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Probe prompts review of national black farmers' case

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SAN FRANCISCO -- An investigation into a public defender who was practicing without a law license could have wide-ranging implications for one of the largest civil rights settlements in U.S. history.

The focus of the local investigation, Margaret O'Shea, worked for the U.S. Justice Department on a series of settlements with black farmers who claim they were denied federal loans because of their race.

Two national groups representing the farmers, including one based in North Carolina, are calling on Congress and the U.S. Justice Department to investigate O'Shea's involvement two years ago in the historic class-action settlement. To date, thousands of black farmers have received awards totaling more than \$650 million.

"It's a disgrace," said John Boyd, a Virginia farmer who is president of the National Black Farmers Association. "It's a shame that after all we've been through, we had an unlicensed attorney reviewing cases and affecting the lives of black farmers across the country. ... She should have been checked out before she was assigned to work on these cases."

O'Shea, who lives in Santa Cruz, was charged with one felony count of grand theft for cashing paychecks under false pretenses and one misdemeanor count for practicing law without a license after her supervisors learned she wasn't an accredited attorney. Monterey County is reviewing 86 cases she handled during a three-week period ending in late September.

She is scheduled to be arraigned Monday in Monterey County Superior Court in Salinas.

The national case involved thousands of black farmers, most from the South and Midwest, who sued the U.S. Department of Agriculture in 1997. They allege discrimination when they applied for crop loans and subsidies.

In 1999, the department agreed to a landmark settlement with 22,000 farmers. They could receive \$50,000 each if they could demonstrate that they didn't receive the same treatment as comparable white farmers.

About 40 percent of the 22,000 farmers were denied payments. Some 73,000 others claim they were shut out because the settlement deadline wasn't advertised widely enough, according to a report by the Environmental Working Group.

The report claims that the Justice Department, which represented the Department of Agriculture, spent at least 56,000 staff hours and \$12 million contesting individual farmer's claims.

"The government is trying to get out of paying the farmers," said Gary Grant, president of the Black Farmers and Agriculturalists Association, based in Tillery, N.C. "They had no intention of paying in the first place."

It's still unclear exactly how O'Shea was involved in the case and whether her involvement could lead to individual settlements being overturned.

O'Shea, 38, and her attorney, Enda Brennan, did not respond to multiple telephone calls over several days seeking comment.

Justice Department spokesman Charles Miller confirmed that O'Shea was hired specifically to work on the case, known as Pigford vs. Veneman, from April to September 2002. The department hired her

as a "general attorney," according to personnel records obtained by the environmental group through the Freedom of Information Act.

Miller wouldn't comment on the nature of O'Shea's work or whether the department was investigating her role.

The House Judiciary Committee's Subcommittee on the Constitution is investigating O'Shea's involvement, said Todd Lindgren, a spokesman for subcommittee chairman Rep. Steve Chabot, R-Ohio.

The groups representing the farmers said they plan to raise the issue when the subcommittee holds its next hearing on the contentious settlement process, likely to take place next month in Cincinnati.

"Both sides (Republicans and Democrats) agree that there have been enormous problems with the Pigford settlement process," Lindgren said. "Both sides have been critical of the government's handling of this so far."

The Justice Department should review all the cases O'Shea handled, said Arianne Callender, a lawyer for the environmental group.

"The farmers may have made different decisions during negotiations if they had known the lawyer they were working with wasn't licensed to practice law," Callender said.

The Black Farmers and Agriculturalists Association said the Department of Agriculture should make sure all the attorneys are licensed and review all the denied awards.

"If she was in the office, and she was having discussions about them, we don't know who she influenced," said Grant, of the Black Farmers and Agriculturalists Association.

O'Shea was hired by the Monterey County Public Defender's Office in August after indicating on her application and during interviews that she was licensed to practice law in California. Shortly after she started, a co-worker tried to research O'Shea's legal background and discovered she wasn't listed as a licensed attorney.

Monterey County Assistant District Attorney Terry Spitz said his office investigated O'Shea's background and could not find evidence that she was licensed in any state. If convicted of the two charges, O'Shea faces up to three years in prison, he said.

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