

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

In re BLACK FARMERS DISCRIMINATION
LITIGATION

Misc. No. 08-0511 (PLF)

This document relates to:
ALL CASES

ORDER

On December 23, 2008, this Court issued a Protective Order regarding the so-called “5(g) list,” a compilation of the names and contact information of those who sought unsuccessfully to participate in the original *Pigford* action by submitting a claim under Section 5(g) of the Consent Decree, which permits the late filing of claims under certain circumstances. Cognizant of the need to prevent inappropriate use of the information contained in the 5(g) list, the Court directed that it be used “only for purposes of litigating these consolidated cases.” December 23, 2008 Order at 2. More specifically, plaintiffs’ counsel were authorized to use the list *only* to (1) communicate with existing clients whose names appeared on the list, or (2) verify that a given individual had attempted to file a claim under Section 5(g). See id. at 2-3. Counsel were explicitly forbidden to share the information contained in the list with “any other person or entity . . . for recruitment, recruitment-related, or any other purposes.” Id. at 3.

Several months later, the Court was notified that some individuals whose names appear on the 5(g) list had been contacted directly regarding their potential claims by a financial services organization not involved with this litigation. See September 15, 2009 Order at 1-2. Concerned that this organization may have improperly received information from or copies of the 5(g) list in violation of the Protective Order, the Court ordered counsel for the parties to

investigate the issue and file reports documenting their respective findings. Id. at 2-3. Plaintiffs' counsel submitted a report on September 25, 2009, in which they concluded that (1) the financial services organization in question had received the names and addresses of potential claimants in this case from public sources, and (2) the Court's December 23, 2008 Protective Order had not been violated. See Report of Plaintiffs' Counsel in Response to This Court's September 15 Order at 3-4.

Instead of filing its own report, the defendant has moved to be relieved of its obligation under the September 15, 2009 Order to investigate and report on the possibility that the 5(g) list has been misused. See Defendant's Motion and Memorandum for Relief from the Court's September 15 Order at 1. Stating that it has no reason to doubt the conclusions reached by plaintiffs' counsel in their report on the matter, the defendant expresses concern about the "tension" that would be created between the plaintiffs, the defendant, and their respective lawyers if defendant's counsel attempted to investigate the manner in which the 5(g) list has been used by plaintiffs' counsel. Id. at 1-2. The Court believes the defendant's concern is well founded. Accordingly, it is hereby

ORDERED that the defendant's motion for relief [111] is granted; and it is

FURTHER ORDERED that the defendant is relieved of its obligations under the September 15, 2009 Order.

SO ORDERED.

/s/ _____
PAUL L. FRIEDMAN
United States District Judge

DATE: November 12, 2009