festering case of widespread corruption. What began as a relatively small lawsuit has grown and become transformed into a multi-billion dollar, two-phase legal settlement costing American taxpayers billions of dollars. It is a classic story of a legitimate grievance by a small group of individuals that has been exploited and used for personal profit and political gain. And it is a saga of fraud and financial manipulation, which has been incubated by an activist judge, and exploited, by trial attorneys, activists, and politicians. It is the story of an FBI investigation thwarted, and USDA workers threatened and silenced. It is a tale of trial attorneys getting rich, activist groups using it for their political gain, and politicians using the settlement as a means of buying votes. And finally, it is a story that

we are apparently destined to repeat, as numerous other Pigford-like multi-billion dollar settlements are in the works, unless we get our politicians to do something about it.

Given the fraud that has occurred and the amount of taxpayer money at stake, this situation demands investigation by congress. There should be no new funds allocated for Pigford or Pigford-like settlements until the extent of the fraud can be fully understood and the situation rectified.

### *Pigford: The Beginning*

In the early 1990s there were several individual lawsuits filed by black farmers against the USDA alleging racial discrimination. Buried under a cloud of legal paperwork generated by government lawyers and the lack of compelling evidence, these cases never got anywhere. But in 1996, then USDA Secretary Dan Glickman gave a speech and apologized for racial discrimination at his department, which he said came in the form of denying loans and services to some black farmers in the south. This “self-admission” opened the door to new lawsuits, and one was filed in 1997 by Timothy Pigford (Pigford v. Glickman), a black farmer who alleged he was a victim of such discrimination.

Pigford, a farmer in North Carolina, appealed to the USDA’s lender of last resort, The Farmers Home Administration, after he was denied a loan to buy his rented farm. Four hundred other farmers soon joined him with similar claims of discrimination.<sup>i</sup>

There seems to be considerable evidence that some black farmers were denied access to timely loans and generally received unfavorable treatment by some USDA employees.

While the USDA did not admit to discrimination in a court of law, most observers believe that some discrimination did take place. Curiously, we are not able to find a single instance of an USDA employee being fired for acts of discrimination. Either the USDA found none of their employees did discriminate—which begs the question why settle—or the USDA allowed employees who did discriminate to keep their jobs. Both possibilities are worthy of further investigation.

On April 14, 1999, both the plaintiffs and the defense came to terms and a consent decree (basically a court-approved settlement) was filed. The decree was hammered out under the watchful eye of Judge Paul Friedman in Washington. Under the Pigford consent decree, USDA admitted no wrong-doing but agreed to institute some changes. They empowered a Civil Rights Action Team (CRAT) to look into the treatment of black farmers. CRAT issued a thick report confirming that black farmers had been denied equal access to credit.<sup>ii</sup>

### *Judge's Opinion*

In the opinion accompanying the Consent Decree, Judge Paul Friedman, a judge appointed by President Bill Clinton, hinted at what might lie ahead, arguing that the case was in his mind an opportunity to deal with more than the alleged discrimination at USDA and serve a larger purpose. His opinion began with an unequivocal reference to reparations, “Forty acres and a mule. As the Civil War drew to a close, the United States Government created the Freedmen’s Bureau to provide assistance to former slaves...” He went on: “These events were the culmination of a strong of broken promises that had

been made to African American farmers for well over a century. It is difficult to resist the impulse to try to undo all the broken promises and years of discrimination that have led to the precipitous decline in the number of African American famers in the United States. The Court has before it a proposed settlement of a class action lawsuit that will not undo all that has been done. Despite that fact, however, the Court finds that the settlement is a fair resolution of the claims brought in this case and a good first step towards assuring that the kind of discrimination that has been visited on African American farmers since Reconstruction will not continue into the next century. The Court therefore will approve the settlement.” The consent decree was about more than the USDA.

### *System of Compensation*

The USDA agreed to compensate African-American claimants under the consent decree if they met three conditions:

First, they had to have farmed or attempted to farm between January 1981 and December 31, 1996;

Second, they had to have applied to USDA for farm credit or program benefits and believe that the USDA on the basis of race discriminated against him or her;

Third, they needed to have made a complaint against the USDA on or before July 1, 1997. Hence, the discrimination was to have occurred between 1981 and 1996.

But many claims arrived *after* the cut-off date for filing a claim. The court received an additional 73,816 requests for permission to file a claim after the filing deadline.<sup>iii</sup>

The consent decree created two separate tracks for claimants under Pigford: **Track A** simply meant someone could file for compensation. If court-appointed adjudicator approved a farmer's claim, the farmer would be paid \$50,000 tax-free and would possibly have their government loans erased. African American newspapers reported that "most of the farmers were confident they would receive the \$50,000. 'Every one of us thought, 'Well, we're going to be paid.'"<sup>iv</sup> There were 22,000 claims filed on time, and of those fully 14,000 were actually paid off. In short, 64% of claims that arrived on time were accepted, only 36% were rejected.

**Track B** allowed farmers to have a hearing before a court-appointed independent arbitrator to seek larger damages.<sup>v</sup> Shirley Sherrod and her husband Charles chose this route. They had at one point operated New Communities Inc., a communal farm in Georgia, which was originally incorporated in 1969. By 1985 it was going broke and they suspended operations. By 1990 the farm had dissolved. But shortly after the consent decree authorizing payments was issued in 1999, New Communities was reformed, with Shirley Sherrod placed on the Board of Directors. Claiming discrimination, New Communities filed suit against the USDA and through arbitration they were awarded an almost \$13,000,000 settlement, the largest amount ever won through Pigford. (The second largest award, at least according to the public record, was \$675,000.) This included \$150,000 each for Charles and Shirley for "pain and suffering," as well as \$1.5

million in debt forgiveness.

On July 22, 2009, they received approval of their settlement. Three days the USDA later hired Shirley Sherrod. This was a remarkable turn of events. When was the last time you heard of a litigant hiring a plaintiff after the case was resolved?

Once the USDA signed the Consent Decree in 1999, the Department provided notice to potential claimants and took aggressive steps to advertise the class settlement. To get the word out, nearly a half a million dollars was spent on cable TV and newspaper ads, with special attention paid to African -American media outlets. Word began to spread that anyone who ever took a loan application, whether they were turned down or not, was eligible to get money.

By the time the consent decree was signed in April 1999, more than 18,000 black farmers had signed up for the settlement.<sup>vi</sup> As of today, the number of claimants has reached upwards of 94,000. How this happened is a testimony to the work of activists, politicians, and trial lawyers attempting to cash in on a lucrative government settlement by encouraging or at least turning a blind eye to fraudulent applications.

### *Lax Standards and Widespread Fraud*

Clovis Reed's mutilated corpse was found in a wooded area of Simpson County, Mississippi in 2003.

Reed was a government informant who had been killed by Kathleen Nelson and her boyfriend, Roosevelt Walker. Why did they want Mr. Reed dead? The three had been involved in a scheme to defraud the government through the Pigford settlement. Reed was killed because Nelson and Walker did not want him to testify about the embezzlement of Pigford money. According to one family member, all “were part of a scam to defraud the federal government of the money from the settlement between black farmers and the U.S. Department of Agriculture.” Nelson and Walker were sentenced to life in prison in 2006.<sup>vii</sup>

Fraudulent Pigford claims were relatively easy to file. The Consent Decree was positioned as a reasonable vehicle to compensate those farmers who were victims of racial discrimination by the federal government. But the numbers don't lie. The original estimate on *both sides* of the lawsuit was that the number of claimants would total between 1,000-4,000. But what started out, as a relatively small case of perhaps 4,000 claimants at most, is today a multi-billion dollar settlement with over 94,000 claimants. What makes that figure so problematic is that during the years the alleged racial discrimination took place (1981-1996), there were never more than 33,000 black farmers total in the entire United States according to the census bureau. What these numbers speak to is massive fraud.

Reed's grisly murder may have been the most dramatic act related to Pigford fraud, but it is far from the only criminal incident. Daniel Anew, an administrator at Elizabeth City State University traveled to Arkansas in 1999 where he attended a meeting in Pine Bluff and in the words of the Associated Press, “learned about a lucrative opportunity to scam

the U.S. government.” Told that the Pigford settlement was a “veiled way to collect reparations for centuries-old grievances,” Anew joined forces with fellow university administrator Emma Brooks and began filing false claims under Pigford. In all they were set to receive \$400,000 from the federal government. The Associated Press notes that the scam was hatched in part because “with minimal documentation, they could get payments of \$50,000.” Both were sentenced to prison time and restitution in 2005.<sup>viii</sup>

It would be easy to consider these as isolated incidents. But the reality is that the guidelines for proving discrimination were extremely lax. There were widespread reports of fraud under Pigford, which caught the attention of the FBI. Attempts by the bureau to look into fraudulent claims led activists to charge, “that the FBI has been harassing some recipients of the \$50,000 reward from the [Pigford] lawsuit.”<sup>ix</sup>

There was an FBI investigation launched, which included supervisory agents in Washington as well as agents in the field. One individual who participated in these FBI investigations, who prefers to stay anonymous (but is willing to cooperate openly with a congressional investigation), told us that they found numerous instances of fraud carried out under Pigford. This individual estimates that based on the FBI investigation, *at least half* of the claims filed under Pigford were false. But when U.S. attorneys were contacted with the information, they were reluctant to pursue them because of the politics involved. They were also concerned, according to this source, that they might be accused of engaging in “selective prosecution.” (Of course any prosecution of crime is in some instances selective because not all individuals who commit them will face justice.)

The investigation of Pigford fraud was eventually shut down—but not because of a lack of evidence.

In addition to the FBI investigation and criminal causes, there is widespread evidence of fraud that demands further investigation. Part of the problem is that the standards were not enforced. According to USDA General Counsel Marc Kesselman, claimants did not need to prove that they ever actually farmed -- *or ever applied for a loan*, only that they ‘attempted to farm.’”<sup>x</sup> Our source in the FBI investigation says that Judge Freidman eventually ruled that the USDA and federal government *could not even question, challenge, or investigate claimants* filing under Pigford, declaring that this would amount to harassment.

According to a current USDA employee who has worked at the department for more than 25 years, trial attorneys quickly caught on to the fact that the federal government does not keep records. According to his account, “There was a lot of fraud, people collected money that had never stepped in the door of a USDA office before. To get around the fact that they had to demonstrate they were denied services, they simply said we wouldn’t even give them an application. That was how they explained there was no evidence that they had ever even done business with the USDA.”<sup>xi</sup>

Considering there have never been more than 33,000 black farmers at anytime during the lawsuit’s stated time period, *and* a majority of these farmers never had loans or attempted to get loans from the USDA, the flood of applications for money set off alarm bells among USDA employees who watched the fraud first-hand. According to one

report, “Employees of USDA and others privy to the details of the settlement are blunt: they consider the vast majority of the claims to have been fraudulent.”<sup>xii</sup>

More than six current and former USDA employees report witnessing extensive fraud by Pigford applicants. (Several employees we spoke with asked to remain anonymous due to the retribution that they have faced over exposing the Pigford fraud.) One employee who helped process Pigford applications in Washington reports, “We saw claims come in from affluent areas. There were claims from Palm Beach and Palm Springs, and they said they were black farmers. One applicant said the Chicago USDA office discriminated them against. There is no USDA office in Chicago. They got paid anyway.”

Some of the claims of discrimination didn’t make sense. One employee reports that there were numerous claims of racial discrimination against the USDA offices in Jefferson County, Arkansas, for example, but the supervisors in that office were all black.

Another employee from Arkansas reports that there were literally hundreds of claims from black women stating they had been the victims of USDA discrimination but in his 15 years in Arkansas, he had only ever seen one black female applicant for a loan.

Still another USDA employee reports that he personally witnessed an example where eight Pigford applicants came from one single family, and they were accepted and granted by USDA. “Pigford was basically legalized extortion,” reports this USDA employee, “it reached the point where they were just handing money to people.”

Since Pigford applicants had to name a USDA employee they had dealt with on their claim form, once applicants found certain names that “worked,” word spread and those same names started being used all over. One-employee reports, “I had Pigford claims filed against me, but they put me at the wrong location. I had to develop a chronology listing where I had worked and in which USDA office so they could see that the claims of discrimination simply didn’t make sense. I was never there. The time they would claim I denied them USDA services didn’t add up because I was never there!” This employee, and other USDA employees we interviewed concur, that some discrimination no doubt took place. But they believe the numbers of total cases had to be around 100, not the nearly hundred thousand that were claimed.

USDA was all too eager to simply write the checks. “The legal standard was supposed to be a preponderance of evidence,” says one employee, “but soon they pretty much gave money to whoever filled out a form.”

“I was assigned in Washington to process claims,” reports still another employee. “The claimant would get \$50,000, and \$12,500 would go to the Internal Revenue Service [Pigford payments are tax free]. And another \$12,500 would go to an attorney who helped prepare the documentation. It was very lucrative for attorneys. Do the math.” He goes on to describe how he saw a dozen applications done in the exact same handwriting with almost exactly similar descriptions of the alleged discrimination, with only the names and addresses changed at the top for the separate applications.

He continues: “All people basically had to do was fill out a form. In Washington they didn’t want to hear about anything other than getting claims processed. I personally witnessed cases where the person in charge, [name redacted for now], told us to tweak applications to help get them through. If they were missing information or something, we were supposed to add it to help it get approved.”

Jimmy Dismuke is a member of the Black Farmers of America and has a 200-acre farm in Arkansas. He filed one of the earliest racial discrimination lawsuits against the USDA. As he told us in an interview, “Most of the Arkansas white farmers were getting debt written off and were getting loans. The state offices were corrupt, and a lot of loan officers would get kick backs from farmers. We were denied services. I was one of the original Pigford claimants.”

But Dismuke is appalled at the fraud that has taken place. “I saw the fraud coming. Whenever you put money out there, people are going to take advantage, regardless of your color. I personally know that drug addicts and all sorts of shady people got paid in Pigford.”

The startling number of claimants (over 90,000) has not escaped the notice of Rep. Steven King (R-IA), who is on the House Agriculture Committee. He has been studying the Pigford settlement for some time and stated in a recent interview that he believes at least 75% of the claims appear to be fraudulent. Likewise, former Secretary of Agriculture Ed Shafer believes that widespread fraud has occurred and requires congressional attention.

Some USDA employees have gone on record about what they saw. Tom Kalil was a USDA loan officer. "You didn't even have to live in the rural community. Heck, somebody from here in the Washington area could have been passing through a rural community and decided that they would have liked to farm and put in an application."

John Stringfellow, a farm service agent who supervises farm loan programs in six Arkansas counties, sent a letter to a U.S. Senator requesting help in getting the USDA's Inspector General to investigate Pigford, which he called "the largest scam against the federal taxpayers in the history of the United States." At the time he wrote the letter, he had personally received about 800 claims. According to Stringfellow, "over 80 percent of the claimants have never filed an application and in many cases have never been in an FSA office for the program which they claim they were discriminated against." He said that over 80 percent had never farmed in the years claimed.<sup>xiii</sup>

Stringfellow went on to state that he found government employees filing claims. "I am aware of four FSA employees who are black women claimants. They have never applied for farm program loans with FSA." This last point shows that even USDA employees started scamming. According to Kalil, one employee who collected money was [name redacted], formerly the Acting Administrator for [name redacted] and a Clinton political appointee.

Backing up the Stringfellow's and Kalil's suspicions were black farming advocate groups that were witnessing similar large-scale fraud. Concerned Black Farmers of Tennessee, for example, tracked 70 individual Pigford claims in Tipton County and found that 63

percent of those that were approved had no records to establish that they had ever even farmed. Yet, each of those individuals received a check from USDA for \$50,000.<sup>xiv</sup>

BFAA (Black Farmers and Agriculturalists Association: a pro-Pigford group) officer Eddie Slaughter discloses the known fraud bluntly by citing USDA information. He notes that fewer than 10 percent of the claims paid out under Pigford had loans with USDA that were identified for cancellation. "What that means," says Slaughter, "is that most of these people were never farmers, because the farmers had loans."<sup>xv</sup>

### *Turning a Blind Eye and Buying the Southern Rural Vote*

The fact that widespread fraud occurred does not seem to be in dispute. No one seriously challenges the fact that at least half of all Pigford claims are fraudulent. The question then becomes, why has seemingly everyone turned a blind eye to it?

For many activists, the fraud does not present a problem because they view Pigford as less about black farmers and more about reparations in general. Gary Grant, President of the BFAA, for example, says he really doesn't have a problem with non-farmers getting government settlement checks under Pigford. "If you are an African-American, you deserve \$50,000 because your roots are in farming and your folks have already been cheated," he says. "You are collecting what your grandparents didn't have the opportunity to."<sup>xvi</sup> Indeed, Grant believes that the Pigford settlement is really just a down payment on a larger issue: reparations.

But it is unlikely that such racial politics could have succeeded were it not for the alliance they were able to strike with members of congress and presidential candidates who joined the Pigford bandwagon. Some of them possibly joined out of a sincere belief that they were simply redressing a historical wrong. But others clearly saw this as an opportunity to expand their own political fortunes. It is curious to note that the three big pushes for Pigford have occurred right before three national elections: 1999, 2007, and now 2010. An the alarming theory has been put forth by USDA whistleblower Thomas Kalil: he maintains that Pigford was designed to buy the rural vote for Al Gore and the Democratic party in the 2000 election.

"They needed this election," Kalil said back in 2000. "A huge rural turnout to help Mr. Gore receive the presidency." He went on: "I would suggest hundreds of thousands of votes were influenced in this election as a result of what I consider to be a huge violation of justice and abuse of power and abuse of the system and abuse of the American taxpayer."[xvii](#)

One of the most fascinating pieces of information culled from BFAA Vice President Dr. Ridgely Muhammad's website and newsletter dated March 3, 2000 backs up the accusations of Thomas Kalil. (Dr. Muhammad runs a farm in Georgia called Muhammad farms and is also the "Agriculture Minister" for Louis Farrakhan's Nation of Islam.) After going to a Pigford court hearing in March of 2000, Dr. Muhammad, BFAA Founder Gary Grant, and other BFAA members went to the USDA building to demand a meeting with then Secretary Dan Glickman and to put pressure on them to pay more litigants and to stop foreclosures of black farms. Mr. Paul Fiddick, Assistant Secretary-

Administration, met them. Mr. Fiddick told them that Glickman was not in the building. Dr Ridgely Muhammad then delivered a very clear threat to Glickman and Presidential hopeful Al Gore:

[I] asked him to listen very carefully and deliver a message to Dan Glickman for Al Gore. "Since you can just listen, then pass this on. If Dan Glickman ain't cleaned up this mess with the Black farmers, that is give them their money, *then he can tell Al Gore that he will not be president of these United States*. See you next Monday and bring Dan with you.

Many of the actual farmers who were to benefit most from the settlement watched in awe as the Clinton/Gore Administration handed money out to non-farmers who lived in urban projects. From a 2001 article from Insight:

Today, many of the black farmers Insight interviewed in Virginia, Georgia and North Carolina believe that the government wants to take their land away from them. They say the USDA settlement, which provides \$50,000 in cash plus a promise of debt relief to farmers who can prove they were unfairly treated when seeking loans in the 1980s and 1990s, had been doled out by the Clinton administration primarily to people who are not active farmers, many of whom live in urban housing projects. Meanwhile, real farmers with real cases of discrimination were losing their land as they were shut out of the settlement and the USDA foreclosed on their property.

## *Pigford II*

With so many applications for Pigford money filed after the deadline, legislation was sponsored by then-Senator Barack Obama to allow for a new round of claims. This became known as “Pigford II.” Obama declared publicly that he was “especially proud” of his Pigford legislation.<sup>xviii</sup>

Pigford II allowed farmers who had missed the deadline for Pigford I to file before June 19, 2008. According to Congressman Bennie Thompson, the Pigford II settlement agreement provided:

--“A non-judicial claims process through which individuals may demonstrate their entitlement to damages and debt relief.”

--“A structure for distributing a total of \$1.25 billion, to redress claims made by late-filing black farmers that USDA discriminated against them in the provision of certain USDA farm programs.”

--An expedited claims process, called ‘Track A,’ designed to provide quick relief of up to \$50,000 plus debt relief.”

--“An actual damages claim process, called ‘Track B,’ designed to provide relief to claimants who can provide their actual damages, up to \$250,000, through a more rigorous claims process.”

--“A moratorium on foreclosures of most claimants’ farms until after claimants’ have gone through the claims process or the secretary of Agriculture is notified that a claim has been denied.”<sup>xix</sup>

To get Pigford II funding after reopening the application process, BFAA founder Gary Grant reached out to then Senator Obama who had just sponsored a bill to get the Pigford suit re-opened. Pigford II, as it is now called, re-opened the settlement to include 60,000 additional late claimants at a cost to American taxpayers of approximately \$1.25 billion. Coincidentally, then Senator Obama, who had been in Congress since January 2005, waited 6 months after he announced his presidential run to introduce S.1989: the Pigford Claims Remedy Act of 2007. It had no co-sponsors when introduced on August 3, 2007. <sup>xx</sup> The issue had little application in his state. Illinois had a grand total of 171 black farmers in 2007, it seems like an interesting choice of issues to champion.<sup>xxi</sup>

In a letter to then-Senator Obama, Mr. Grant conveyed to Obama that if he attends an event, he will be rewarded with campaign contributions, and even more precious, votes:

February 3, 2008

Via Fax: (202) 228-4260 fax

The Honorable Barack Obama  
713 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Obama:

When I wrote to you initially (12/2/07) requesting you to speak at the 10th National Black Land Loss Summit, it was as your status as A Senator from Illinois who had supported Black farmers across the country by offering up an amendment to the 2007 Farm Bill supporting late claimers in the historic Pigford Class Action... My third and fourth letters (3rd letter 1/22/08) began to address the possibility of support for your campaign and citizens from across the country making the same request with financial support if they so desired.

Black land loss is not a North Carolina issue, and evidently you are aware of this or you would not have introduced the amendment to the 2007 Farm Bill to support the late Pigford Claimants. Your support for the Pigford Class late claims is admirable....

Also, to my knowledge, the last presidential candidate who came through northeastern North Carolina with a message of "hope" was not disappointed in the reception that he found both in numbers and dollars. We could, and still can, have people to stand by you in the same manner.

Wishing you all the best,

Gary R. Grant

President, BFAA

Obama's leadership on pushing this legislation through seems to have served him well politically. This article from *The Hill* tells how Obama's supporters get him onto the Pigford bandwagon to get rural black votes:

Supporters of Obama's presidential campaign argued the then-Illinois senator's move to resolve late Pigford claims would endear him to Southern black voters during the tough Democratic primary race against former Sen. Hillary Rodham Clinton (D-N.Y.). At the time of the bill's introduction in 2007, Obama was finding his footing as a candidate and polls suggested he was struggling to attract black voters. He later won almost unanimously among this group against Clinton and then in the general election against Sen. John McCain (R-Ariz.).<sup>xxii</sup>

One of these supporters was Representative Artur Davis (D) of Alabama. He has been a very vocal supporter for the Pigford lawsuit, and a member of the Congressional Black Caucus. In a September 2007 article in *The Hill* entitled "As Champion of the Black Farmer, Obama could win Southern Votes", Davis discusses the politics of Pigford and his role of bringing Senator Obama into the issue and why:

Davis, who has endorsed Obama, rattles off the Alabama, Arkansas, South Carolina, Tennessee and Georgia primaries as elections where a sizable number of voters will care about a candidate's stance on Pigford.

The Pigford settlement, an obscure issue to most voters, doesn't even merit an entry on Wikipedia. It is critical, however, among some key Democratic constituencies in the South.

"I have yet to do a town hall meeting and not have someone ask me about the settlement," said Rep. Artur Davis (D-Ala.), who helped bring the matter to Obama's attention. "It's a supremely large issue in the black rural community in the South."

Several pro-Pigford black farmer activist groups threw their considerable membership base and voter-turnout operations behind then-candidate Obama after Obama introduced legislation to re-open the suit to tens of thousands more claimants. One organization, the National Black Farmers Association (NBFA), was instrumental in helping Obama with the rural vote in 12 states for both the Democratic primary and his 2008 presidential victory:

The NBFA, it should be noted, was crucial to the President back when he was on the campaign trail, and they worked hard to get the vote out for him in the South, where the black vote was swinging toward Hillary Clinton (yes, that's difficult to believe today, but the Southern race was incredibly contested).<sup>[xxiii](#)</sup>

When President Obama came into office, one of his first acts was to advocate a settlement for Pigford II. Along with Secretary of the Agriculture Tom Vilsack, the new administration announced in February 2010 that a settlement had been reached on Pigford II. Attorney General Eric Holder was also involved in this decision. Vilsack said, “I’m going to focus all my time and resources to making [Pigford] happen.” Holder declared, “The plaintiffs can move forward and have their claims heard—with the federal government standing not as an adversary, but as a partner.” [xxiv](#)

There was \$100 million available for new claims, but the rest needed to be appropriated by congress. When the issue came up in the summer of 2010, it was expected to pass, but the Shirley Sherrod case changed everything.<sup>xxv</sup>

*Trial Attorneys: The March Towards \$10 Billion in Taxpayer-Funded Settlements*

We have seen how activist groups and elected officials have had incentives to turn a blind eye to widespread fraud occurring under Pigford. The third leg of this stool is the trial attorneys, who have managed to make very good money filing Pigford claims.

Activist trial lawyers who have seen Pigford as a payday for themselves have played a central role in this drama. Jimmy Dismuke, one of the original litigants before Pigford says that lawyers were uninterested in the issue at first because “it wasn’t going to be a huge amount of money for themselves.” But trial lawyers Alexander Pires, who served as

the lead attorney in *Pigford v. Glickman*, saw an opening after Glickman's apology to make a case and turn the farmer's cause into a multi-billion dollar class action suit. Dismuke and two USDA employees report that Pires would regularly hold fish fries in Arkansas with certain USDA employees in search of litigants and people that he could sign up for *Pigford*. These USDA employees would consult with filers and help them fill out all of the necessary paperwork to navigate the *Pigford* claim. He profited handsomely for his legal work on *Pigford* (estimates of his take range from \$15 million to more than \$100 million).

There is some bitterness in the black community over this payday for the legal community. Some black farmers and activist groups have filed suit stating, "Attorneys for the plaintiffs got paid more than the plaintiffs."<sup>xxvi</sup> Former Congresswoman Cynthia McKinney reflected this sentiment when she wrote: "Claimants, who are not necessarily farmers, have been paid out of the judgment fund. Meanwhile, class counsel (Alexander Pires), the adjudicators (Poorman Douglas), the arbitrator (Michael Lewis), the DOJ (USDA is paying DOJ), the facilitator (JAM in Dispute), the monitor (Randy Ross) were all paid over \$300 million dollars of taxpayer money, yet actual Black Farmers are yet to be made whole."<sup>xxvii</sup>

There are numerous reports of attorneys making money off of *Pigford* claims, legitimate and fraudulent. Several sources report on an attorney in Pine Bluff, Arkansas, [name redacted] who was literally behind hundreds of *Pigford* filings, for which this individual would take a cut of the \$50,000 going to the claimant. This could amount to \$20,000 or more in some instances.

It seems that Pires and the other attorneys may also be partially to blame for much of the filing fraud in Pigford. USDA sources told one publication that Pires was trying “push paper as fast as possible to avoid the fines and that inevitably undeserving claims are getting through.” BFAA Vice President Slaughter told the same publication; “The biggest problem now is that they want to stop paying the farmers because there is too much fraud in the system.”<sup>xxviii</sup>

Even more lucrative for Pires and other trial attorneys, however, is the fact that Pigford has also opened the door for similar Pigford-like settlements involving Hispanic, Native American, and Women farmers.

Pigford in effect serves as a template for legal actions on the behalf of native American farmers, Hispanic farmers, and women farmers: added to Pigford I and II, these USDA lawsuits could cost U.S. taxpayers close to \$10 Billion. As the National Legal and Policy Center reports:

As could have been predicted, other aggrieved classes of “farmers,” inspired by the original Pigford settlement, have brought forward civil suits of their own. In 2000, a group of Hispanic farmers (*Garcia v. Vilsack*) went to federal court to get their piece of the pie. The lead plaintiff, Lupe Garcia, a spokesperson for Justice for Hispanic Farmers, last year stated, “Tim Pigford knows exactly how much we have suffered from USDA's decades of discrimination - because the same thing happened to him and his fellow African-American plaintiffs.” That same year, a

group of women likewise filed suit in *Love v. Vilsack*. The plaintiffs are demanding compensation for USDA loan denials to women who farmed or "attempted to farm" during January 1, 1981-December 31, 1996 and during October 19, 1998-present. And the year before, in 1999, a group of American Indian farmers and ranchers had filed their own suit against the USDA, demanding \$1 million in damages for each claimant. In a prepared statement this past February, the lead plaintiffs in the case, *Keepseagle v. Vilsack*, affirmed their position: "We applaud the president's (Obama's) decision to compensate black farmers and ranchers for the decades of wrongful discrimination committed by the USDA and his goal of putting that shameful era behind us. As our nation's first farmers and ranchers, Native Americans have also suffered from the USDA's history of discrimination, and we too should be made whole."[xxix](#)

It has recently been reported that the federal government is offering another \$1.3 billion for Hispanic and women farmers.[xxx](#)

### *Conclusion*

This embezzlement of taxpayer money, possibly to the tune of billions of dollars, demands congressional attention. At the very least, it would seem prudent to have a congressional investigation into the very real possibility that over a billion dollars of taxpayer money is going to fraudulent claims into what ostensibly began as a legitimate grievance by a few thousand black farmers. In short:

-People have been murdered over Pigford in multiple, documented crime rings formed specifically to abuse this settlement.

- Black farmers who suffered discrimination at the hands of the USDA are being crowded out by tens of thousands of fraudulent “farmers” abusing the lax settlement terms and complete lack of oversight

-BOTH proponents have documented millions if not billions in fraud and opponents alike including: the FBI, an ex-USDA Secretary, Members of Congress, USDA whistleblowers, and multiple officers of the Black Farmers and Agriculturalists Association

-National elections in at least 3 election cycles since 1999 may have been swayed by Pigford: including the Democratic presidential primary race and the Presidential race of 2008 won by Barack Obama.

As of this writing, the President and a large group of politicians in the House and the Senate are pushing for the funding allocation of \$1.25 billion for Pigford II. In light of this report, Pigford I must be investigated fully before another penny is allocated for Pigford II.

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<sup>xxvi</sup> Columbus Times (Columbus, GA), June 17-June 23, 2004 p2

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