

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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GUADALUPE L. GARCIA, JR., <u>et al.</u> ,	)	Case No. 1:00-CV-02445 (JR)
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
	)	
ANN VENEMAN, Secretary of the	)	
United States Department of Agriculture,	)	
	)	
Defendant.	)	

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**DEFENDANT'S ANSWER TO  
SECOND AMENDED CLASS ACTION COMPLAINT\***

Ann M. Veneman, Secretary of Agriculture, answers plaintiffs' Second Amended Class Action Complaint, as follows:

**FIRST DEFENSE**

Plaintiffs' claims are barred by applicable statutes of limitation.

**SECOND DEFENSE**

Plaintiffs' claims are barred by the doctrine of laches.

**THIRD DEFENSE**

Plaintiffs' claims are barred by the doctrine of estoppel.

**FOURTH DEFENSE**

Plaintiffs' claims for monetary relief are barred by the doctrine of sovereign immunity.

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\* To avoid confusion, it should be noted that plaintiffs have mislabeled the heading of the corrected Second Amended Class Action Complaint, filed on February 8, 2001, as "First" Amended Class Action Complaint. See Pls' 2d Amended Compl. at 14.

**FIFTH DEFENSE**

Plaintiffs' claims are barred to the extent that plaintiffs failed to exhaust their administrative remedies.

**SIXTH DEFENSE**

The claims of plaintiffs that have been adjudicated are barred by the doctrine of res judicata.

**SEVENTH DEFENSE**

Plaintiffs and their claims are improperly joined.

**EIGHTH DEFENSE**

Plaintiffs have failed to state claims upon which relief may be granted.

**NINTH DEFENSE**

With respect to the correspondingly titled or numbered paragraphs of the Second Amended Class Action Complaint, defendant answers as follows:

Paragraphs entitled "Nature of the Case." Defendant admits that in February 1997, a report entitled "Civil Rights at the United States Department of Agriculture" ("CRAT Report") and a report entitled "Office of Inspector General U.S. Department of Agriculture Evaluation Report for the Secretary on Civil Rights Issues — Phase I" ("OIG Phase I Report") were issued. Defendant denies the remaining allegations in these paragraphs.

1. Defendant avers that the allegations of this paragraph are conclusions of law to which no response is required.

2. Defendant denies that plaintiffs' claim arose in this judicial district and avers that should class certification be denied in this action, this Court, pursuant to 28 U.S.C. § 1404(a),

should transfer the individual plaintiffs' actions to the judicial districts where each of the individual plaintiffs resides and where the events or omissions giving rise to the claim occurred.

3. Defendant admits the first, third and fifth sentences. Defendant denies the second sentence, except to admit that Guadalupe L. Garcia, Jr. was a partner in the G.A. Garcia and Sons Farm partnership; that Mr. Garcia had a separate farming operation from the partnership; and that he had obtained FSA loans for that separate farming operation as an individual borrower. Defendant denies the fourth sentence, except to admit that the G.A. Garcia and Sons Farm partnership owned two farms.

4. Defendant denies the first sentence, except to admit that on May 28, 1986, Mr. Garcia submitted an application requesting restructuring of existing loans and a new limited resource farm ownership loan; and that FSA denied the application because of his past repayment history and the lack of feasibility in his Farm and Home Plan. Defendant denies the second sentence, except to admit that Mr. Garcia's application for loan servicing, submitted in April 1987, was denied. Defendant denies the third sentence. Defendant denies the fourth sentence, except to admit that in July 1997, Mr. Garcia filed a motion with the U.S. Bankruptcy Court for the District of New Mexico to sell a portion of the real estate; that FSA objected to the motion because the Garcias' confirmed Chapter 12 bankruptcy plan called for a sale of the entire property and because the Garcias were not meeting the requirements of the confirmed bankruptcy plan. Defendant denies the fifth, sixth and seventh sentences, except to admit that G.A. Garcia and Sons Farm's land was sold at a foreclosure sale; and that the foreclosure was initiated and conducted by the second lien holder, Community First National Bank, which was the successful bidder at the foreclosure sale.

5. Defendant denies the first, second, fourth and fifth sentences, except to admit that on April 14, 2000, Mr. Garcia filed an administrative complaint with the Office of Civil Rights alleging discrimination on the basis of his national origin. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations in the third sentence.

6. Defendant admits the first and second sentences. Defendant is without sufficient knowledge or information to form a belief as to the truth of allegations in the third sentence.

7. Defendant denies the first and third sentences. Defendant denies the second sentence, except to admit that short-term credit was important to farm operation, and to aver that the Jimenezes' 1989 Farm and Home Plan called for the Farmers and Merchants Bank to provide \$15,000.00 of short term credit for operating purposes. Defendant denies the fourth sentence, and avers that FSA record does not reflect that the Jimenezes applied for an operating loan in 1990. Defendant denies the fifth sentence, except to admit that the Jimenezes submitted an operating loan application on August 13, 1991 for the amount of \$150,000, and that on September 4, 1991, that application was denied for inadequate repayment ability. Defendant denies the sixth sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations in the seventh and eighth sentences, except to admit that in 1992, FSA did not grant the Jimenezes a 60-day extension as they had requested. Defendant denies the ninth sentence, except to admit that on December 6, 1995, the Jimenezes paid \$51,958 to bring their delinquent loan account current through January 1, 1995. Defendant denies the tenth and eleventh sentences, except to admit that on October 29, 1998, and again on August 11, 2000, FSA advised the Jimenezes that they were not eligible for loan servicing.

8. Defendant denies the first sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations in the second sentence, except to admit that on September 11, 1999, the Jimenezes filed an administrative complaint with the Office of Civil Rights, alleging discrimination based on national origin/race, and to deny that the complaint was never acted upon.

9. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations in the first and second sentences. Defendant denies the third sentence, except to admit that FSA record reflects that there were a few years between 1972 and 1986 when Mr. Flores farmed closed to 300 acres. Defendant admits the fourth sentence.

10. Defendant denies the allegations in this paragraph.

11. Defendant denies the allegations in this paragraph, except to admit that on February 25, 1985, Edward and Norma Flores applied for an emergency loan; that the county committee determined them eligible on March 27, 1985; that the emergency loan calculations were completed that same day; that two loans – an operating loan for \$101,230 and an emergency loan for \$73,070 – were approved on April 8, 1985; and that the funds for the two FSA loans were obligated on April 11 and 17, 1985 and closed on May 3, 1985.

12. Defendant denies the first and second sentences, except to admit that Edward Flores submitted an operating loan application on February 13, 1986; that the application was submitted to the county committee and determined eligible that same day; that Mr. Flores's FSA debt had to be restructured to accommodate a subordination request from his other lender, the Federal Land Bank; that FSA restructured Mr. Flores's debts and approved a \$20,000 operating loan on April 18, 1986; and that the loan was funded on April 22 and closed on May 13, 1986.

Defendant denies the third and fourth sentences, except to aver that FSA did not take a mortgage on the 1986 operating loan, and that the operating loan was consolidated with Mr. Flores's 1985 operating loan, which was secured by equipment and real estate.

13. Defendant denies the allegations in this paragraph, except to admit that FSA was offering lower interest rates than 14%; and that the Floreses were facing foreclosure by the Federal Land Bank.

14. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations in the first and third sentences. Defendant denies the second sentence.

15. Defendant denies the allegations in this paragraph, and avers that the Federal Land Bank had already foreclosed its mortgage on Mr. Flores' farm on December 15, 1987.

16. Defendant denies that FSA discriminated against Mr. and Mrs. Flores; otherwise, defendant is without sufficient knowledge or information to form a belief as to the truth of allegations in this paragraph.

17. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations in the first, second and third sentences, except to admit that Gloria P. Moralez Orduno was a resident of Fresno County, California and a farmer until at least 1994. Defendant admits the fourth and fifth sentences, except to aver that Ms. Moralez leased her property to third parties beginning in November 1994. Defendant denies the sixth sentence, except to admit that Ms. Moralez sold her land on December 30, 1998.

18. Defendant admits the first sentence. Defendant denies the second sentence. Defendant denies the third, fourth, fifth and sixth sentences, except to aver that one of the loan eligibility requirements for a farm ownership loan was whether the applicant has sufficient

training or farming experience to assure reasonable prospect of success in the proposed farming operation; and that FSA routinely required loan applicants to provide a narrative of their background and farming experience in making that eligibility determination. Defendant denies the seventh, eighth, ninth, tenth and eleventh sentences, except to admit that on February 6, 1980, the county supervisor denied Ms. Morales's loan application because, among other reasons, Ms. Morales was proposing to pay \$45,000 above the appraised value of the land and that the adequacy of water supply was questionable; that on February 20, 1980 Ms. Morales supplied additional information regarding the adequacy of the water supply; that on February 25, 1980, the appraised value of the land to be purchased by Ms. Morales was adjusted from \$260,000 to \$305,000 based on further inspection and new information; and that on March 5, 1980, the FSA state office approved Ms. Morales's loan application.

19. Defendant denies the first, second, third and fourth sentences, except to admit that on September 19, 1980, Ms. Morales submitted an application for farm operating, capital, and equipment loan; that the application outlined only \$21,500 worth of equipment; that a loan for \$57,550 was closed on January 1981, of which \$21,800 was for equipment purchase; and that an additional loan of \$4,500 was approved on February 10, 1981 for equipment purchase. Defendant admits the fifth sentence. Defendant denies the sixth and seventh sentences. Defendant admits the eighth sentence, except to aver that Ms. Morales was determined ineligible to obtain another FSA loan.

20. Defendant denies the first, second and third sentences, except to admit that FSA denied Ms. Morales's request for disaster program payments in 1983; that in 1985, Ms. Morales

was found to be ineligible for a Debt Set Aside; and that in 1989, she was similarly found ineligible for 1951-S loan servicing. Defendant denies the fourth sentence.

21. Defendant admits the Ms. Morales applied for disaster payments in 1993, but is otherwise without sufficient knowledge or information to form a belief as to the truth of the allegations in the remainder of the first sentence. Defendant denies the second sentence, except to admit that FSA record suggests that Ms. Morales lost 57% of her 1993 grape crop. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations in the third, fourth, fifth, sixth and seventh sentences, except to admit that Ms. Morales submitted two disaster payment applications in connection with her 1993 crops. Defendant admits the eighth sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations in ninth sentence, except to aver that by regulation, court reporters for the hearing must be secured by the county committee; that the county committee did not allow Ms. Morales to use her own court reporter; and that FSA offered to postpone the meeting to obtain a court reporter arranged for by the county committee. Defendant denies the tenth sentence.

22. Defendant denies the first sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations in the second sentence, except to admit that Ms. Morales did file for Chapter 12 bankruptcy protection in January 1994. Defendant denies the third sentence. Defendant denies the fourth sentence. Defendant denies the fifth sentence, except to admit that FSA did order a check in the amount of \$259,683 when preparing to bid at a foreclosure sale scheduled for October 8, 1992 by a prior lien holder; that

FSA did so in order to protect its junior security interest in the real estate; and that this foreclosure sale never occurred.

23. Defendant denies the allegations in this paragraph, except to admit that Office of Civil Rights' records reflect that on June 25, 1994, Ms. Morales filed an administrative complaint alleging discrimination on the basis of her national origin (Hispanic) regarding the denial of disaster payments in 1993; that on June 10, 1996, the Office of Civil Rights issued a final agency decision on that complaint; that the agency decision was signed by then Assistant Secretary for Administration Wardell Townsend; and that on September 7, 1999, Ms. Morales filed an administrative complaint alleging discrimination on the basis of her race (Hispanic/Mexican) and gender regarding the denial of disaster payments.

24. Defendant denies the allegations in this paragraph.

25. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph; therefore, defendant denies the allegations in this paragraph.

26. Defendant denies that FSA discriminated against Mr. and Mrs. Garza, and is otherwise without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph.

27. Defendant denies the allegations in this paragraph.

28. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations in the first, second, third, fourth, fifth and sixth sentences, except to admit that Larry and Robert Chavarria are Hispanic American farmers from Kings County, California

and have been farming as a partnership. Defendant denies the seventh sentence, and avers that the allegations in this sentence are inconsistent with plaintiffs' allegations in paragraph 29.

29. Defendant admits the first and second sentences. Defendant admits that Larry and Robert Chavarria filed an emergency loan application on January 29, 1997, and is otherwise without sufficient knowledge or information to form a belief as to the truth of the allegations in the remainder of the third sentence. Defendant denies the fourth sentence, except to admit that the Chavarrias' emergency loan application was denied on July 10, 1997 because their Farm and Home Plan lacked feasibility and repayment ability; and that the decision was ultimately reversed by the National Appeals Division. Defendant denies the fifth sentence.

30. Defendant admits the first sentence. Defendant denies the second sentence and avers that the NAD hearing officer's findings and conclusions speak for themselves.

31. Defendant denies the first sentence. Defendant denies the first clause of the second sentence and avers that the Chavarrias' request for Production Flexibility Contract payments for their 1997 crops is still in dispute status between the Chavarrias and third parties; that the Chavarrias have failed to exercise any of the options provided them regarding these payments; and that the time frame for receiving such payments expires on September 3, 2002. Defendant denies the second clause of the second sentence, except to admit that on November 10, 1998 and again on April 4, 1999, FSA notified the Chavarrias of the availability of a Disaster Set Aside Assistance Program; that the application deadline was June 1, 1999; that the Chavarrias did not file their application until September 20, 1999; and that FSA denied their application on January 3, 2000.

32. Defendant denies the allegations in this paragraph.

33. Defendant denies the allegations in this paragraph, except to admit that on January 3, 2000, Larry and Robert Chavarria filed an administrative complaint of discrimination on the basis of their race regarding FSA's denial of their emergency loan application; that the case was closed on April 28, 2000; that a notification was sent on the same day to the Chavarrias but was returned to the Office of Civil Rights; and that the notification was later resent to the Chavarrias.

34. Defendant denies the allegations of this paragraph, except to admit that Ann Veneman is the Secretary of Agriculture and is ultimately responsible for the implementation of all statutes, regulations, and programs that apply to, or are implemented or administered by, the United States Department of Agriculture ("USDA").

35. Defendant admits that the FSA was created in 1994. Defendant denies the remainder of this paragraph, although defendant avers that various allegations of this paragraph constitute a general description of certain functions of the FSA, the former Agricultural Stabilization and Conservation Service ("ASCS"), and the former Farmers Home Administration ("FmHA").

36. Defendant admits that the FmHA was created decades ago. Defendant denies the remainder of this paragraph, although defendant avers that various allegations of this paragraph constitute a general description of certain functions of the former FmHA.

37. Defendant denies this paragraph, although defendant avers that various allegations of this paragraph constitute a general description of certain functions of the former ASCS and the FSA.

38. Defendant denies this paragraph, except to admit that Anne M. Veneman is the official ultimately responsible for the administration of the FSA and that the Director of the

National Appeals Division ("NAD") of USDA is the official ultimately responsible for rendering final decisions on administrative appeals.

39. Defendant admits that the application process for FSA farm loans is governed by, inter alia, 7 C.F.R. §§ 1910 et seq., and that these regulations include requirements for completion of a Farm and Home Plan ("FHP"). Defendant admits that the application process for programs formerly administered by ASCS is governed by, inter alia, 7 C.F.R. § 1477. Defendant respectfully refers the Court to the cited regulations for a complete and accurate statement of their contents. Defendant denies the remainder of this paragraph.

40. Defendant admits that former FmHA program regulations provided that completed loan applications were to be presented to the appropriate FmHA county committee. Defendant also admits that the Equal Credit Opportunity Act prohibits discrimination based on race, color, religion, national origin, sex or marital status, or age, and avers that farmers who believed that they had been the subject of discrimination in FmHA's farm programs could file complaints with offices within USDA; and that the names and positions within USDA's structural organization of these offices have changed over the years. Defendant denies the remainder of this paragraph.

41. Defendant admits that former ASCS program regulations provided that applications for farm disaster benefits were reviewed by the county executive director and then the ASCS county committee to determine whether benefit payments to applicants were warranted, unless the county committee delegated approval authority to the county executive director. Defendant denies the remainder of this paragraph, except to aver that farmers who believed that they had been the subject of discrimination in ASCS's farm programs could file administrative civil rights complaints with offices within USDA pursuant to regulations promulgated by the Secretary of

USDA; and that the names and positions within USDA's structural organization of these offices have changed over the years.

42. Defendant denies the allegations of this paragraph, except to admit that the second, third, and fourth sentences of this paragraph constitute plaintiffs' characterization of two newspaper articles, the February 1997 Civil Rights Action Team Report, and the February 1997 "Office of Inspector General U.S. Department of Agriculture Evaluation Report for the Secretary on Civil Rights Issues -- Phase I" ("the OIG Phase I Report"). Accordingly, defendant respectfully refers the Court to the materials referenced by plaintiffs for a complete and accurate statement of their contents.

43. Defendant admits the first sentence. The second sentence consists of plaintiffs' quotations from the report entitled, "Office of Civil Rights Status Implementation of Recommendations Made in Prior Evaluations or Program Complaints - Phase VII," to which no response is required. Defendant respectfully refers the Court to the report for a complete and accurate statement of its contents.

44. Defendant denies the allegations of this paragraph, except to admit that the Department of Justice has a Civil Rights Division whose function is to enforce federal civil rights laws and to aver that the Department of Justice is not a party to this action.

45. Defendant admits that, under former internal management guidelines, the Policy Analysis and Coordination Center ("PACC") was charged with developing departmental guidance for processing administrative civil rights complaints filed with USDA. Defendant admits that the Office of Operations, Civil Rights Enforcement and Adjudication ("OCREA")

was formerly charged with processing program discrimination complaints received by USDA from participants in FSA programs. Defendant denies the remainder of this paragraph.

46. Defendant admits that the first, second, and third sentences of this paragraph generally reflect USDA's previous internal management guidelines for processing administrative civil rights complaints. Defendant denies the remainder of this paragraph.

47. Defendant admits that the first sentence of this paragraph generally reflects USDA's previous internal management guidelines for processing administrative civil rights complaints. Defendant denies the remainder of this paragraph.

48. Defendant admits that the first, second, and third sentences of this paragraph generally reflect USDA's previous internal management guidelines for processing administrative civil rights complaints. Defendant denies the remainder of this paragraph.

49. Defendant denies the allegations in this paragraph, except to admit that USDA's nondiscrimination regulations are codified in the Code of Federal Regulations, and that the second sentence of this paragraph contains plaintiffs' characterization of the OIG Phase I Report, to which no response is required. Defendant respectfully refers the Court to the referenced regulations, statute, and report for a complete and accurate statement of their contents.

50. Defendant admits that USDA Regulation 4330-1 is over 13 years old, but avers that it has been replaced by USDA Regulation 4330-3. Defendant denies the remaining allegations in this paragraph, and respectfully refers the Court to the departmental regulations for a complete and accurate statement of their contents.

51. Defendant denies the allegations of this paragraph, except to admit that the December 12, 1994, OIG memorandum referenced in the first sentence reported concerns regarding USDA's

Title VI administrative process, and that the quoted language contained in the second sentence is from the report entitled, "Office of Inspector General U.S. Department of Agriculture Evaluation Report for the Secretary on Civil Rights Issues — Phase I," to which no response is required. Defendant respectfully refers the Court to the memorandum and report for a complete and accurate statement of their contents. Defendant further avers that the referenced memorandum did not address the 7 C.F.R. § 15.52 (now 7 C.F.R. Part 15d) complaint process.

52. Defendant admits that the departmental regulation as described in the December 12, 1994, memorandum was not published, but avers that, on March 3, 1999, USDA published Regulation 4330-2, entitled "Nondiscrimination in Programs and Activities Receiving Federal Financial Assistance From USDA." With respect to footnote 2, defendant admits that the U.S. Commission on Civil Rights issued the referenced report in June 1996; and that the referenced report made findings and recommendations concerning USDA's Title VI enforcement activities and responsibilities. Defendant denies the remainder of this paragraph, including the remainder of footnote 2. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

53. Defendant denies the first sentence of this paragraph, except to admit that the OIG conducted an investigation that is summarized in the February 27, 1997 report entitled "Office of Inspector General U.S. Department of Agriculture Evaluation Report for the Secretary on Civil Rights Issues — Phase I." Defendant denies the remainder of this paragraph, except to admit that the quoted language is from the OIG Phase I Report, with emphasis added by the plaintiffs. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

54. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the OIG Phase I Report, with emphasis added by the plaintiffs. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

55. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the OIG Phase I Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

56. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the OIG Phase I Report, with emphasis added by the plaintiffs. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

57. Defendant admits that this paragraph summarizes one of OIG's findings; and that the quoted language is from the OIG Phase I Report, with emphasis added by the plaintiffs. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

58. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the OIG Phase I Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

59. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the OIG Phase I Report, with one typographical error. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

60. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the OIG Phase I Report, with several typographical errors and with emphasis added by the plaintiffs. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

61. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the OIG Phase I Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

62. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the OIG Phase I Report, with emphasis added by the plaintiffs. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

63. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the OIG Phase I Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

64. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the OIG Phase I Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

65. Defendant admits that the OIG reported that it surveyed ten other USDA program agencies to determine procedures used for processing program discrimination claims. Defendant denies the remainder of this paragraph. Defendant respectfully refers the Court to the referenced OIG report for a complete and accurate statement of its contents.

66. Defendant denies the allegations of this paragraph, except to admit that the OIG compiled a list of what it construed as open program discrimination complaints.

67. Defendant admits that USDA's Civil Rights Action Team ("CRAT") released a report dated February 1997 and entitled "Civil Rights at the United States Department of Agriculture" ("CRAT Report"). Defendant also admits that the quoted language is from the CRAT Report, but denies the remaining allegations in this paragraph. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

68. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

69. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report, with emphasis added by the plaintiffs. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

70. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report, with emphasis added by the plaintiffs. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

71. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report, with one sentence omitted and with emphasis added by the plaintiffs. Defendant respectfully refers the Court to the referenced report for a complete and accurate statements of its contents.

72. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report, with emphasis added by the plaintiffs. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

73. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report, with emphasis added by the plaintiffs. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

74. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

75. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report, with emphasis added by the plaintiffs. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

76. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

77. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

78. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report, with one typographical error. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

79. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report, with several typographical errors and with emphasis added by the plaintiffs. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

80. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

81. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

82. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report, with one typographical error and with emphasis added by the plaintiffs. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

83. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report, with several typographical errors. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

84. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

85. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

86. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report, with emphasis added by the plaintiffs. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

87. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

88. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

89. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

90. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

91. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

92. Defendant denies the allegations of this paragraph, except to admit that the quoted language is from the CRAT Report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

93. Defendant admits that neither the OIG Phase I Report nor the CRAT Report analyzed any county where substantial numbers of Hispanic Americans farm. Defendant denies the remaining allegations in this paragraph.

94. Defendant denies the allegations of this paragraph.

95. Defendant denies the allegations of this paragraph, except to admit that the OIG issued a September 29, 1997 report entitled "Minority Participation In Farm Service Agency's Farm Loan Programs - Phase II;" that the report does cite 7 U.S.C. § 2279(a)(1); and that the quoted language is from the OIG Phase II Report, with one typographical error. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

96. Defendant admits that the OIG Phase II Report included the findings alleged in this paragraph. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

97. Defendant admits that the OIG released a September 30, 1998 report entitled "Evaluation of the Office of Civil Rights' Efforts to Reduce the Backlog of Program Complaints," which included a memorandum entitled "Report to the Secretary on Civil Rights

Issues - Phase V." Defendant denies the remainder of this paragraph, except to admit that the quoted language is from the referenced report, with one typographical error and with emphasis added by the plaintiffs. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

98. Defendant admits that the OIG released a March 10, 2000, audit report entitled "Office of Civil Rights Status of the Implementation of Recommendations Made in Prior Evaluations of Program Complaints," which included a memorandum entitled "Report to the Secretary on Civil Rights Issues - Phase VII." Defendant denies the remainder of this paragraph, except to admit that the quoted language is from the referenced report. Defendant respectfully refers the Court to the referenced report for a complete and accurate statement of its contents.

99. Defendant denies the allegations of this paragraph.

100. Defendant denies the allegations of this paragraph.

101. Defendant denies the allegations of this paragraph.

102. This paragraph contains plaintiffs' characterizations of and quotations from the Equal Credit Opportunity Act ("ECOA"), to which no response is required. Defendant respectfully refers the Court to ECOA for a complete and accurate statement of its contents.

103. Defendant denies that the Court has jurisdiction over this action, but admits that ECOA includes a limited waiver of the United States' sovereign immunity.

104. Defendant denies the allegations of the first sentence. Defendant is without knowledge or information sufficient to admit or deny the allegations contained in the second and third sentences of this paragraph.

105. This paragraph contains plaintiffs' conclusions of law to which no response is required.

106. Defendant admits that the determination on an application for either a credit or non-credit program may take into account factors and information relevant to the other program, but defendant denies that the credit and non-credit programs are interdependent in purpose, function, or operation, and denies the remaining allegations in this paragraph.

107. Defendant admits the allegations of this paragraph, except to deny that the cited provision is codified at 7 U.S.C. § 2279, and to avers that it is included in the U.S. Code as a note following 7 U.S.C. § 2279.

108. This paragraph contains conclusions of law to which no answer is required.

109. This paragraph contains plaintiffs' characterizations of the present action, to which no response is required, but to the extent that a response may be required, defendant denies the allegations of this paragraph and denies that plaintiffs' proposed class definition is appropriate. With respect to footnote 3, defendant respectfully refers the Court to the publication referenced in footnote 3 for a complete and accurate statement of its contents.

110. Defendant denies the allegations of this paragraph.

111. Defendant denies the allegations of this paragraph.

112. Defendant denies the allegations in the first sentence. Defendant admits the second sentence. Defendant is without knowledge or information sufficient to admit or deny the allegations concerning plaintiffs' beliefs as to the number of discrimination complaints received by USDA. Defendant denies the remaining allegations in this paragraph.

113. Defendant denies the allegations of this paragraph.

114. Defendant denies the allegations of this paragraph.

115. Defendant denies the first and eleventh sentences. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph, except to admit that Messrs. Pires, Fraas, and Chestnut are lead class counsel in Pigford v. Veneman, and that Messrs. Pires, Fraas are lead counsel, and Mr. Chestnut is of counsel, in Love v. Veneman and Keepseagle v. Veneman, and to aver that none of them is competent to serve as class counsel in this case.

116. Defendant denies the allegations of this paragraph.

117. Defendant denies the allegations of this paragraph.

118. In response to this paragraph, defendant repeats and incorporates by reference the answers above to paragraphs 1 through 117 of the Second Amended Class Action Complaint.

119. Defendant denies the allegations of this paragraph.

120. Defendant denies that plaintiffs are entitled to the relief requested, or to any relief.

121. In response to this paragraph, defendant repeats and incorporates by reference the answers above to paragraphs 1 through 120 of the Second Amended Class Action Complaint.

122. Defendant denies the allegations of this paragraph.

123. Defendant denies that plaintiffs are entitled to the relief requested, or to any relief.

124. Defendant denies that plaintiffs are entitled to the relief requested, or to any relief.

125. In response to this paragraph, defendant repeats and incorporates by reference the answers above to paragraphs 1 through 124 of the Second Amended Class Action Complaint.

126. Defendant denies the allegations of this paragraph.

127. Defendant denies that plaintiffs are entitled to the relief requested, or to any relief.

128. Defendant denies the allegations of this paragraph.

129. Defendant denies that plaintiffs are entitled to the relief requested, or to any relief.

Defendant denies that plaintiffs are entitled to the requested relief in their prayer for relief, or to any relief.

Defendant specifically denies all allegations to which no response otherwise has been given.

Having answered the Second Amended Class Action Complaint, defendant prays that this Court dismiss this action with prejudice, enter judgment for defendant, and grant defendant such other and further relief as may be appropriate.

Respectfully submitted,

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Assistant Attorney General

ROSCOE C. HOWARD, JR.  
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CERTIFICATE OF SERVICE

I certify that today, April 3, 2002, the foregoing Answer to Plaintiffs' Second Amended Class Action Complaint was served by first class mail, postage prepaid, upon the following counsel of record:

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JEAN LIN