

Hispanic Farmers Victimized by Discriminatory Lending

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A decade ago, black farmers won \$1 billion from the federal government to make up for years of discriminatory lending practices.

Today, Hispanic farmers are still waiting for their reparations from the government.

Now Hispanic farmers are accusing President Obama of ignoring their plight, even while pledging to give black farmers this year an additional \$1.25 billion.

Stephen Hill, the head attorney for the Hispanic farmers, said Obama's announcement in May "added insult to injury."

"It smacks of disrespect, frankly," he told HispanicBusiness.com.

But now, after years of legal wrangling, while Hispanic family farms have gone out of business, the issue has gained new prominence on a national stage, and uncovered a little-known pattern of discrimination by the U.S. government.

Known as *Garcia v. Vilsack*, the nine-year-old case is approaching a turning point .

The suit pertains directly to the U.S. Department of Agriculture's long history of discrimination, which is so well documented that not even the agency disputes it.

One Man's Story

Among the purported victims is Bobby Ortega of New Mexico.

Nineteen years ago, when he was just 21, Ortega -- who grew up working on his father's farm -- landed a loan for promising young farmers from the USDA to farm 10 acres on leased land.

Ortega's first year went so well that the next year his farm grew to 100 acres.

Ortega paid off both loans with ease.

"On my second year, I had a loan officer tell me, 'Bobby, you're one of the few that has been able to pay us back,'" he remembers.

The next year he decided to expand to 1,000 acres. This required purchasing more equipment, and receiving another loan.

At this point, things began to go wrong.

For some reason, months went by and Ortega's USDA loan never came. This upset the landlords, who wanted their lease payments.

Meanwhile, many of Ortega's white farmer friends had received their loans long ago. When Ortega asked the USDA for a status update, employees told him the paperwork was filled out incorrectly. He came in to re-do it, but still the loan didn't come. When he asked about it again, employees told him he hadn't put his signature on a document.

By the time the money finally arrived, it was too late: the loan was five months overdue and the landlords had already leased the land to another farmer.

"I lost the farm, and only had so much time to pay back the loan," Ortega said. "They said: 'That's your problem.'"

To pay off the crushing debt, Ortega cashed in his life insurance, as well as his daughter's college savings. He also used credit cards.

Today -- nearly two decades later -- he works on his father's farm growing cotton, alfalfa and pecans. To this day, he is still paying back the credit card company.

Hill said Ortega's experience has been all-too common.

"If you need assistance, they won't provide assistance," he said. "When you get the paperwork in, they'll find something else wrong with it."

USDA Acknowledges Discrimination

The case is heating up at a time when the USDA is trying to atone for its civil-rights sins of the past.

In January, Tom Vilsack, the new leader of the USDA, openly acknowledged the department's tarnished civil-rights record during his confirmation hearing.

"The time has come for the department to be a department of all people, by working hard to resolve outstanding civil rights claims," he said. "We need to close this chapter of the past and look forward."

At the time, Vilsack's address lifted the hopes of the Hispanic farmers, who'd been battling the Bush administration for eight years to no avail, Hill said.

"We were heartened by those words," Hill said. "They now seem to ring very hollow."

The story of USDA's discrimination against minority farmers has a long history.

In a nutshell: During the mid-1990s, responding to many complaints from minority farmers, the USDA commissioned a study, and found that minority and women farmers

for decades had indeed received less than their fair share of USDA money for crop payments, disaster payments and loans.

In addition, it was discovered that when a farmer filed a civil-rights complaint with the USDA, nobody saw it. That's because during the Reagan administration, the civil-rights wing of the USDA had been quietly dismantled. Complaints, in other words, were sent to a black hole.

In 1997, a group of black farmers filed a lawsuit -- known as *Pigford v. Glickman* -- to reclaim money they say they were owed due to discriminatory lending practices between 1983 and 1997. In 1999, the U.S. government awarded them a settlement of about \$1 billion. This translated into about \$50,000 for each of the roughly 13,000 families who filed a claim.

In 1999, Hispanic farmers filed a suit of their own that was virtually identical. (Two other groups of farmers -- Native Americans and women -- did the same.) But in a departure from the case of the black farmers, a judge in 2002 rejected the Hispanic farmers' request to have their case tried as a class action. The case -- now known as *Garcia v. Vilsack* -- has been mired in the courts ever since.

Meanwhile, in the years after the 1999 settlement, thousands of black farmers came forward saying they hadn't been adequately informed of the terms, causing them to miss the deadline. Last year, Congress approved the 2008 Farm Bill, which allowed those farmers to make belated claims. The bill, however, capped the total amount at \$100 million. Then, in May, President Obama -- responding to pressure from the Congressional Black Caucus -- announced he was raising the cap to \$1.25 billion.

This means that, all told, the government has given out or promised a total of \$2.25 billion to black farmers, "and not one cent for Hispanic, Native American or women farmers," Hill said.

Historically, much of the USDA's discrimination has come from a structure that relies on regional farm commissions, made up mostly of prominent white farmers.

In the past, the commissions distributed USDA loans and grants directly to local farmers, and tended to pass up minority and women farmers, Hill said.

In an attempt to reform the system, the USDA in the 1990s stripped the regional commissions of this role, but they still provide "important information" to the USDA on loan applicants, Hill said.

"We contend that made a subjective process even more subjective, and fraught with the risk of discrimination," he said.

The precise nature of the discrimination has varied by region, Hill said. In the southeast, the victims tended to be black farmers, who make up roughly 1.5 percent of the nation's roughly 2 million principal farm operators. In the west, the victims were more likely to be

Hispanics, who constitute roughly 2.4 percent of the nation's farm operators.

Obama Has 'Ignored' Congressional Hispanic Caucus

Hill hesitates to say that the Obama administration's relative good treatment of the black farmers constitutes favoritism.

"I think (Obama's pledge) came in response to very effective advocacy on the part of the Congressional Black Caucus," said Hill, who, incidentally, is black.

However, the Congressional Hispanic Caucus -- and New Jersey Senator Robert Menendez -- also have written letters to the White House.

"For whatever reason, the administration has chosen to ignore those entreaties," Hill said. "So much so that they haven't even acknowledged the letters, let alone respond to them."

On Thursday, the case resumes: The Hispanic farmers and the USDA will meet with a judge to discuss the possibility of a settlement.

But so far, Hill said, the USDA has shown no willingness to grant Hispanic farmers the kind of class-action-type settlement that was awarded to the black farmers.

"The USDA and the DOJ (Department of Justice) has completely stonewalled us," he said.

At the very least, Hill said he hopes to have the decision pushed back to mid-November.

Government officials reject Hill's claim that the administration is giving Hispanic farmers short shrift, saying their hands are tied by the judge's 2002 ruling rejecting their request for class certification. That rejection was later upheld by the U.S. Court of Appeals.

Now, the USDA says each of the Hispanic claims should be tried separately.

USDA spokesman Justin DeJong said all claims will be addressed in a fair and timely manner.

"Secretary Vilsack and his senior leadership team are committed to timely addressing allegations of discrimination made by USDA employees, applicants, and customers," he wrote in an email to HispanicBusiness.com.

But Hill insists that looking at each case separately will "be a prescription for continuing the discrimination and oppression against minority farmers."

"There simply aren't the resources," he said, noting that potentially "tens of thousands" of Hispanic farmers are eligible to file a claim.

As a result, the Hispanic farmers are hoping the U.S. government will treat Garcia v. Vilsack as a class action, despite the courts' ruling -- which Hill insists was flawed.

The Hispanic farmers are also fighting the case on another front: The Supreme Court.

In September, the Hispanic farmers filed a petition asking the nation's high court to review the class-action ruling. On Thursday, Hill will ask the judge to reserve judgement until the Supreme Court weighs in -- or until Nov. 13, when a parallel case filed by the women farmers is set to be heard.

Meanwhile, over the years, Hill said that at least 16 of the 110 original Hispanic plaintiffs have died since the case was filed.

"For them, there is no hope of justice," he said.