



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

October 15, 1999

The Honorable Elaine Kaplan
Special Counsel
Suite 300
1730 M Street, N.W.
Washington, D.C. 20036

Dear Ms. Kaplan:

This is in response to your letter of September 7, 1999, concerning the Office of Special Counsel (OSC) file number DI-97-1166. Jill Long Thompson, Under Secretary, Rural Development (RD), responded to your original request with a letter report dated July 16, 1999. I agree with your assessment that Under Secretary Thompson's report contained the required information. I nevertheless appreciate the opportunity to elaborate further on the information in Under Secretary Thompson's report.

It is true that it is difficult to investigate allegations made so long ago, and against an official of a former administration; however, the Department of Agriculture (USDA) took the allegations seriously. USDA's Office of Inspector General (OIG) declined to investigate the allegations because of the Federal statute of limitations on noncapital offenses, which is 5 years from the date of occurrence, as you pointed out in your letter. Thus, this matter was handled administratively.

An administrative investigator was assigned to gather the facts concerning the allegations. Because the investigation was administrative in nature, the investigator does not have authority to take sworn statements from non-USDA officials. Administrative investigators are limited in authority to taking statements from current employees of the agency. Your letter stated that USDA did not contact two individuals named in the complaint—Ms. Gloria Candeloria, former Management Analyst, and Mr. Daniel Abeyta, the Civil Rights Coordinator. Ms. Candeloria has retired from the agency. Mr. Abeyta is still an employee, and he was interviewed concerning this matter and the findings of that interview will be discussed later in this letter.

After a thorough review of all the information obtained, one can conclude that circumstantial evidence exists that Mr. Vivian Cordova did improperly solicit sexual encounters from female borrowers whose Farmers Home Administration loans came under his jurisdiction. The loan files of Ms. Roberta Lovato and Ms. Sue Ellen Peralta were reviewed. The loans received normal servicing only and there was no evidence of special treatment. Ms. Sandyann Canderlaria's loan file was not reviewed because the loan was foreclosed. Foreclosed records

are not maintained, but are destroyed after the disposal of the property. RD staff did review the information provided by the complainant and did not identify any activity that was not allowed by the regulations. For example, there were some lengthy delays as indicated by the information received from the complainant. However, there was no evidence that the delays were attributable to preferential treatment, and lengthy delays were usual for New Mexico. Additionally, a state internal review of the files was done in fiscal year 1999, and no irregularities were found in any loan servicing.

The files reviewed for this investigation showed no preferential treatment, special arrangements, or unusual accommodations that were not available for any borrower. RD staff thus concluded that it could be possible that the allegations made by the borrowers might not be completely true. It may also be possible that Mr. Cordova led the borrowers to believe he was doing something special for them when in reality their servicing was within the parameters of our regulations.

RD staff compared the recent statements of Messrs. Oliver Jenkins, Ron Gonzales, and Eric Schmieder to the affidavits given in an equal employment opportunity case. The comparison does not reveal any contradictory statements. Your letter did not give any specifics about the perceived contradictions. If more information can be given, USDA would be glad to respond and clarify any misunderstanding.

Ms. Rita Navarrete denied having knowledge of Mr. Cordova engaging in improper conduct with female borrowers. The complainant has never said how Ms. Navarrete obtained knowledge that Mr. Cordova may have engaged in improper sexual relationships with female borrowers. In the supplemental statement provided by Ms. Navarrete, she stated that the Civil Rights Coordinator claimed he provided her copies of letters concerning the situation. Ms. Navarrete stated that she never received copies of those letters. She again stated that she had no factual knowledge of improper sexual activity. USDA has no reason not to believe Ms. Navarrete's denial concerning the allegations about Mr. Cordova. Ms. Navarrete did state that she reported improper personnel actions by Mr. Cordova, which resulted in his appointment authority being revoked.

Mr. Abeyta, the Civil Rights Coordinator during the time frame in question, was interviewed concerning this complaint. He stated that others attempted to seek help from his office and that he "confronted Mr. Cordova several times insisting that Mr. Cordova stop the improper behavior." Mr. Abeyta stated that he informed Mr. Bill True, the National Office Civil Rights Director, and Mr. True's assistant, whose name Mr. Abeyta could not remember but who he says has since retired. Mr. True is deceased. Mr. Abeyta stated that he contacted the National Office "several times." He stated that he was told to document everything and wait until Mr. Cordova's appointment expired. Mr. Abeyta stated that he informed the next State Director, Steven Anaya, in May 1993 about Mr. Cordova's behavior. In Mr. Abeyta's opinion, Mr. Anaya did nothing concerning the allegations. Mr. Abeyta also stated that Mr. Cordova did not order but implied that special treatment or leniency be given to certain borrowers.

Employees with loan servicing responsibilities stated that they were not asked to do anything unusual or illegal for any borrower. Again, there is no indication that special arrangements were made for the borrowers or that employees had knowledge of any special accommodation.

Finally, it appears that when the allegations were brought to the attention of Steven Anaya in May 1993, he did not act on the allegations because of limited evidence. It is usually difficult to act on what appears to be rumor or hearsay. However, this does not explain why Mr. Anaya did not report the matter to OIG or try to corroborate the allegations of such egregious behavior. Mr. Anaya, who was the highest ranking RD official in New Mexico at that time, is no longer a USDA employee.

USDA employees are informed of their rights and obligations to prevent situations such as what has been alleged from occurring. Annually, the State Directors issue policy memoranda to remind all RD employees about their obligations to report fraud, waste, or abuse, including how to report improper activity and an assurance that there will be no retaliation for any reports made. USDA also issues information concerning the Department-wide civil rights policy.

If you have any questions concerning this response, please call Sherie Hinton Henry, Director, Financial Management Division, RD at (202) 692-0080.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Glickman". The signature is written in a cursive, flowing style with a large initial "D".

DAN GLICKMAN

Secretary



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

JUL 14 1999

Honorable Elaine Kaplan
Special Counsel
Office of Special Counsel
Suite 300
1730 M Street, N.W.
Washington, D.C. 20036

Dear Ms. Kaplan:

In a letter dated February 17, 1999, your office transmitted information received from a federal employee, who wanted to remain anonymous, (DI-97-1166). The information provided alleged violation of law, rule or regulation and abuse of authority by a former State Director of New Mexico, in the former Farmers Home Administration (FmHA), now Rural Housing Service (RHS). Specifically, the complainant has alleged that Vivian Cordova, former State Director, Albuquerque, New Mexico, improperly solicited sexual encounters from female borrowers whose FmHA loans came under his jurisdiction, in exchange for Mr. Cordova's agreement not to collect their delinquent accounts. The complainant further alleged that officials at FmHA failed to take appropriate action on his and other employees' complaints of misconduct.

The Secretary referred the complaint to the Office of Inspector General (OIG), Department of Agriculture (USDA) for investigation. OIG declined to conduct a criminal investigation of the matter and referred the matter to this office for investigation and response. The Secretary delegated authority to this office to investigate the allegations and respond to your office. This office is authorized to conduct administrative investigations only. The subject of the complaint, Mr. Cordova, was not contacted concerning these allegations and, thus, did not provide information on the allegation. We also are not authorized to take a statement from Mr. Cordova as a former employee.

The investigation addresses the allegations of violation of law and regulation, other than criminal law by Mr. Cordova. Specifically, the allegations and findings are as follows:

Allegation 1: The former State Director, Vivian Cordova, improperly solicited sexual encounters from female borrowers whose FmHA (now RHS) loans came under his jurisdiction.

Findings: Mr. Cordova has not been employed with this agency since 1993. Steven Anaya is referred to in the complaint as the new State Director, however, he is no longer with the agency. All other named officials were contacted for questioning except Mr. Joe Gurule who is retired.

All contacts were asked if they were aware of Vivian Cordova engaging in improper conduct with female borrowers. All, except two, responded negatively or that they only knew of rumors

and hearsay. Mr. Oliver Jenkins relayed an incident that the complainant had disclosed. Mr. Jenkins estimated that the incident took place in 1991 (note the complainant said 1993) and as a new employee, he went to the home of Ms. Roberto Lovato to discuss her delinquency. She informed him that the children he saw at her house were the children of his boss, Mr. Cordova. She also informed him that she did not intend to pay her loan. Mr. Jenkins said that he reported the incident to the Housing Chief, Danny Asbill and to the Civil Rights Coordinator, Dan Abeyta. Mr. Jenkins indicated that he proceeded to process the loan as a continued delinquent account as he would any other loan. He did not know the outcome of the continued delinquency because he left that office a short time later. In addition, Eric Vigil stated that, incident took place in 1994 with a borrower he spoke to by telephone. The conversation was regarding foreclosure on the borrower's home and she insisted the home was hers because of an agreement with Cordova that included a sexual relationship. He reported the matter.

The State Office reviewed a summary of Ms. Lovato's loan activity, from the period 1988 to 1992. The summary shows that Ms. Lovato made payments until June of 1990 and then received a moratorium. Ms. Lovato requested a moratorium in writing and it is a part of her file. She requested the moratorium due to financial difficulties following the birth of twins, having her hours cut back, and ultimately losing her job. Regulations allow for this type of assistance and it is a common practice.

Allegation 2: That FmHA officials failed to take appropriate action on employee complaints of misconduct. Officials named in the complaint are listed below with specific allegations concerning them, and the specific findings for each.

Danny Asbill, Chief Rural Housing -- Complainant said that Asbill had direct knowledge of Cordova's inappropriate behavior and has suppressed information about illegal activity. According to the complainant, Asbill supervised a female clerical employee who complained about Cordova's behavior toward her.

Findings: Mr. Asbill responded that he did not know of Cordova engaging in improper conduct with female borrowers. Asbill also responded that he was not aware of or told by an employee of any complaint about Cordova's behavior toward a female subordinate. Asbill also stated that he was never asked by anyone to give any type of preferential treatment to a borrower.

Rita Navarette, Administrative Officer -- Complainant said that Navarette had direct knowledge of Cordova's inappropriate behavior and has suppressed information about illegal activity. According to the complainant Navarette knew of and did not take action regarding Cordova's sexual misconduct. The complainant said that Navarette reported Cordova's actions to the National Office on August 10, 1992.

Findings: Ms. Navarette responded that she did not know of Cordova engaging in improper conduct with female borrowers. Ms. Navarette responded that she did report to the National Office in regard to Cordova's behavior but it was not about sexual misconduct. Apparently,

when Cordova knew that he was leaving his position, he started taking personnel actions that Ms. Navarette did not agree with and reported it to the National Office. As a result of her report, the National Office took Cordova's employment authority away.

Eric Vigil, Assistant County Supervisor (at the time of the complaint and now is a County Supervisor) -- Complainant stated that Mr. Vigil became aware of allegations of sexual harassment by Cordova in 1994 during a post-foreclosure inspection of a home of a female borrower. During the inspection, the borrower disclosed that she had a sexual relationship with Cordova for many years. She said that they had an agreement that in exchange for sex he would ease the pressure of collection efforts by the agency.

Findings: Mr. Vigil said that he estimated that incident took place in 1994 with a borrower he spoke to by telephone. The conversation was regarding foreclosure on the borrower's home and she insisted the home was hers because of an agreement with Cordova that included a sexual relationship. Mr. Vigil informed his supervisor, Mr. Joe Gurule, and the Civil Rights Coordinator.

Eric Schmieder, State Office Housing Specialist -- Complainant stated that Mr. Schmieder said that Cordova routinely asked the loan servicing staff for special consideration for certain borrowers, such as avoiding foreclosure action if possible. The complainant goes on to say that Mr. Schmieder reported an allegation of sexual harassment to his supervisor, Danny Asbill, about a female co-worker who had complained that Cordova was pressuring her to accompany him on field visits.

Findings: Mr. Schmieder commented on the statement that he allegedly made and said he did not feel "routinely" was correct in regard to Cordova's requests to the loan servicing staff. He said Cordova asked for forbearance on certain loans a couple of times but this was not considered highly unusual. Mr. Schmieder said that nothing they were asked to do was illegal and Mr. Cordova did not tell them reasons for his requests. On the issue of the co-worker's complaint, Mr. Schmieder does remember an employee telling him about an incident like the one described in the complaint. He did however encourage a female employee to talk with her supervisor and the Civil Rights Coordinator.

Oliver Jenkins, Assistant County Supervisor (at the time of the complaint, now he is an Agriculture Credit Specialist with the Farm Service Agency, USDA) -- Complainant stated that Mr. Jenkins informed him of an incident with a borrower that said she had an arrangement with Cordova to postpone collection or foreclosure on her loan in exchange for sex.

Findings: As stated previously in the findings for Allegation 1, Oliver Jenkins relayed an incident that the complainant had disclosed. Mr. Jenkins estimated that the incident took place in 1991. As a new employee, he went to the home of Ms. Roberto Lovato to discuss her delinquency. She informed him that the children he saw at her house were the children of his boss, Vivian Cordova. She also informed him that she did not intend to pay her loan.

Mr. Jenkins said that he reported the incident to the Housing Chief, Danny Asbill and to the Civil Rights Coordinator, Dan Abeyta. Mr. Jenkins indicated that he continued to process the loan as a continued delinquent account as he would with any other loan. He did not know the outcome of the continued delinquency because he left that office a short time later.

As stated in the findings for Allegation 1, a summary of Ms. Lovato's loan activity, during the period 1988 - 1992, was reviewed. The summary shows that Ms. Lovato made payments until June of 1990 and then received a moratorium. Ms. Lovato requested a moratorium in writing and it is a part of her file. She requested the moratorium due to financial difficulties following the birth of twins, having her hours cut back, and ultimately losing her job. Regulations allow for this type of assistance and it is common.

Ron Gonzales, Personnel Assistant (at the time of the complaint, now Loan Specialist of Rural Housing) -- Complainant stated that Mr. Gonzales was directed by Cordova to accompany him to the field, they went to homes of female borrowers, and occasionally Cordova asked him to deliver envelopes to female tellers at a specific bank.

Findings: Mr. Gonzales responded that he had no knowledge of Cordova's alleged improper conduct with female borrowers, he was only aware of rumors. He did say, however, that he suspected the rumors maybe true when he accompanied Cordova to borrowers' homes. Mr. Gonzales stated that Cordova asked him to go along. Then when they arrived at a home, Cordova would get out and tell him to come back in 45 minutes. Mr. Gonzales said that Cordova asked him to take an envelope to a borrower once. The envelope was sealed but Mr. Gonzales thought it probably had money in it. Mr. Gonzales said Cordova never told him anything about it and never discussed anything about the borrower visits with him. Mr. Gonzales told the Civil Rights Coordinator at the time, but he does not remember telling anyone else.

Arthur Baca, County Supervisor -- Complainant states that Mr. Baca had knowledge of Cordova's alleged activity when he was informed by his employee, Oliver Jenkins and that he has suppressed information.

Findings: Mr. Baca responded that he does not recall any specific statement being made by his employee then. He did say that he was aware of rumors when he came to work for the office late in 1990 but never had factual information about it.

Carmen Lopez, Loan Specialist -- Complainant stated that Ms. Lopez had knowledge of Cordova's alleged improper behavior and illegal practices.

Findings: Ms. Lopez stated that she had no factual knowledge of any inappropriate behavior by Cordova. She said no one ever told her to treat any borrowers differently than what would be considered normal. Ms. Lopez did say that she had heard rumors about Cordova but knew nothing specific about improper behavior with borrowers.

Conclusion and Recommended Disposition:

Issue 1: This investigation did not prove the allegation that Mr. Cordova improperly solicited sexual encounters from female borrowers. Nevertheless, the former State Director is no longer employed with the agency. The complainant named two borrowers in the complaint as having received special treatment in collections and foreclosure. One loan was foreclosed and the other loan is still active. The complaint focused on the time from 1988 to 1992 and the State Office reviewed these two borrowers' loans for activity during that period. For one female borrower, the records showed payments being made up to June of 1990. A moratorium on the loan followed this per a written request from the borrower. Payments resumed after the moratorium. There is no indication that special arrangements or accommodations were made for this borrower.

Issue 2: This investigation did not prove the allegation that FmHA officials failed to take action on employee complaints of misconduct. To summarize, the following points are to be considered:

The incidents in question are more than six years old.

All employees contacted, except two, denied having any factual knowledge of the alleged behavior. Nearly all employees said they had heard rumors about improper behavior but had no facts or evidence to show the allegations were true. The two employees, who did not deny having knowledge of the allegations, responded positively because of their conversations with the borrower who claimed she had an "arrangement" with Cordova. Though there were two reports of alleged improper behavior with borrowers, received by two separate employees, one interpreted the report as hearsay and the other as fact. Nevertheless, both took appropriate action on the delinquency, and reported the incident to the Civil Rights Coordinator.

Employees with loan servicing responsibilities stated that they were not asked to do anything unusual or illegal for any borrower.

Several employees stated that the former State Director, Vivian Cordova, ran his office through fear and intimidation. Oliver Jenkins told of his being harshly retaliated against when he reported the borrower's claims regarding Cordova. Jenkins was given a one week notice to relocate and to begin work in an office 250 miles away. During the time Mr. Cordova was State Director, this was not an atmosphere where employees could openly discuss "rumors" and whether they could prove them.

There is no indication that special arrangements were made for the borrowers or that employees had knowledge of any special accommodation.

Action: The new State Director will issue a reminder policy letter to all state employees regarding Civil Rights policy on both Equal Employment Opportunity and Compliance,

Honorable Elaine Kaplan

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including how to report improper activity and assurance that there will be no retaliation for any reports made.

Since little evidence was found to support the allegations and Mr. Cordova is no longer an employee of the agency, no further corrective action is necessary.

If you have any questions concerning our response to this complaint, please contact Sherie Hinton Henry, Director, Financial Management Division at (202) 692-0080.

Sincerely,


JILL LONG THOMPSON
Under Secretary
Rural Development