

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
ELOISE 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 APPROVING PAYMENTS TO
MEMBERS OF THE TRUST ADMINISTRATION CLASS**

THIS MATTER came on upon *Plaintiffs' Unopposed Motion to Approve Payments to Members of the Trust Administration Class* [Dkt. No.]. The parties entered into a *Class Action Settlement Agreement* dated December 7, 2009, as amended ("Settlement Agreement"), which was ratified by Congress in the Claims Resolution Act of 2010, Public Law 111-291, 111th Cong. (2010) ("Claims Resolution Act"), and approved by this Court in its *Order Granting Final Approval to Settlement* dated July 27, 2011 [Dkt. No. 3850] ("*Final Approval Order*"). Final Approval of the Settlement, after expiration of all appeals, occurred on November 24, 2012, in accordance with ¶ A.13 of the Settlement Agreement, and on December 11, 2012, this Court ordered commencement of payments to members of the Historical Accounting Class by the Claims Administrator, The Garden City Group, Inc. ("Garden City"). *See Order on Pls.' Unopposed Mot. to Approve Payments to Members of the Historical Accounting Class* [Dkt. No. 3923] (the "*HAC Distribution Order*") 1, Dec. 11, 2012.

The Settlement Agreement provided for further distributions to members of the Trust Administration Class and set forth procedures for the self-identification of potential Trust Administration Class members. This Court's HAC Distribution Order set forth a timeline for submission of documentation by claimants, for review of that documentation and an initial determination of eligibility by Garden City, for submission of additional documentation by claimants, reconsideration by Garden City and appeals from any adverse determination. *Id.* at ¶ 4. Those deadlines were extended for good cause pursuant to this Court's Order of April 10, 2013. *See Order on Pls.' Unopposed Mot. to Modify Aspects of Class Action Administration* [Dkt. No. 3950] ¶ 1. The procedures for self-identification of Trust Administration Class Members have been completed and any appeals from adverse determinations by Garden City are pending before the Special Master appointed by this Court. *See Order Appointing Special Master* [Dkt. No. 3928] ¶ 1(e), Dec. 19, 2012.

By order dated May 28, 2014, this Court authorized the commencement of Trust Administration Class payments prior to the expiration of appeals by claimants from adverse determinations, with a holdback for appeals by claimants. *See Order on Pls.' Mot., Without Opp'n from Defs., to Allow Commencement of Trust Administration Class Distributions Prior to Expiration of Appeals* [Dkt. No. 4044]. In accordance with the terms of the Settlement Agreement, an order was to be submitted for the Court's approval identifying the amount of the Trust Administration Class distribution and amounts being withheld to cover projected expenses, claims subject to pending appeals, and the Reserve Fund set forth in the Settlement Agreement.

The Interior Defendants prepared the Assigned Value Calculations and Assigned Value percentages for Trust Administration Class Members and, on or about August 30, 2014, transferred the Class Member data to Garden City (the "Trust Administration Class data").

A total of \$941,587,623.06 is currently available for distribution, which amount includes the interest earned on funds in the Settlement Account, with the baseline payment being \$869 after application of the Trust Adjustment Fund provided for at § 101(j) of the Claims Resolution Act. The current motion withholds from the distribution, in addition to those amounts Plaintiffs have requested be allocated by this Court for Historical Accounting Class Payments and those amounts designated as Pre-Settlement Class Counsel fees that this Court has set aside for future distribution, present and future fees and expenses in the amount of \$55,380,389.02, \$12,000,000 to cover post-settlement fees and expenses of Class Counsel, \$1,857,127.33 for existing and potential future expenses of the Special Master through the completion of the Claims Administration process, \$2,900,000 to cover appeals by claimants and \$3,500,000 as a Reserve Fund.

This Court has reviewed the Plaintiffs' Motion, approves the request to commence Trust Administration Class Distributions, and Orders as follows:

1. The Trust Administration Class distribution shall be commenced based on the following conditions:

a. Garden City is allowed to distribute payments to members of the Trust Administration Class from the Settlement Account established by Plaintiffs at the Qualifying Bank to the persons and in the amounts as set forth in the Trust Administration Class data provided by the Interior Defendants. Both Garden City and Class Counsel are entitled to rely on the Trust Administration data provided by Defendants in making any distribution.

b. Garden City is allowed to distribute those payments using address information provided to Garden City directly by the Class Member or his or her authorized representative or, in the alternative, contact information provided by the Interior Defendants.

c. Where a Trust Administration Class Member is identified as whereabouts unknown as defined in ¶ E.1.i of the Settlement Agreement but has an open IIM account at the time of distribution, and Garden City has no current address for that Class Member, his or her payment shall be deposited in the Class Member's IIM account.

d. Where a Trust Administration Class Member is identified as whereabouts unknown as defined in ¶ E.1.i of the Settlement Agreement and has an open IIM account at the time of distribution, but Garden City believes it has a current address for that Class Member, it may mail that payment to the Class Member's last known address. If the mailing is returned as undeliverable and no forwarding address information is available from the US Postal Service regarding the Class Member, the payment will be deposited into the Class Member's open IIM account.

e. All payments for Class Members identified by Interior as minors, non-compos mentis, under legal disability or adults in need of legal assistance shall be deposited in the individual's IIM account. If an IIM account is not open for that Class Member, one shall be opened for that individual.

f. All payments for Class Members who are deceased shall be made payable to the estate of each deceased Class Member and distributed to the personal representative, administrator or executor of the estate of that Class Member or to his or her heirs in accordance with existing or future orders of this Court or the Special Master.

g. If Garden City reasonably determines, based on information provided by the Interior Defendants, that any Class Member received a greater Historical Accounting Class payment than that to which he or she was entitled, Garden City is authorized to offset that additional amount against the Class Member's Trust Administration Class payment. Said

additional funds shall be deposited in the Settlement Account and held as part of the set aside for appeals by claimants.

h. If Garden City reasonably determines, based on information provided by the Interior Defendants, that any Class Member received, by reason of this distribution, a greater share of the Trust Administration Class distribution than that to which he or she was entitled by reason of the existence of a duplicate account or accounts or for any other reason, and Garden City is able to recoup all or part of that excess payment, including through cancellation of a non-negotiated payment, said funds shall be deposited into the Settlement Account. If said excess payment was deposited in the Class Member's IIM Account and remains in that Account, it will be transferred by the Interior Defendants to the Settlement Account.

i. If Garden City reasonably determines, based on information provided by the Interior Defendants, that one previously believed to be a Class Member is not a Class Member and that individual has been issued an Historical Accounting or Trust Administration Class payment, Garden City may take efforts to recoup those payments, including through cancellation of non-negotiated payments, and the funds received shall be deposited into the Settlement Account. If said improper payment(s) was deposited in an IIM Account and remains in that Account, it shall be transferred by the Interior Defendants to the Settlement Account.

j. If individuals become new Trust Administration Class Members after the Trust Administration Class calculation has been completed, whether through a successful appeal of an adverse determination by Garden City or for any other reason, those individuals will receive an amount corresponding to similarly situated individuals who were included in the original Trust Administration Class calculation and the Trust Administration Class allocation will not be recalculated.

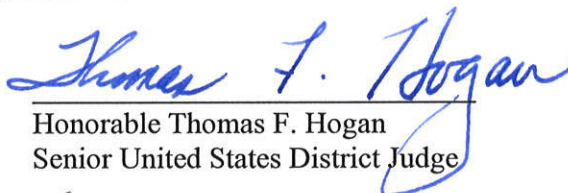
k. All payments mailed to a Class Member and returned due to an insufficient address shall be deposited in that Class Member's IIM Account if permitted under the terms of the Settlement Agreement and orders of this Court; if such a deposit in an IIM Account is not so permitted, such returned payments shall be deposited in a Remainder Account at the Qualifying Bank. Payments to Class Members from the Remainder Account shall be made under procedures established by the Special Master.

1. Garden City is authorized to remit amounts otherwise due Class Members in accordance with legally valid demands for payment including, but not limited to, monetary liens, garnishments, or income withholding orders issued pursuant to federal, state, local, or tribal law, including 42 U.S.C. § 666.

2. Any Trust Administration Class Member who did not receive notice of the Trust Administration Class distributions and who comes forward after the Trust Administration Class distributions claiming entitlement to funds held in the Reserve Fund authorized by ¶ E.4.e.6 of the Settlement Agreement, must present his or her claim in writing to Garden City postmarked no later than 12 months from the date of this Order. All funds thereafter remaining in the Reserve Fund shall be deposited in the Settlement Account.

3. Garden City is hereby authorized to distribute the Historical Accounting Class payment from the Settlement Account to the 101 additional members of the Historical Accounting Class who had balances in their accounts as of September 30, 2009, and who had not previously been identified.

SO ORDERED this the 11th of September 2014


Honorable Thomas F. Hogan
Senior United States District Judge