

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

| | | |
|--|---|-------------------|
| ELOUISE PEPION COBELL, <i>et al.</i> , |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Civil Action No. |
| |) | 1:96CV01285 (TFH) |
| |) | |
| SALLY JEWELL, Secretary of the Interior, <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |
| |) | |

**PLAINTIFFS’ UNOPPOSED MOTION TO INCLUDE AND AUTHORIZE PAYMENT
TO ADDITIONAL INDIVIDUALS IN THE HISTORICAL ACCOUNTING CLASS**

Plaintiffs move the Court, without opposition from defendants, to include an additional 12,558 individuals in the Historical Accounting Class and to authorize payment to them. In support, plaintiffs respectfully show the Court as follows:

1. The Class Action Settlement Agreement authorized by Congress defines the Historical Accounting Class as individual Indian beneficiaries alive on the Record Date, which was set as September 30, 2009,¹ “who had an IIM Account open *during any period between October 25, 1994 and the Record Date*, which IIM account had at least one cash transaction credited to it *at any time* as long as such credits were not later reversed.” Settlement Agreement [Dkt. 3660-2] at ¶ A.16 (emphasis added). That definition thus contains two requirements for Indian beneficiaries alive as of September 30, 2009 to be in the Historical Accounting Class: (a) an IIM account open during any period between October 25, 1994 and September 30, 2009; and

¹ Settlement Agreement [Dkt. 3660-2], ¶ A.30.

(b) at least one cash transaction credited to that IIM account at any time as long as the cash transaction was not later reversed.

2. In making payments to the Historical Accounting Class, Class Counsel and the Claims Administrator, the Garden City Group (“GCG”), are to rely on the information provided by Interior Defendants. Settlement Agreement, ¶¶ E.1.F and E.3.b.

3. As set forth in *Plaintiffs’ Unopposed Motion to Approve Payments to the Historical Accounting Class* dated December 10, 2012 [Dkt. No. 3920] (“Motion to Approve HAC Payments”), and as contemplated by the Settlement Agreement, the Department of the Interior (“Interior”) provided GCG the names and contact information for those individuals who it considered to be members of the Historical Accounting Class as defined in ¶ A.16 of the Settlement Agreement, except for those deemed whereabouts unknown or who did not otherwise have a current address. Settlement Agreement at ¶¶ E.1.f and E.3.b. At the time of the Motion to Approve HAC Payments, Interior had identified 327,965 members of the Historical Accounting Class. See Affidavit of Jennifer M. Keough [Dkt. No. 3920-1] at ¶ 4. This determination was based on extensive work by FTI Consulting, Inc. (“FTI”), a contractor of Interior, and in particular its Senior Managing Director, Michelle Herman (“Ms. Herman”), who has dedicated most of her professional career to the examination and study of Interior’s Indian trust records and historical bookkeeping practices. Declaration of Michelle D. Herman [Dkt. No. 3764-1] dated May 16, 2011 (“First Herman Declaration”) at ¶¶ 1-3.

4. On December 11, 2012, this Court authorized GCG to “commence payment of \$1,000 to each living member of the Historical Accounting Class who is not considered whereabouts unknown and has an address in Interior’s contact information or who otherwise is

located by GCG.” *Order Authorizing Distribution of Historical Accounting Class Settlement Funds* [Dkt. No. 3923] (“HAC Distribution Order”) at ¶ 2.

5. In accordance with the HAC Distribution Order, GCG began distribution of settlement funds to the members of the Historical Accounting Class identified by Interior Defendants. However, based on inquiries received by GCG through its call center and calls made to Class Counsel, concerns arose regarding whether all members of the Historical Accounting Class had been identified. It appeared that some beneficiaries who satisfied the definition of the Historical Accounting Class had not been included in Interior’s information.

6. As a result, GCG and Class Counsel made inquiries of defendants. It was determined that Interior had only provided information for individuals who had an open IIM account which had at least one cash transaction in the account between October 25, 1994 and September 30, 2009 which had not later been reversed. The Settlement Agreement, however, does not require that the cash transaction be made between October 25, 1994 and September 30, 2009. Rather, it states that the cash transaction can have been made “at any time.” *See* Settlement Agreement at ¶ A.16.

7. As a result, Interior had its contractor, FTI, undertake an investigation to determine which individuals should be added to the Historical Accounting Class because they had an open IIM account between October 25, 1994 and September 30, 2009 and had a cash transaction in that account prior to October 25, 1994 which cash transaction was not later reversed. As described in detail in the attached Declaration of Ms. Herman of FTI (“Second Herman Declaration”) (Exhibit A), she analyzed the additional 86,363 individuals who had accounts with cash transactions prior to October 25, 1994 which were not later reversed in order to determine if their accounts were open at any time between October 25, 1994 and September

30, 2009. Second Herman Declaration, ¶¶ 12-21. This analysis was necessary because Interior's electronic archives are not sufficient to determine the open status of an account in every case and she therefore had to consider other indicators to determine which accounts fell within the Historical Accounting Class definition. *Id.*, ¶¶ 13-14. Her analysis was based on the electronic databases of Interior, which are the most complete and accessible records available from which to make these determinations. *Id.*, ¶ 8.²

8. Based on her analysis of Interior's records for the 86,363 individuals, she determined that 11,727 had an account that remained open after October 25, 1994, 73,805 had accounts which are shown by Interior's electronic records as being treated as being closed prior to October 25, 1994, and that the records are inconclusive as to whether the accounts of 831 were closed by October 25, 1994. *Id.*, ¶¶ 22-23. Though Ms. Herman acknowledges that some of her analyses are not perfect given the incomplete nature of the databases, she notes that those databases are the most complete and accessible records from which to make objective determinations. *Id.*, ¶¶ 8, 16

9. Accordingly, 11,727 additional individuals are entitled to be included in the Historical Accounting Class. Regarding the 831 individuals for which the analysis of the records are inconclusive, it is clear that each had an IIM account with at least one cash transaction which was not later reversed and for which Interior has presented no evidence that their accounts were closed prior to October 25, 1994. As a result, plaintiffs submit that these 831 individuals should be included in the Historical Accounting Class, along with the additional 11,727 individuals for a total increase in the Historical Accounting Class of 12,558 individuals. These individuals are already members of the Trust Administration Class.

² Ms. Herman previously described these databases and the numerous tests performed to confirm the data's integrity in her earlier declaration. First Herman Declaration at ¶¶ 7-28.

10. The original amount estimated to be available for the Trust Administration Class was based on the initial information provided by Interior on the number of members of the Historical Accounting Class. Payment of an additional \$12,558,000 to the Historical Accounting Class thus means that less will be available for the Trust Administration Class than originally calculated.

11. In addition to this unanticipated increase in the Historical Accounting Class payments, the costs associated with the administration of the settlement are significantly greater than originally estimated. This is due in large part to the delays caused by the appeals of the Court's approval of the settlement during which time the Claim Administrator's call center had to be maintained, and the far greater than expected volume of calls and claims.

12. These two factors – the increase in Historical Accounting Class payments and greater than anticipated expenses – will have only a modest impact on payments made to some members of the Trust Administration Class. While the Court-approved Long Form Notice to the plaintiff classes contained estimates of the amounts that members of the Trust Administration Class might be paid, that Notice was clear the amounts stated there were “estimates,” “could be more or less,” and were dependent on the amount left after deducting Historical Accounting Class payments and costs of administration. *See Important information about the \$3.4 billion Indian Trust Settlement* (“Long Form Notice to Class Members”) at 8 (Exhibit B).

13. For most of the members of the Trust Administration Class, the increased membership of the Historical Accounting Class and the increased administrative costs will not reduce the estimated payments in the Notice. However, some will receive less than estimated in the Notice though the percentage of the reduction is anticipated to be relatively small.

14 It is evident that the additional individuals should be included in the Historical Accounting Class. Accordingly, plaintiffs respectfully request that the 12,558 additional individuals identified by Interior Defendants be included in the Historical Accounting Class and GCG be authorized to distribute Historical Accounting Class payments to them in accordance with the Settlement Agreement.

Class Counsel has discussed this Motion with counsel for defendants, who report that defendants do not oppose this Motion.

Respectfully submitted, this 29th day of November, 2013.

/s/ David C. Smith
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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing PLAINTIFFS' UNOPPOSED MOTION TO INCLUDE AND AUTHORIZE PAYMENTS TO ADDITIONAL HISTORICAL ACCOUNTING CLASS MEMBERS was served on the following via facsimile, pursuant to agreement, on this 29th day of November, 2013.

Earl Old Person (*Pro se*)
Blackfeet Tribe
P.O. Box 850
Browning, MT 59417
406.338.7530 (fax)

/s/ David C. Smith
David C. Smith

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| ELOUISE PEPION COBELL, et al., |) | |
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| Plaintiffs, |) | |
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| SALLY JEWELL, Secretary of the |) | |
| Interior, et al., |) | |
| Defendants. |) | |

DECLARATION OF MICHELLE D. HERMAN

I, Michelle D. Herman, hereby declare as follows:

1. I am a Senior Managing Director in the Financial and Enterprise Data Analytics division of the Forensic and Litigation Consulting (FLC) practice for FTI Consulting, Inc. (FTI), a global professional services organization. My business address is 633 West Fifth Street, Suite 1600, Los Angeles, CA 90071.
2. I submit this declaration in connection with the implementation of the settlement in the *Cobell v. Jewell* class action pending in the United States District Court for the District of Columbia. This declaration reviews the electronic data available for determination of class membership in the Historical Accounting Class (HAC).
3. This declaration is based on my personal knowledge and experience, as well as knowledge from data and records my team and I have analyzed to date on this case over the course of more than 15 years. I have devoted most of my professional career to the examination and study of Indian trust records and the Department of the Interior's (Interior's) historical bookkeeping practices.

4. I have presented testimony three times in this case covering the available hard copy and electronic accounting records, the completeness and adequacy of the available electronic accounting records, and an estimate of the throughput of funds coming into and flowing out of the Individual Indian Money (IIM) System between 1909 and 2005. *Cobell v. Kempthorne*, 569 F. Supp. 2d 223 (D.D.C. 2008) (Cobell XXI); *Cobell v. Kempthorne*, 532 F. Supp. 2d 37 (D.D.C. 2008) (Cobell XX); *Cobell v. Norton*, 283 F. Supp. 2d 66 (D.D.C. 2003).
5. In addition to my courtroom testimony, I testified by sworn declaration in 2011, in conjunction with the parties' request for final approval of the settlement in this case. In that declaration, I outlined the data available to be used to calculate settlement payments for members of the Trust Administration Class (TAC).
6. Upon consideration of my testimony regarding receipts into the IIM System in 2008, Judge James Robertson found it credible and my treatment of the data "demonstrably even-handed." Cobell XXI, 569 F. Supp. 2d at 232.
7. My major projects with Interior have included:
 - a. gathering data from Interior's Integrated Records Management System (IRMS) and working on the restoration of missing Electronic Ledger Era data (currently available electronic data in systems of the Interior dating from approximately 1985 to the present) from back-up tapes and paper records;
 - b. locating records relating to the five named Plaintiffs and a stipulated list of their ancestors as part of what has become known as the Paragraph 19 document collection effort;
 - c. assisting the Office of Historical Trust Accounting (OHTA) within Interior with the development of its historical accounting plan;

- d. developing and designing the Accounting Reconciliation Tool (ART) which was utilized by Interior and its contractors to reconcile a sample of IIM transactions from 1985 through 2000;
- e. reconciling 6,000 transactions as part of OHTA's Litigation Support Accounting analysis;
- f. overseeing the testing of 131.4 million IIM transactions (through September 30, 2009) from the Electronic Ledger Era as part of the Data Completeness Validation (DCV) project;
- g. participating in the pilot project for the Land-to-Dollars analysis;
- h. assisting Interior with the distribution of aged balances in Special Deposit Accounts; and
- i. examining, as part of this litigation, the overall throughput of dollars flowing into and out of the IIM System.

The Available IIM Accounting Data

- 8. Interior's Office of the Special Trustee for American Indians (OST) provided OHTA with electronic data from the trust accounting systems relevant to the IIM System. This dataset was the foundation for the analyses my team and I performed as well as the source of data used to aid in the initial identification of the members of the Historical Accounting Class. That data, including IRMS and the Trust Funds Accounting System (TFAS), represent the most complete and accessible source of individual Indian account and transaction data from early 1985 through the present. I provided a detailed description of the available data and the numerous tests performed to confirm the data's integrity in my 2011 declaration filed in this case (Docket No. 3764-1), which I incorporate by reference here.
- 9. In November 2012, at the request of the parties, FTI provided the Claims Administrator, Garden City Group (GCG), the names and available contact information for those individuals

whose Electronic Ledger Era account data (“electronic data”) provided by Interior met the criteria for membership in the HAC or the TAC, as defined in the Settlement Agreement. I oversaw the provision of that data.

10. GCG used the electronic data provided to issue settlement payments to the HAC. GCG later informed me that it had received inquiries from individuals who believed they were members of the HAC but whom GCG could not confirm based upon the data provided to GCG.
11. The data FTI provided to GCG in November 2012 included the names of all individuals who had at least one open IIM account between October 25, 1994 and September 30, 2009, in which there had been at least one cash transaction during that period that had not later been reversed. In researching the inquiries GCG had received, the parties brought to FTI’s attention that the definition of the HAC (in ¶ A.16 of the Settlement Agreement) includes individuals with an open IIM account between October 25, 1994 and September 30, 2009, which had a cash transaction credited to it “at any time” which was not later reversed. Thus, the class definition also includes individuals who had IIM accounts open during the stated period where the only cash transaction occurred prior to October 25, 1994. I then researched the available electronic data to see if there were additional individuals in the HAC who may not have been detected using the previous criteria.
12. To conduct this analysis, I first sought to determine the universe of individuals for whom Interior has provided FTI some IIM account record, regardless of whether the account was open within the time frame necessary for HAC membership. The data include information from a limited number of Paper Ledger Era accounts and transactions which was added as a component of Interior’s historical accounting efforts, in addition to the IRMS and TFAS data discussed previously. In making that determination, I also took into account updates which had been made to the database between the time it was initially provided to GCG and

September 2013. These updates included additional personally identifiable information such as social security numbers, which allowed for additional refinement of the accounts owned by a single individual (*e.g.*, allowing us to identify cases where one class member had multiple accounts). Based on my calculation and review of the data, I determined that 86,363 additional individuals, beyond those already identified as HAC members, had accounts with at least one credit transaction at any time which was not later reversed. It should be noted that the transactional activity for some of the accounts is incomplete as the data were entered from paper account statements.

13. The parties asked me to identify how many of these individuals had accounts that were open during the time frame that satisfies the HAC definition, that is, open between October 25, 1994 and September 30, 2009. Interior's electronic archives, however, are not sufficient to determine the open status of an account in every case. As a result, I had to consider other indicators to determine which of these accounts fell within the HAC definition.
14. I could not base that determination on whether Interior had issued statements for a particular IIM account. Based on FTI's experience examining Interior records and data, FTI is aware of multiple instances where Interior issued statements for accounts that were closed. Moreover, Interior did not maintain comprehensive records of which accounts received statements.
15. After studying the available electronic data, I did find that, out of the group of 86,363 people, the database contains an open account record for 11,727 people between October 25, 1994 and September 30, 2009. An open account record is defined differently based on the accounting system in place at a given point in time. As discussed in my declaration in 2011, two Electronic Ledger Era accounting systems were employed during this timeframe, IRMS and TFAS. The IIM subsystem of IRMS contained one database consisting of two major parts: *Master* and *Trans*. The *Master* portion of the IRMS IIM database contained account

level information such as the account holder's name, address, dates of birth and death and the account's management code(s), current balance, and six months of previous account balances. The management code, when available in the electronically archived data, indicates the open status of an account. This information was archived electronically at various points-in-time in what are referred to as *Master* files. In TFAS, similar information is available in the *Account* file which is archived at each month-end. It should be noted that a closed account may be reopened for administrative reasons unrelated to a transactional posting (*e.g.*, address updates). Nevertheless, the data available to me are not complete for the entire relevant period, and I cannot therefore say that only those people with an open account record in the database had an open account during the relevant period.

16. For the remaining 74,636 individuals for whom there is not an open account record in Interior's electronic databases during the relevant period, I performed a series of further analyses to try to determine which accounts appear to have been treated as being open as of October 25, 1994. The first analysis involved Interior's posting of interest to IIM accounts. Interior periodically posted interest to IIM accounts that were open at the time of the posting, if the account were due at least one-cent (\$0.01) of interest. (Interior did not post interest in fractions of a cent.) Thus, it is possible to review the data to find which IIM accounts continued to have interest of more than one cent posted. If interest was not posted to an account which would have otherwise been entitled to interest of at least one cent, then the absence of interest is an indication that the account was being treated as closed. Based on my analysis of the accounts of the remaining 74,636 individuals, 45,482 of them, if considered open, would have received interest of at least one cent at a particular time prior to October 25, 1994, but did not have interest posted. The lack of the expected interest posting is an indicator that the accounts corresponding to these 45,482 individuals were being treated by

Interior as closed. The accuracy of this interest test, of course, depends on the completeness of the database and its accuracy for any particular account. Based on my study of Interior's databases, this is not a perfect test, but it is the best objective test given the electronic records that are available.

17. For the other 29,154 individuals, the interest analysis was inconclusive, because their accounts would not have earned interest of at least one cent or because the analysis was inconclusive for at least some of their accounts. As a result, I conducted further analysis of the accounts of those 29,154 individuals. Of this number, 12,672 had judgment accounts, per capita accounts, or accounts for minors where the final distribution plus any accrued interest was made before April 25, 1993. It is my understanding, based on conversations with Interior personnel, that once a final distribution was made for these types of accounts, the account had served its purpose and was considered closed by Interior. (A common example is when an account for a minor child was fully distributed when the account holder reached the age of majority.)
18. After excluding these accounts, 16,482 individuals remained for further analysis. Of these, 1,746 people had accounts where the last disbursement – all of which occurred before October 25, 1994 – indicates that it was the account's final distribution, based on the transaction reference or code noted in connection with the disbursement.
19. This left 14,736 people whose accounts required further study. Of those, 13,114 individuals had a zero balance in their accounts without any transaction for more than 18 months prior to October 25, 1994. It is my understanding, based on conversations with Interior personnel, that Interior considered accounts to be closed when they had a zero balance and 18 months of inactivity. Based on this, the accounts for these 13,114 people can be considered to have been closed prior to October 25, 1994.

20. An additional 791 individuals only had judgment accounts, per capita accounts, or accounts for minors where the final distribution plus any accrued interest was made before October 25, 1994. As discussed previously, it is my understanding that once a final distribution was made for these types of accounts, the account had served its purpose and was considered closed by Interior.
21. This leaves 831 people with accounts for which the tests I described above were inconclusive concerning whether their IIM accounts were considered closed as of October 25, 1994.

Conclusion

22. Based on the analyses of the electronic databases available to Interior that I described above, the records indicate that 11,727 additional individuals had open accounts between October 25, 1994 and September 30, 2009, that had at least one transaction at any time which was not later reversed. In addition, the same analyses indicate that for the other 74,636 people whose accounts were studied, the data indicate that 73,805 were treated by Interior as being closed prior to October 25, 1994.
23. For the remaining 831 people, each of whom had an account with a cash transaction within 18 months before October 25, 1994, the analyses I performed were inconclusive regarding whether the accounts were considered closed prior to October 25, 1994.
24. Using the most complete data available, FTI, on behalf of Interior, is prepared to calculate the class payments in accordance with the terms of the Settlement Agreement and as approved by the District Court. It should be noted that the numbers contained in this declaration will vary slightly from the finalized numbers utilized for HAC distributions to the extent parties continue to provide FTI with data updates which allow for a more precise identification of class members.

25. I declare under penalty of perjury that the foregoing is true and correct. If called as a witness,
I could and would competently testify thereto.



Michelle D. Herman

November 27, 2013

Date

Important information about the \$3.4 billion Indian Trust Settlement

For current or former IIM account holders,
Owners of land held in trust or restricted status, or their heirs

A federal court authorized this notice. You are not being sued.

Para el aviso en español, llame o visite nuestro sitio en internet.

Diné́k'ehgo 'ił hane' biniiyégo, béesh bee holne' doodago béesh lichí'ii biyi'jji' nihaa nanitah.

- A proposed Settlement has been reached in *Cobell v. Salazar*, a class action lawsuit about individual Indian land, funds and other assets held in trust by the federal government. Courts decided that the federal government has violated its trust duties, including a duty to account for Individual Indian Money trust funds. The Settlement will resolve claims that the government violated its trust duties by (a) mismanaging individual Indian trust funds and other assets, (b) improperly accounting for those funds, and (c) mismanaging trust land and other assets. The individual Indian trust land is called “allotted” land and owners are from time to time referred to as “beneficiaries,” “allottees,” or “landowners.”
- You may be part of this Settlement with certain rights in this Settlement if you are an:
 - Individual Indian Money (“IIM”) account holder (even if the account currently is not active or open),
 - Individual Indian who has or had an ownership interest in land held in trust or in restricted status,
 - Heir to a deceased IIM account holder or individual landowner.
- The Settlement establishes funds worth approximately \$1.5 billion to pay individual Indian trust beneficiaries for past accounting problems and resolve historical asset mismanagement claims. Settlement and administrative expenses, incentive fees and expenses of the Class Representatives, and legal fees and expenses will be paid out of these Settlement funds. Another \$1.9 billion will be used primarily to buy up interests in trust lands that are owned by many people (“fractionated interests”).
- Congress has passed legislation authorizing the Settlement and provided funding for it. The President has signed the legislation into law.

QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT WWW.INDIANTRUST.COM.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and after any appeals are resolved. If the Settlement is approved by the Court, the majority of individual Indian trust beneficiaries will get at least \$1,500.
- The Settlement also creates an Indian Education Scholarship Fund worth up to \$60 million to improve access to higher education for Indian youth.

Your legal rights are affected whether you act or do not act, so please read this notice carefully.

| These rights and options—and the deadlines to exercise them—are explained in this notice. | |
|--|------------------------|
| You can object to or comment on the Settlement. | <i>see</i> Question 30 |
| You can go to a hearing and ask the Court to speak about the Settlement. | <i>see</i> Question 36 |
| You may also have the right to exclude yourself from part of the Settlement. | <i>see</i> Question 28 |

- The full details of the Settlement can be found in a document called the Settlement Agreement, and subsequent modifications to it, which can be found on the web at www.IndianTrust.com.

QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT WWW.INDIANTRUST.COM.

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- 4. What is this lawsuit about?
- 5. Why is there a Settlement?

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BASIC INFORMATION

1. Why did I get this notice?

You received this notice because Interior Department records show that: (a) you are now or have been an Individual Indian Money (“IIM”) account holder, or (b) you have an individual interest in trust land, or (c) you have requested that this notice be mailed to you. A Court authorized this notice because you have a right to know about a proposed Settlement of this class action lawsuit and about your options, before the Court decides whether the Settlement is fair and to give final approval to the Settlement. This notice explains the lawsuit, the Settlement, and your legal rights.

Judge Thomas F. Hogan, of the United States District Court for the District of Columbia, is currently overseeing this case. The case is known as *Cobell v. Salazar*, No. 1:96cv01285, and is a class action lawsuit.

In a class action lawsuit, one or more people called Class Representatives (in this case, Elouise Cobell and others) sue on behalf of other people who have similar claims. The people together are called a “Class” or “Class Members.” The people who sued—and all the Class Members like them—are called the Plaintiffs. The people they sued (in this case, the Secretaries of the Interior and Treasury and the Assistant Secretary-Indian Affairs (together called the “federal government”)) are called the Defendants. One court resolves the issues for everyone who remains in the Class.

2. What are Individual Indian Money (“IIM”) accounts?

IIM accounts primarily contain money collected by the federal government from farming and grazing leases, timber sales, mining, oil and gas production, and other activities on trust land, as well as certain per capita distributions. The funds in IIM accounts are held in trust by the federal government for the benefit of individual Indians.

3. Who is affected by this Settlement?

The Settlement will affect all Class Members (*see* Question 6). Class Members include individual Indian trust beneficiaries, which means those individuals who:

- Had an IIM account anytime from approximately 1985 through September 30, 2009, or
- Had an individual interest in land held in trust or restricted status by the U.S. government as of September 30, 2009.

The estate of a deceased individual described above whose account was open or in probate status as of September 30, 2009 is included. Probate means you have asked a court to transfer ownership of the landowner’s property after he or she died.

This Settlement does not relate to certain historical claims or any future claims of Class Members. It does not relate to claims tribes might have against the federal government.

4. What is this lawsuit about?

The Settlement resolves claims that the federal government violated its trust duties to individual Indian trust beneficiaries. The claims fall into three areas:

- Historical Accounting Claims state that the federal government violated its trust duties by not providing a proper historical accounting relating to IIM accounts and other trust assets.
- Trust Administration Claims include:
 - Fund Administration Claims state that the federal government violated its trust duties and mismanaged individual Indian trust funds.
 - Land Administration Claims state that the federal government violated its trust responsibilities for management of land, oil, natural gas, mineral, timber, grazing, and other resources.

The federal government denies all these claims. It says it has no legal responsibility for these claims and owes nothing to the Class Members.

5. Why is there a Settlement?

The Settlement is an agreement between the Plaintiffs and the federal government. Settlements end lawsuits. This does not mean the Court has ruled in favor of either side. The parties wish to resolve their differences and realize that many Class Members are elderly and dying and need to receive compensation. In addition, large numbers of Class Members currently live in poverty. So, after 14 years of litigation, both sides want to settle the lawsuit so individual Indian trust beneficiaries receive compensation for their claims. The Settlement will also help the federal government reduce future administration expenses and accounting issues. Class Representatives and lawyers representing them believe that the Settlement is reasonable under the circumstances.

WHO IS IN THE SETTLEMENT?

6. Who is part of the Settlement?

The proposed Settlement affects individual Indians across the country, including members of most federally recognized tribes west of the Mississippi River. The Settlement includes two groups or “Classes.” An individual may be a member of one or both Classes. Most people included in the Settlement are members of both Classes.

Historical Accounting Class

- Anyone alive on September 30, 2009,
- Who had an open IIM account anytime between October 25, 1994 and September 30, 2009, and
- Whose account had at least one cash transaction (that was not later reversed).

Note to heirs:

- The estate of an IIM account holder who was deceased as of September 30, 2009 is included in the Historical Accounting Class if the IIM account (or its related probate account) was open as of that date.

QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT WWW.INDIANTRUST.COM.

- The heirs of any Class Member who died after September 30, 2009, but before distribution of any Settlement funds, will receive that Class Member's Settlement payments through probate.

Trust Administration Class

- Anyone alive on September 30, 2009, and who
 - Had an IIM account recorded in currently available electronic data in federal government systems ("Electronic Ledger Era") anytime from approximately 1985 to September 30, 2009, or
 - Can demonstrate ownership interest in trust land or land in restricted status as of September 30, 2009.
- The estate of any deceased beneficiary whose IIM account was open or whose trust assets had been in probate as reflected in the federal government's records as of September 30, 2009.

Note to heirs:

- The heirs of any Class Member who died after September 30, 2009, but before distribution of any Settlement funds, will receive that Class Member's Settlement payments through probate.

7. Are there exceptions to being included?

The Historical Accounting Class does not include individuals who filed a separate lawsuit before June 10, 1996, against the federal government making a claim for a complete historical accounting.

The Trust Administration Class does not include individuals who filed a separate lawsuit or who were part of a certified class in a class action lawsuit making a Funds Administration Claim or a Land Administration Claim against the federal government before **December 10, 2010**.

8. If I never had an IIM account or my IIM account is now inactive or closed, does this Settlement affect me?

It could. If you are included in the Historical Accounting Class and/or the Trust Administration Class as defined in Question 6, this Settlement does affect you.

If you **are NOT currently receiving quarterly or annual IIM account statements**, you should fill out a claim form and mail it to the address on the form. You can also submit your claim form online at www.IndianTrust.com. You may be asked to provide additional information to demonstrate your membership in the Historical Accounting Class and/or the Trust Administration Class. Claim forms and documentation will be due within 45 days of the Court's Final Approval of the Settlement (or, at a later date set by the Court). Final Approval will be after the Fairness Hearing. Check the website or call the toll-free number for information on the claims filing deadline.

9. I'm not sure if I'm included in the Settlement.

If you are not sure whether you are included in one or both Classes or you are unsure if the federal government has your current address, you should call toll-free 1-800-961-6109 with questions or visit www.IndianTrust.com. You may also write with questions to Indian Trust Settlement, P.O. Box 9577, Dublin, OH 43017-4877. If you believe that you should be considered a member of either Class, but are not receiving quarterly or annual IIM account statements, you must fill out a claim form and mail it to the address on the form. The deadline for filing claims is explained in Questions 8 and 24.

QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT WWW.INDIANTRUST.COM.

THE SETTLEMENT BENEFITS—WHAT YOU GET

10. What does the Settlement provide?

The Settlement will provide:

- \$1.412 billion Accounting/Trust Administration Fund, plus a \$100 million Trust Administration Adjustment Fund, plus any earned interest, to pay for Historical Accounting and Trust Administration Claims. This money will also pay for the cost of administering and implementing the Settlement, as well as other expenses (*see* Question 13).
- \$1.9 billion Trust Land Consolidation Fund to purchase “fractionated” individual Indian trust lands (*see* Question 11). The program will allow individual Indians to get money for land interests divided among numerous owners. Land sales are voluntary. If you sell your land it will be returned to tribal control.
- Up to \$60 million for an Indian Education Scholarship Fund to help Native Americans attend college or vocational school. This money will come out of the \$1.9 billion Trust Land Consolidation Fund and will be based upon the participation of landowners in selling these fractionated land interests.

More details are in a document called the Settlement Agreement, which is available at www.IndianTrust.com.

11. What is fractionated land?

Fractionated land is a parcel of land that has many owners, often hundreds of owners. Frequently, owners of highly fractionated land receive very little money from that land.

ACCOUNTING/TRUST ADMINISTRATION FUND

12. How much will my payment be if I’m an Accounting Class Member?

Each member of the Historical Accounting Class will receive \$1,000. This is a per-person, not a per-account, payment.

13. How much will my payment be if I’m a Trust Administration Class Member?

It depends on how much income you’ve collected into your IIM account. Each member of the Trust Administration Class will receive a baseline payment of \$500. The \$100 million in the Trust Administration Adjustment Fund will be used to increase the minimum payment for Trust Administration Class Members. The current estimate is that will raise the minimum payment to Trust Administration Class Members to about \$800. Individuals with an IIM account open between 1985 and September 30, 2009 may receive more than \$800. This payment is separate from, and in addition to, the \$1,000 payment to individuals in the Historical Accounting Class.

The payment calculation uses the sum of your 10 highest years of income in your IIM account to determine your share of the Trust Administration Fund. That Fund is estimated to be \$850 million to \$1 billion. The exact dollar amount you will get cannot be known with certainty at this time because it is based on (a) the recorded income deposited to your IIM account over a period of time, and (b) the amount of money that will be left in the Accounting/Trust Administration Fund after deducting:

- All of the \$1,000 payments to Historical Accounting Class Members, and
- Attorneys' fees, their expenses, including expense reimbursements and possibly incentive fees to Class Representatives (*see* Question 33) and the costs of administering and implementing the Settlement.

Congress has determined that payments to Trust Administration Class Members should be increased for individuals whose payments are calculated to be:

- Zero; or
- Greater than zero (but only if you would have received a smaller Stage 2 payment (*see* Question 14) than Trust Administration Class Members whose payment is calculated to be zero).

For example, if you were supposed to receive a base payment of \$500, your payment might be increased to \$800. If your neighbor was supposed to receive a base payment of \$600, his payment might be increased to \$800.

The following are estimated calculations and are in addition to the \$1,000 you will receive as a member of the Historical Accounting Class. Your final Trust Administration payment could be more or less.

- If the sum of your 10 highest years of revenue is between \$0 and \$5,000, you may receive between \$800 and \$1,250.00.
- If the sum of your 10 highest years of revenue is between \$5,000.01 and \$15,000, you may receive between \$1,250.01 and \$2,500.
- If the sum of your 10 highest years of revenue is between \$15,000.01 and \$30,000, you may receive between \$2,500.01 and \$5,000.
- If the sum of your 10 highest years of revenue is between \$30,000.01 and \$75,000, you may receive between \$5,000.01 and \$12,000.
- If the sum of your 10 highest years of revenue is between \$75,000.01 and \$750,000, you may receive between \$12,000.01 and \$125,000.
- If the sum of your 10 highest years of revenue is greater than \$750,000.01, you may receive more than \$125,000.

If your account shows fewer than ten years of income, a zero dollar amount will be used in the years for which no income has been recorded. Reversed transactions and transfers between an individual's accounts will not be included in that calculation.

14. How will the Accounting/Trust Administration Fund be distributed?

If the Settlement is approved, there will be two distributions.

Stage 1 – The \$1,000 payments to Historical Accounting Class Members will be distributed shortly after the Settlement is approved and the Court’s order becomes final. For those Class Members who cannot be found, their payment will be deposited in a Remainder Account until the Class Member is located and can demonstrate his or her ownership interest. If a Class Member cannot be located prior to the conclusion of the distribution process, his or her funds will be transferred to the Indian Education Scholarship Fund (*see* Question 21).

Stage 2 – Payments to Trust Administration Class Members will be distributed after it is determined that substantially all the Trust Administration Class Members have been identified and the payments have been calculated (*see* Question 13).

15. What happens to any funds left in the Accounting/Trust Administration Fund?

After all payments are made, any money that is left over will be contributed to the Indian Education Scholarship Fund (*see* Question 21).

TRUST LAND CONSOLIDATION FUND

16. What is the Trust Land Consolidation Fund?

Over time, through generations, Indian trust lands owned by individuals have been fractionated into smaller and smaller undivided (“fractionated”) ownership interests. According to government calculations, owners historically have received very little money and the cost to administer the IIM account frequently has been more than what is paid out to individual Indians.

The \$1.9 billion Trust Land Consolidation Fund will provide individual Indians with an opportunity to get money for the fractionated land. As an additional incentive for owners to sell their land interests, an amount above the fair-market value will be paid into the Indian Education Scholarship Fund (*see* Question 21).

The Trust Land Consolidation Fund will be used for four things: (1) to purchase the fractionated land interests, (2) to carry out the Trust Land Consolidation Program, (3) to further Trust Reform efforts (*see* Question 23), and (4) to set aside up to \$60 million for Indian scholarships. At least 85% of the Fund will be used to purchase land. The Department of the Interior will consult with tribes to identify fractionated interests that the Department may want to consider purchasing.

17. How much money can I get from selling my land?

The Department of the Interior will offer fair market value for fractionated trust land.

18. How can I sell my land?

The procedures for selling trust land have not been determined at this point. Once those procedures have been determined, the Department of the Interior will attempt to contact individual Indian trust beneficiaries who own fractionated interests that it wishes to purchase.

19. What happens to land when owners cannot be located?

For fractionated interests that the Department of the Interior wishes to purchase, but whose owners cannot be located, Interior will attempt to find missing Class Members, including through the publication of notice in appropriate newspapers and newsletters for a period of at least six months. Five years after the Settlement is granted final approval, Class Members whose whereabouts are unknown, after diligent efforts have been made by the federal government to locate them, will be assumed to have consented to the transfer of their fractionated interests and their Indian Land Consolidation Funds will be deposited into an IIM account.

20. How long will the Trust Land Consolidation Fund continue?

The Department of the Interior will have up to 10 years from the date the Settlement is granted final approval to purchase the fractionated trust land. Any money remaining in the Land Consolidation Fund after that time will be returned to the U.S. Treasury.

INDIAN EDUCATION SCHOLARSHIP FUND

21. How will the Indian Education Scholarship Fund work?

The Indian Education Scholarship Fund will provide money for Native American students to attend college and vocational school. It will be funded in three ways:

- Up to \$60 million will come from the Trust Land Consolidation Fund in connection with the purchase of fractionated interests in trust land. Contributions will be as follows:

| Land Purchase Price | Contribution to Fund |
|----------------------------|-----------------------------|
| Less than \$200 | \$10 |
| Between \$200 - \$500 | \$25 |
| More than \$500 | 5% of the purchase price |

The amount paid into the Indian Education Scholarship Fund is in addition to the fair market value amount that will be paid to the individual Indian landowner.

- Any remaining funds in the Accounting/Trust Administration Fund, after all distributions and costs relating to the Settlement are paid, will be transferred to the Indian Education Scholarship Fund.
- Any payments for Class Members that remain unclaimed for five years after Settlement is approved will be transferred to the Indian Education Scholarship Fund. This transfer will not occur for money being held for minors and adults who are mentally impaired, legally disabled, or otherwise in need of assistance.

QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT WWW.INDIANTRUST.COM.

22. How will the Indian Education Scholarship Fund be administered?

A non-profit organization chosen by the parties will administer the Indian Education Scholarship Fund. A special board of trustees will oversee the Fund. The trustees will be selected by the Secretary of the Interior, the representative Plaintiffs, as well as the non-profit. The Secretary will select his trustees only after consulting with tribes and after considering names of possible candidates timely offered by tribes.

INDIAN TRUST REFORM

23. How does this Settlement affect Indian trust reform?

Reform of the Indian trust management and accounting system should continue in the future. The Settlement Agreement allows some funds in the Trust Land Consolidation Fund to be used to pay costs related to the work of a commission on Indian trust administration and reform. In the future, Class Members will still be able to bring claims against the federal government for trust reform.

HOW TO GET A PAYMENT

24. How can I get a payment?

To be eligible for any payments under the Settlement, you must be a member of one or both Classes. If you are not receiving quarterly or annual IIM account statements and you believe you are a member of either Class, you will need to fill out a claim form. The claim form describes what you need to provide to prove your claim and receive a payment. Please read the instructions carefully. Claim forms and documentation will be due within 45 days of the Court's Final Approval of the Settlement (or, at a later date set by the Court). Final Approval will be after the Fairness Hearing. Check the website or call the toll-free number for information on the claims filing deadline. The claim form should be sent to:

Indian Trust Settlement
P.O. Box 9577
Dublin, OH 43017-4877

If you are denied participation, there will be an opportunity to submit additional documentation.

25. When will I get my payment?

Payments will be made after the Court grants final approval of the Settlement, and any appeals are resolved.

REMAINING IN THE SETTLEMENT

26. Do I need to do anything to remain in the Settlement?

You do not have to do anything to remain in the Settlement unless you are not receiving quarterly IIM account statements. In that case, you will need to fill out and return a claim form in order to get a payment.

QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT WWW.INDIANTRUST.COM.

27. What am I giving up as part of the Settlement?

If the Settlement becomes final, you will give up your right to sue the federal government for the claims being resolved by this Settlement. The specific claims you are giving up against the federal government are described in Section A, paragraphs 14, 15, and 21 of the Settlement Agreement. You will be “releasing” the federal government and all related people as described in Section I of the Settlement Agreement. The Settlement Agreement is available at www.IndianTrust.com.

If you did not receive an IIM account statement for 2009, you may request your IIM account balance as of September 30, 2009 by calling 888-678-6836. If you request your IIM account balance, you are agreeing to the balance provided by Interior unless you exclude yourself from the Settlement (*see* Question 28).

The Settlement Agreement describes the released claims with specific descriptions, so read it carefully. If you have any questions, you can talk to the law firms listed in Question 32 for free or you can talk to your own lawyer at your own expense.

EXCLUDING YOURSELF FROM THE SETTLEMENT

28. What if I don't want to be in the Settlement?

By law, you cannot exclude yourself from the Historical Accounting Class, if you are a member. You can only exclude yourself from the Trust Administration Class. If you don't want to be in that part of the Settlement, you must take steps to exclude yourself. This is sometimes called “opting out.” By excluding yourself, you keep the right to file your own lawsuit. Or you can join any other person who opted out and bring a separate lawsuit against the federal government on any Trust Fund Administration or Land Administration Claims that you may have.

If you choose to exclude yourself from the Trust Administration Class,

- You will not receive any money for your Fund Administration and Land Administration Claims.
- You will not be bound by the Court's ruling and will keep your right to sue the federal government for these Claims.
- You cannot object to or comment on this aspect of the Settlement as far as it concerns the Trust Administration Class.

If you are a member of the Historical Accounting Class:

- You **cannot** exclude yourself.
- If the Court approves the Settlement, you will not be able to sue the federal government about the Historical Accounting Claims.
- You will receive a \$1,000 payment.
- You can object to and/or comment on the terms of the Settlement.

QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT [WWW.INDIANTRUST.COM](http://www.IndianTrust.com).

29. How do I get out of the Trust Administration Class?

To exclude yourself, you must send a letter by mail saying that you want to be excluded from *Cobell v. Salazar*. Be sure to include your full name, telephone number, social security number, IIM account number(s) (if any), and your signature. You can't ask to be excluded on the phone or at the website. You must mail your exclusion request so that it is postmarked by **April 20, 2011** to:

Indian Trust Exclusions
P.O. Box 9419
Dublin, OH 43017-4519

Please note that the share of money you would have received if you had stayed in the Trust Administration Class will be removed from the \$1.512 billion Accounting/Trust Administration Fund and given back to the federal government.

OBJECTING TO OR COMMENTING ON THE SETTLEMENT**30. How can I object to or comment on the Settlement?**

Any Class Member may comment on or object to the Settlement. However, if you exclude yourself from the Trust Administration Class, you may only object to, or comment on, other parts of the Settlement that you do not like. Also, you may comment on or object to fee and expense requests for Class Counsel and incentive awards and expenses for Class Representatives and other amounts that may be awarded by the Court (*see* Question 33). If you object to any part of the Settlement you must give reasons why. You may also comment favorably on any part of the Settlement. To object or comment, send a letter stating:

- a) The case name (*Cobell v. Salazar*) and case number (1:96cv01285);
- b) Your full name, address, telephone number, IIM Account Number(s) and signature;
- c) Comments you have about any aspect of the Settlement, including (1) fee and expense requests for Class Counsel, (2) incentive awards and expenses for Class Representatives, or (3) other fees and expenses that may be awarded. Your comments must state the specific reasons why you are objecting to the Settlement; and
- d) Any legal support or factual evidence that you wish to bring to the Court's attention, any grounds to support your status as a Class Member, and whether you intend to appear at the Fairness Hearing.

Mail your comments or objection to these three different places postmarked no later than **April 20, 2011**:

| COURT | CLASS COUNSEL | DEFENSE COUNSEL |
|---|---|---|
| Clerk's Office United States District Court for the District of Columbia 333 Constitution Avenue, N.W. Washington, DC 20001 | Cobell Class Counsel 607 14th Street, NW Suite 900 Washington, DC 20005-2018 | Robert E. Kirschman, Jr. Dept of Justice, Civil Div. P.O. Box 875 Ben Franklin Station Washington, DC 20044 |

At your own expense, you may also appear at the Fairness Hearing to comment on or object to any aspect of the fairness, reasonableness, or adequacy of the Settlement (*see* Question 36).

QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT WWW.INDIANTRUST.COM.

31. What’s the difference between objecting to and excluding myself from the Settlement?

You object to the Settlement when you disagree with some part of it but you wish to remain a Class Member. An objection allows the Court to consider your views. On the other hand, exclusion or “opting out” means that you do not want to be part of the Trust Administration Class or share in the benefits of that part of the Settlement. Once excluded, you lose any right to object to any part of the Settlement that relates to the Trust Fund Administration Claims or the Land Administration Claims, because those parts of the case no longer affect you. If you exclude yourself, you are free to bring your own lawsuit for those claims.

THE LAWYERS REPRESENTING YOU

32. Do I have a lawyer in the case?

Yes. The Court has appointed lawyers to represent you and other Class Members as “Class Counsel,” including:

| | |
|--|--|
| Dennis Gingold 607 14 th Street NW, Suite 900 Washington, DC 20005-2018 | Keith Harper Kilpatrick Townsend & Stockton LLP 607 14 th Street NW, Suite 900 Washington, DC 20005-2018 |
|--|--|

You will not be charged personally for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own personal expense.

33. How will the lawyers be paid? Do the Class Representatives get paid extra?

The amount of attorneys’ fees, expenses and costs to be paid to Class Counsel will be decided by the Court in accordance with controlling law, giving due consideration to the special status of Class Members as beneficiaries of a federally created and administered trust. The amounts awarded will be paid from the Accounting/Trust Administration Fund.

In accordance with the Settlement Agreement, plaintiffs have filed a Notice with the Court to state the amount of fees, expenses, and costs they will assert through December 7, 2009. Plaintiffs’ Notice states the following:

1. On December 7, 2009 the parties signed an Agreement on Attorneys’ Fees, Expenses and Costs, stating in their motion for attorneys’ fees, expenses and costs that plaintiffs may not assert that Class Counsel should be paid more than an additional \$99,900,000.00. In response, defendants may not assert that Class Counsel should be paid less than \$50,000,000.00. This Agreement is available at www.IndianTrust.com.
2. Plaintiffs’ petition will assert that Class Counsel should be paid \$99.9 million for fees, expenses, and costs through December 7, 2009.

QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT WWW.INDIANTRUST.COM.

3. Class Counsel are working pursuant to contingency fee agreements, which provide that Class Counsel shall be paid a combined total of 14.75% of the funds that are created for the benefit of the classes. Applying that percentage to the \$1,512,000,000 to be deposited into the Settlement Account would result in an award of \$223,020,000.00 for Class Counsel.
4. The Court is not bound by any agreed upon or requested amounts, or the contingency fee agreements between Class Representatives and Class Counsel. The Court has discretion to award greater or lesser amounts to Class Counsel in accordance with controlling law, giving due consideration to the special status of Class Members as beneficiaries of a federally created and administered trust.

The Agreement on Attorneys' Fees, Expenses and Costs, as modified, also provides that Class Counsel may be paid up to \$12 million for work, expenses and costs after December 7, 2009. Class Counsel will not be entitled to be paid such amounts unless the Settlement is given final approval by the Court. All such requests for fees, expenses, and costs after December 7, 2009 are to be based on Class Counsel's actual billing rates and are subject to approval of the Court, following an opportunity for Class Members to object and defendants to respond.

Plaintiffs will file a petition for payment of attorneys' fees and a memorandum of points and authorities in support of that request no later than **January 20, 2011**. That petition and memorandum will also be available at www.IndianTrust.com. As required by the Agreement on Attorneys' Fees, Expenses and Costs, at the same time Plaintiffs file the petition for attorneys' fees, they will also file statements regarding Class Counsel's billing rates, as well as contemporaneous, where available, and complete daily time, expense, and cost records supporting that petition. Those records will thereafter be available at the Clerk's Office, United States District Court for the District of Columbia, 333 Constitution Ave. NW, Washington, DC 20001.

Plaintiffs have also filed a notice with the Court that they will seek incentive awards and expense reimbursements for the Class Representatives as follows:

| | |
|-----------------------|----------------|
| Elouise Pepion Cobell | \$2,000,000.00 |
| James Louis Larose | \$ 200,000.00 |
| Thomas Maulson | \$ 150,000.00 |
| Penny Cleghorn | \$ 150,000.00 |

Plaintiffs will also be requesting \$10.5 million to reimburse the Class Representatives' expenses. The requested amounts are in addition to payments the Class Representatives will be entitled to as Class Members. Any amounts awarded will be paid from the Accounting/Trust Administration Fund.

Plaintiffs will file a petition for payment of those incentive awards and a memorandum of points and authorities in support of that request no later than **January 20, 2011**. That petition and memorandum will also be available at www.IndianTrust.com.

Class Members and Defendants may object to or comment on plaintiffs' requests for Class Counsel and Class Representatives (*see* Question 30 above). After considering the objections and comments of Defendants and Class Members, the Court will determine the amounts of (a) attorneys' fees, expenses and costs and (b) plaintiffs' incentive awards and expense reimbursement in accordance with controlling law giving due consideration to the special status of Class Members as beneficiaries of a federally created and administered trust.

THE COURT'S FAIRNESS HEARING

34. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing at 10:00 am on **June 20, 2011**, at the United States District Court for the District of Columbia, 333 Constitution Avenue NW, Washington, DC. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check www.IndianTrust.com or call 1-800-961-6109.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will also consider how much to pay the lawyers representing Class Members and whether to award any additional payment to the Class Representatives. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

35. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to come at your own expense. If you send an objection or comment, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay another lawyer to attend on your behalf, but it's not required.

36. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Fairness Hearing. You may appear at the Fairness Hearing to comment on or object to any aspect of the fairness, reasonableness, or adequacy of the Settlement.

GETTING MORE INFORMATION

37. How do I get more information?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement and the subsequent modifications to it at www.IndianTrust.com. You may also write with questions to Indian Trust Settlement, P.O. Box 9577, Dublin, OH 43017-4877. You can also register for updates and get a claim form at the website, or by calling the toll-free number, 1-800-961-6109.

QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT WWW.INDIANTRUST.COM.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

| | | |
|--|---|-------------------|
| ELOUISE PEPION COBELL, <i>et al.</i> , |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Civil Action No. |
| |) | 1:96CV01285 (TFH) |
| |) | |
| SALLY JEWELL, Secretary of the Interior, <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |
| |) | |

**ORDER ON PLAINTIFFS’ UNOPPOSED MOTION TO INCLUDE
AND AUTHORIZE PAYMENT TO ADDITIONAL INDIVIDUALS
IN THE HISTORICAL ACCOUNTING CLASS**

THIS MATTER came on to be heard on Plaintiffs’ Unopposed Motion to Include and Authorize Payment to Additional Individuals in the Historical Accounting Class.

1. On December 11, 2012, this Court authorized Garden City Group (“GCG”), the Claims Administrator, to “commence payment of \$1,000 to each living member of the Historical Accounting Class who is not considered whereabouts unknown and has an address in Interior’s contact information or who otherwise is located by GCG.” *Order Authorizing Distribution of Historical Accounting Class Settlement Funds* [Dkt. No. 3923] at ¶ 2.

2. The Class Action Settlement Agreement authorized by Congress defines the Historical Accounting Class as individual Indian beneficiaries alive on the Record Date, September 30, 2009, “who had an IIM Account open during any period between October 25, 1994 and the Record Date, which IIM account had at least one cash transaction credited to it at

any time as long as such credits were not later reversed.” Settlement Agreement [Dkt. 3660-2] at ¶ A.16.

3. At the time of the December 11, 2012 Order, the Department of Interior (“Interior”) had identified 327,965 members of the Historical Accounting Class.

4. Since the date of that Order, Interior has identified an additional 11,727 individuals entitled to be included in the Historical Accounting Class. There are an additional 831 individuals where Interior’s data is inconclusive as to whether their account was closed as of October 25, 1994. These 831 individuals each had an IIM account with at least one cash transaction which was not later reversed and Interior has no information establishing that these accounts were closed prior to October 25, 1994. Accordingly, they likewise should be deemed within the scope of the Historical Accounting Class.

5. In accordance with the Settlement Agreement, Class Counsel and GCG are to rely on the information provided by the Interior Defendants. Settlement Agreement, ¶¶ E.1.F and E.3.b.

Based on the foregoing, it is hereby ORDERED that the 12,558 additional individuals identified by the Interior Defendants be included in the Historical Accounting Class and GCG be authorized to distribute Historical Accounting Class payments to them in accordance with the Settlement Agreement.

SO ORDERED this the ____ of December 2013.

Thomas F. Hogan
United States District Judge