IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 1:96CV01285 (RCL)
	)	(Judge Lamberth)
GALE A. NORTON, Secretary of the Interior, et al.,	)	
	)	
Defendants.	)	
	)	

DEFENDANTS' NOTICE REGARDING PLAINTIFFS' NOTICE OF FURTHER RETALIATORY ACTIONS TAKEN AGAINST INDIVIDUAL INDIAN TRUST BENEFICIARIES

On February 24, 2005, Plaintiffs filed their Notice of Further Retaliatory Actions Taken Against Individual Indian Trust Beneficiaries ("Plaintiffs' Notice"). Plaintiffs claim that in November 2004, the Bureau of Indian Affairs (BIA) retaliated against Ms. Carmen Patricio, a trust beneficiary, by allegedly misinforming her as to the effect of the Court's orders on her ability to lease her trust land. Plaintiffs' Notice at 1-2. Plaintiffs have once again inserted unfounded allegations into the record. As a result, Defendants provide this Notice to rebut Plaintiffs' allegations. Defendants attach the declaration of Ms. Elizabeth Siow, Realty Officer with the BIA, Papago Agency ("Siow Declaration") (attached as Exhibit 1).

The Siow Declaration explains that no retaliation against Ms. Patricio has occurred. Siow Declaration at ¶ 7. Rather, the BIA was not able to lease Ms. Patricio's land immediately because she elected to have it partitioned, a process that includes, among other things, a transfer of title subject to the Court's class communication orders as well as a subsequent appraisal. Id. at ¶¶ 4, 6. Ms. Siow previously explained to Ms. Patricio the need to execute either a waiver form

or a confirmation of consultation form applicable to such land transactions pursuant to the Court's orders. Id. at ¶5. However, prior to March 18, 2005, Ms. Patricio had declined to execute either form.[1] Id. In addition, on March 2, 2005, Defendants' counsel sent Plaintiffs' counsel a letter presenting Defendants' understanding of the issue and provided a contact person at the BIA with whom Ms. Patricio could speak to resolve any misunderstanding.[2] Letter from Timothy E. Curley, Trial Attorney, Department of Justice, to Dennis Gingold, Plaintiffs' Counsel (Mar. 2, 2005) (attached as Exhibit 2). On March 18, 2005, BIA representatives and Ms. Patricio met to discuss the partitioning process and, at that meeting, she executed a confirmation of consultation form. Id. at ¶ 6. As Ms. Siow states in her declaration, she is hopeful that this meeting resolved any misunderstanding between the BIA and Ms. Patricio. Id. at ¶7.

To the extent any misunderstanding existed between Ms. Patricio and the BIA concerning the process required to partition and lease the land, it is regrettable, and the BIA has met with Ms. Patricio to resolve any misunderstanding. However, no retaliation has occurred.

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[1] Ms. Patricio's affidavit indicates that she has also been consulting with class counsel's office. Affidavit of Carmen Patricio at ¶ 10-12. (Feb. 22, 2005).

[2] Defendants did not receive a response. However, Ms. Patricio met with BIA personnel on March 18, 2005.

Respectfully submitted,

Dated: April 1, 2005

PETER D. KEISLER
Assistant Attorney General
STUART E. SCHIFFER
Deputy Assistant Attorney General

/s/ Timothy E. Curley

J. CHRISTOPHER KOHN
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CERTIFICATE OF SERVICE

I hereby certify that, on April 1, 2005 the foregoing *Defendants' Notice Regarding Plaintiffs' Notice of Further Retaliatory Actions Taken Against Individual Indian Trust Beneficiaries* was served by Electronic Case Filing, and on the following who is not registered for Electronic Case Filing, by facsimile:

Earl Old Person (*Pro se*)
Blackfeet Tribe
P.O. Box 850
Browning, MT 59417
Fax (406) 338-7530

K.P. Kingston

Kevin P. Kingston

Notices

1:96-cv-01285-RCL COBELL, et al v. NORTON, et al

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was received from Curley, Timothy entered on 4/1/2005 at 3:56 PM EDT and filed on 4/1/2005

Case Name: COBELL, et al v. NORTON, et al
Case Number: 1:96-cv-1285
Filer: ALL FEDERAL DEFENDANTS
Document Number: 2923

Docket Text:
NOTICE *Defendants' Notice Regarding Plaintiffs' Notice of Further Retaliatory Actions Taken Against Individual Trust Beneficiaries* by ALL FEDERAL DEFENDANTS re [2853] Notice (Other), Notice (Other) (Attachments: # (1) Exhibit Ex 1 Siow Declaration# (2) Exhibit Ex 2 Curley 03-02-05 to Gingold)(Curley, Timothy)

The following document(s) are associated with this transaction:

Document description: Main Document
Original filename:J:\C-Financial\Cobell\Current Filing\00_Notice_96cv1285_04012005.pdf
Electronic document Stamp:
[STAMP dcecfStamp_ID=973800458 [Date=4/1/2005] [FileNumber=720851-0] [
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Document description: Exhibit Ex 1 Siow Declaration
Original filename:J:\C-Financial\Cobell\Current Filing\01_EX-1 Siow Declaration.pdf
Electronic document Stamp:
[STAMP dcecfStamp_ID=973800458 [Date=4/1/2005] [FileNumber=720851-1] [
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93a4067b5cb2c575643b458ced00fe66801bc801dcdbbbb2e5771f35f7]]
Document description: Exhibit Ex 2 Curley 03-02-05 to Gingold
Original filename:J:\C-Financial\Cobell\Current Filing\02_EX-2 Curley 03-02-05 to Gingold.pdf
Electronic document Stamp:
[STAMP dcecfStamp_ID=973800458 [Date=4/1/2005] [FileNumber=720851-2] [
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2bf1e96077ba0315644e684ea4a7e21cf2e0ef8102f670e8ce2face872]]

1:96-cv-1285 Notice will be electronically mailed to:

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al.,	)	
Plaintiffs	)	
v.	)	
	)	No. 1:96CV01285
GALE NORTON, Secretary of the Interior, et al.,	)	(Judge Lamberth)
Defendants.	)	

DECLARATION OF ELIZABETH SIOW

I, Elizabeth Siow, pursuant to 28 U.S.C. § 1746 do declare as follows:

1. I am the Realty Officer with the Bureau of Indian Affairs (BIA) at the Papago Agency in Arizona. My duties and responsibilities include, keeping the Superintendent and the Deputy Superintendent for Trust Services advised on all real property matters related to the approximately 40,683 acres of trust lands located in the San Xavier District of the Tohono O'odham Nation.

2. I have prepared this declaration in response to Plaintiffs' allegations that the Papago Agency is retaliating against Ms. Carmen Patricio. Ms. Patricio alleges that I told her that we have not completed her land lease or gift deed "because of the Cobell case."

3. I explained to Ms. Patricio that she could either lease her allotment or partition it. Ms. Patricio requested that I begin a partition of her interest so she can lease her portion to a potential lessee.

4. A partition is an exchange of title among the landowners. It is my understanding that this type of land transaction is governed by the court's class communications orders because this transaction involves an exchange of interests and requires a transfer of title. I could not proceed with the partition until Ms. Patricio signed a Notice and Waiver or Confirmation of Consultation.

5. I explained to Ms. Patricio on several occasions, that before our office may proceed with a land transaction, she must sign either a Notice and Waiver or a Confirmation of Consultation. To my knowledge, Ms. Patricio had not signed

EXHIBIT 1
Defendants' Notice Regarding Plaintiffs'
Notice of Further Retaliatory Actions Taken
Against Individual Indian Trust Beneficiaries

either form prior to March 18, 2005. During a conversation on February 15, 2005, she told me that she did not want to sign either form.

6. On March 18, 2005, Stan Webb, Western Regional Supervisory Realty Officer, Kayla Danks, Realty Specialist, Western Regional Office, Carolyn Bowker, Realty Specialist, Western Regional Office, George Padilla, Deputy Superintendent for Trust Services, Papago Agency, Margaret Treadway, Office of the Special Trustee Fiduciary Trust Officer, Papago Agency, Annette Siquieros, Realty Specialist, Papago Agency, and I attended a meeting with Ms. Patricio, her husband, and her sister, Ms. Evelyn Patricio to discuss the partitioning process that needed to occur before they could lease their land. At that meeting, Ms. Patricio signed the Confirmation of Consultation form. During the meeting, we also explained to Ms. Patricio that once the partition is complete, OST will need to perform another appraisal for purposes of leasing the land.

7. I have not retaliated against Ms. Patricio. I believe that this was a misunderstanding, which I am hopeful was resolved at our meeting with her on March 18, 2005.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Elizabeth Siow

ELIZABETH SIOW

Executed this 1st day of April, 2005.

United States Department of Justice
Civil Division
Commercial Litigation Branch

Timothy E. Curley
Trial Attorney

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Washington, D.C. 20044-0875

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March 2, 2005

BY FACSIMILE
Dennis M. Gingold, Esquire
607 - 14th Street, NW
Box 6
Washington, D.C. 20005

Re: Cobell v. Norton

Dear Mr. Gingold:

Plaintiffs recently filed a notice concerning Ms. Carmen Patricio's desire to "lease" her land and her contacts with the Papago Agency in November 2004 regarding the same. Plaintiffs lodged serious allegations that Interior Defendants are retaliating against Ms. Patricio by supposedly giving her incorrect advice regarding the Court's orders and not advising her of a right to consult with class counsel. This letter is not intended as a response to Plaintiffs Notice, but rather is intended to address any misunderstanding that may exist with regard to Ms. Patricio's land transactions.

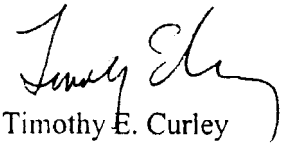
As set forth in Interior's previous filings with the Court on this matter, although Ms. Patricio has expressed her desire to lease her land, Ms. Patricio is not the sole owner of the parcel and does not have the consent of all of the co-owners to lease the property. Thus, prior to leasing the land, it must be partitioned, which involves a transfer of title subject to the Court's class communication orders. Similarly, if Ms. Patricio wishes to gift deed her land, that would also constitute a transfer of title subject to the Court's class communication orders. Neither transaction is exempted from the Court's orders. Accordingly, on November 12, 2004, along with the appraisal completed in connection with the proposed partition of allotment #64, the Papago Agency mailed Ms. Patricio the notice and waiver forms advising her of her right to consult with class counsel. These documents apparently reached Ms. Patricio since the cover letter forwarding them is attached to her February 22, 2005 affidavit. However, Interior's records indicate Ms. Patricio has not returned either form and, in a recent telephone conversation with BIA personnel, Ms. Patricio indicated that she did not believe she needed to execute the forms. To the contrary, in order for the BIA to have written communications with Ms. Patricio about such partition and gift deed transactions, she would have to submit either a signed waiver form

EXHIBIT 2
Defendants' Notice Regarding Plaintiffs'
Notice of Further Retaliatory Actions Taken
Against Individual Indian Trust Beneficiaries

indicating that she wishes to waive her right to consult with class counsel or a signed confirmation form indicating that she has consulted with class counsel.

A misunderstanding may have occurred in this instance due to the fact that while Ms. Patricio's ultimate goal appears to be to lease her land -- a transaction not subject to the Court's orders -- she first needs to partition the land, which is a transfer of land title subject to the Court's orders. Any confusion in that regard is regrettable but it hardly serves as evidence of "retaliation" as characterized in Plaintiffs' Notice. Interior informs me that personnel at the Papago Agency continue to remain available to assist Ms. Patricio via telephone to answer any questions she has about the partition and gift deed process. They are also available to meet with her in person to discuss the process, as well as to provide her additional copies of the waiver and confirmation forms. Such oral communications are not barred by the Court's orders. Ms. Patricio may contact Ms. George Padilla, Deputy Superintendent, Papago Agency at (520) 383-3250 for further assistance in this regard. In addition, should you wish to advise her directly on this matter, the waiver and confirmation forms are attached again here.

Very truly yours,



Timothy E. Curley

[Enclosures]

Notice and Waiver Attachment 1 to 11/22/04 guidance

Please be aware that the Indian trust land owner to whom this notice is directed may be a member of a class action lawsuit, Cobell v. Norton, No. 1:96CVo1285 (D.D.C.) (Judge Lamberth). Nothing in this notice or any letter, document, or other communication to which this notice may be attached will eliminate or adversely affect any rights that the Indian trust land owner who received this notice may have if he or she is a class member in the Cobell litigation. The Indian trust land owner who received this notice will not eliminate or adversely affect any rights that he or she may have as a class member by entering into any transaction or communication with any other person or organization, including the Department of the Interior or the Bureau of Indian Affairs, related to the sale, exchange, transfer, or conversion of Indian trust land.

As a potential class member, the Indian trust land owner who received this notice has the right to consult with the class counsel in the Cobell litigation prior to any proceeding with any further communication or transaction. For further information you may contact the lawyers for the class members: Dennis M. Gingold, Esq., 607 14th Street, N.W., 9th Floor, Washington, DC 20005, phone: (202) 824-1448, fax: (202) 318-2372, email: dennismgingold@aol.com, or Keith Harper, Esq., Native American Rights Fund, 1712 N Street N.W., Washington, DC 20036-2976, phone: (202) 785-4166, fax: (202) 822-0068, email: harper@narf.org. You may also access further information at the plaintiffs' website, www.indiantrust.com. The Indian trust land owner who received this notice may also choose to waive his or her right to consult with class counsel. If the Indian trust land owner who received this notice wishes to do so, he or she must sign and return this notice to the Department of the Interior office from which you received it within ten (10) days. Waiver of the right to consult with class counsel will not eliminate or adversely affect any rights that the Indian trust land owner who received this notice may have as a class member in the Cobell litigation.

I, the undersigned, hereby waive my right to consult with class counsel in the Cobell litigation before continuing with communications or transactions involving or resulting in the sale, exchange, transfer, or conversion of Indian trust land.

_____
Print Name

_____ _____
Signature Date

SIGNATURE CONSTITUTES WAIVER

_____
Witness

Attachment 3 to 11/22/04 guidance

Confirmation of Consultation

As a potential member of the plaintiff class in Cobell v. Norton, No. 1:96CVo1285 (D.D.C.) (Judge Lamberth), I have consulted with class counsel and wish to proceed with further communications with the Department of the Interior and with transactions involving or resulting in the sale, exchange, transfer, or conversion of my interests in Indian trust land.

Class counsel includes:

Dennis M. Gingold, Esq., 607 14th Street, N.W., 9th Floor, Washington DC 20005, phone: (202) 824-1448, fax: (202) 318-2372, email: dennismgingold@aol.com

Keith Harper, Esq., Native American Rights Fund, 1712 N Street N.W., Washington, DC 20036-2976, phone: (202) 785-4166, fax; (202) 822-0068, email: harper@narf.org.

_____
Print Name

_____ _____
Signature Date

_____
Witness

Notice Attachment 4 to 11/22/04 guidance

Please be aware that the Indian trust land owner to whom this notice is directed may be a member of a class action lawsuit, Cobell v. Norton, No. 1:96CVo1285 (D.D.C.) (Judge Lamberth). Nothing in this notice or any letter, document, or other communication to which this notice may be attached will eliminate or adversely affect any rights that the Indian trust land owner who received this notice may have if he or she is a class member in the Cobell litigation. The Indian trust land owner who received this notice will not eliminate or adversely affect any rights that he or she may have as a class member by entering into any transaction or communication with any other person or organization, including the Department of the Interior or the Bureau of Indian Affairs, related to the sale, exchange, transfer, or conversion of Indian trust land.

As a potential class member, the Indian trust land owner who received this notice has the right to consult with the class counsel in the Cobell litigation prior to any proceeding with any further communication or transaction. For further information you may contact the lawyers for the class members: Dennis M. Gingold, Esq., 607 14th Street, N.W., 9th Floor, Washington, DC 20005, phone: (202) 824-1448, fax: (202) 318-2372, email: dennismgingold@aol.com, or Keith Harper, Esq., Native American Rights Fund, 1712 N Street N.W., Washington, DC 20036-2976, phone: (202) 785-4166, fax: (202) 822-0068, email: harper@narf.org. You may also access further information at the plaintiffs' website, www.indiantrust.com.

********** -COMM. JOURNAL- ********** DATE MAR-02-2005 ***** TIME 18:08 ********

MODE = MEMORY TRANSMISSION START=MAR-02 18:06 END=MAR-02 18:08

FILE NO.=014

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK	8	93182372	006/006	00:01:48

-DOJ CORP FIN LIT -

********** - - ***** - 202 307 0494- *********

FROM: Department of Justice
Civil Division

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Curley 03-02-05 to Gingold re Patricio Contacts with Papago Agency

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