

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al.,)
)
Plaintiffs,)
)
v.)
)
GALE A. NORTON, Secretary of the Interior, et al.,)
)
Defendants.)
_____)

Case No. 1:96CV01285 (RCL)
(Judge Lamberth)

**DEFENDANTS' REPLY IN SUPPORT OF MOTION FOR
REIMBURSEMENT OF IMPROPER SPECIAL MASTER FEES**

Plaintiffs' only argument in opposition to Interior Defendants' Motion For Reimbursement Of Special Master Fees is that the Court should infer that the Department of the Treasury paid all of the contested Special Master fees because Treasury allegedly failed to comply with a discovery request propounded by Plaintiffs. Thus, according to Plaintiffs, Interior Defendants have no "standing" to object to improper Special Master fees.

In fact, Defendants filed their Response To Plaintiffs' Request For Production Of Documents And Other Information To Treasury Secretary Snow on November 18, 2003 (attached as Exhibit 2 to Plaintiffs' Opposition To Defendants' Motion For Reimbursement Of Improper Special Master Fees). In addition, by letter dated October 27, 2003, counsel for Defendants informed Plaintiffs that the Department of the Treasury "agreed to share the costs of the Special Master including his fees and expenses and those of his former assistant, Joe Christie, on a 1/3 each basis with the Department of the Interior (DOI) and the Department of Justice (DOJ)." Letter from Glenn D. Gillett, Trial Attorney, Department of Justice, to Dennis M. Gingold (Oct. 27, 2003) (copy included in Exhibit 2 to Plaintiffs' Opposition To Defendants'

Motion For Reimbursement Of Improper Special Master Fees). Inasmuch as Plaintiffs took no subsequent action, if the Court makes any inference, it should be that Plaintiffs were satisfied with Defendants' response.

The Court's February 24, 1999 Order appointing the Special Master required "defendants" to bear the costs of "all expenses incurred in connection with the appointment," Order of February 24, 1999, at ¶ 1, and each order requiring payment to the Special Master obligated "defendants" to pay, see, e.g., Order of September 17, 2003 ("ORDERED that the defendants pay the Law Office of Alan L. Balaran the sum of \$33,136.05 no later than September 30, 2003"). That the Interior Defendants are the moving parties in this instance is immaterial; any or all of the Defendants are entitled to challenge the Special Master's fees on behalf of the United States. Inasmuch as Plaintiffs have not opposed (or even addressed) any of the government's substantive objections to the Special Master's fees, the Court should deem those objections unopposed and should grant Interior Defendants' motion.

Dated: June 17, 2004

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on June 17, 2004 the foregoing *Defendants' Reply in Support of Motion for Reimbursement of Improper Special Master Fees* was served by Electronic Case Filing, and on the following who is not registered for Electronic Case Filing, by facsimile:

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