



April 10, 2014

VIA EMAIL AND FEDERAL EXPRESS

Senator Jon Tester
United States Senate
706 Hart Senate Office Building
Washington, D.C. 20510

Senator John E. Walsh
United States Senate
2 Russell Courtyard
Washington, D.C. 20510

Re: Letter dated April 3, 2014, Regarding Payments in *Cobell v. Salazar* Settlement

Dear Senators Tester and Walsh:

I am the Executive Vice President and Chief Operating Officer of The Garden City Group, Inc. ("GCG"), responsible for overseeing GCG's administration of the *Cobell v. Salazar* Settlement (the "Cobell Settlement"). I am writing in response to your letter, dated April 3, 2014, concerning the status of payments in that case. I appreciate the opportunity to address your questions.

The Class Action Settlement Agreement ("Settlement Agreement") authorized by Congress established two distinct settlement classes, the Historical Accounting Class and the Trust Administration Class. Payments to the Historical Accounting Class were to occur upon Final Approval of the Cobell Settlement. Payments to the Trust Administration Class, however, were to occur after all Trust Administration Class Members had been identified, their pro rata interests had been calculated, and distribution orders for both classes had been entered by the Court. Among our duties as the Court-appointed Claims Administrator, GCG was charged with the distribution of payments to the Historical Accounting Class and the Trust Administration Class.¹

Final Approval of the Cobell Settlement occurred on November 24, 2012, and shortly thereafter, on December 11, 2012, the Court issued an order directing "commencement of payment [for the Historical Accounting Class] no later than December 24, 2012." This Order also defined the initial timeline for consideration of Trust Administration Class Members. With respect to the Historical Accounting Class, on December 14, 2012, just three days after the Court Order, GCG commenced the mailing of checks. The Department of Interior subsequently

¹ GCG works for the Parties and the Court. Our position does not allow us to implement any measures here other than what the Settlement Agreement says, the Parties interpret and the Court orders.



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identified over 12,000 additional members of the Historical Accounting Class which were not encompassed in the Court's December 11, 2012 Order. On January 23, 2014, the Court authorized the distribution of payments to these Class Members as well and, once again, checks were mailed promptly thereafter.

With respect to the Trust Administration Class, as you point out in your letter, no distribution has occurred yet. This is because, unlike with respect to the Historical Accounting Class, the Settlement Agreement provided additional procedures for identifying Trust Administration Class Members to ensure that everyone had an opportunity to participate in the Cobell Settlement who was eligible to do so. This was particularly critical in parts of the country, such as Oklahoma, where many of the Indian trust land records were not maintained on the Department of Interior's electronic systems. Therefore, the Department of Interior did not know the identity of trust beneficiaries, requiring GCG to initiate a full claims process. As we have noted, GCG is not authorized to commence distribution of payments until all Trust Administration Class Members are identified and a Court Order authorizes us to do so.

The Settlement Agreement and Court Order, dated December 11, 2012, provided for a Supplementary Notice to Trust Administration Class Members. That Notice was issued promptly upon Final Approval. The Settlement Agreement and Court Order further dictated a process whereby, upon completion of the Supplementary Notice, Class Members could submit Claim Forms followed by two reconsideration periods and an appeal to an independent Special Master appointed by the Court. In accordance with the December 11, 2012 Court Order, individuals had until March 1, 2013, to submit Claim Forms. Under another Court Order, dated April 9, 2013, Claimants had a deadline of September 4, 2013, to request an appeal to the Special Master.

GCG received over 480,000 Claim Forms in this process and had to review every submission to determine eligibility. We are pleased to report that less than one half of one percent of our claim determinations were appealed. Nevertheless, there were still some 2,000 individual appeals that had to be reviewed by the Special Master, who is presently performing his review. There is no Court-ordered deadline for the appeal process. GCG can commence distribution to the Trust Administration Class once the following occur:

- The ongoing appeal review process is complete;
- The appeal time frame for a recent Order from the Court, dated March 20, 2014, which could affect the calculations of final award amounts, has passed (May 20, 2014);



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- Award calculations are finalized and provided to GCG. GCG is not the party responsible for calculating the final awards to Class Members in the Trust Administration Class. The Department of Interior has contracted with a consultant to provide the calculation of final payments, since portions of the calculation rely on information that was not provided to GCG;
- The Parties request that the Court authorize distribution; and
- The Court issues the Trust Administration Class Distribution Order.

Once the Court authorizes the Trust Administration Class payments, GCG is prepared to have award payments commence within three weeks after receiving the final award calculations.

In conclusion, I would like to assure you that GCG is committed to doing everything possible to quickly commence payment for the Trust Administration Class once we are authorized to do so. GCG stands at the ready to begin this process and understands the need to do so quickly. GCG has been proud of its role in the Cobell Settlement and continues to work with the Parties, the Special Master and Class Members to ensure the Settlement Agreement is implemented as required, and that Class Members receive all possible benefits as intended.

Very truly yours,

A handwritten signature in blue ink, reading "Jennifer M. Keough" with a stylized flourish at the end.

Jennifer M. Keough

cc: Sally Jewel, Secretary, Department of the Interior
Eric Holder, Attorney General, Department of Justice
Hilary Tompkins, Solicitor, Department of the Interior
David C. Smith, Partner, Kilpatrick Townsend & Stockton LLP
Judge Thomas F. Hogan, D.C. Federal District Court
Richard A. Levie, Special Master