

## **INTERIM REPORT TO PLAINTIFFS IN**

***FELTER, et al. versus SALAZAR, et al.***

**Civil Action No. 02-2156 (RWR)**

**December 27, 2009**

This is a personal letter from me to all of our Plaintiffs in *Felter* to update you on recent events in your case.

### **CURRENT POSTURE OF YOUR CASE**

On October 27, 2009, U.S. District Court Judge Richard W. Roberts issued a "Minute Order" directing the parties to file "supplemental memoranda regarding the preclusive effects of the prior judgments" that the defendants noted in their motion to dismiss filed way back on August 31, 2007. I welcomed the Judge's Minute Order after almost 14 months of no action taken in your case. Judge Roberts established December 1 as the date for filing the supplemental memoranda.

Because the new Assistant U.S. Attorney assigned to handle the case got the swine flu, the defendant U.S. was granted an extension of time until December 21 to file the memoranda. The U.S. filed another motion to extend the deadline for the parties to file their memoranda on December 16 asking the Court to reset the date to January 4, 2010. Judge Roberts has not granted the extension of time as of this date. I assume he will grant it soon.

Our supplemental memoranda is ready to file. However, if the Judge grants the U.S. the extension of time, we will have an opportunity to review the document and make it better. In plain and simple legal terms, Judge Roberts wants us to argue and prove that cases filed over the years to dispute the legality of various aspects of the Ute Termination and Partition Act (UPA) did not already seek an accounting of monies owned by the individual 490 terminated members of the Uinta Band of Utes prior to 1954 when the Act was passed by the U.S. Congress.

Of course, the defendant U.S. is going to argue in its supplemental memoranda that cases previously litigated over the UPA many years ago addressed the facts and legal issues we are now seeking to address. They will also argue that the *Felter* plaintiffs knew many years ago and were put on notice that they should have filed for an accounting way back.

In preparing our memoranda, I have reviewed literally hundreds of pages of old

documents to see if they could be included to bolster our arguments that no one has ever brought an action for an accounting against the U.S. to see where monies owed to the 490 went after termination. I know there is a tendency to argue that historical documents prove our point that everything was so confused there must have been some cheating going on before and after 1954.

I must stress to all of you that I must stay strictly within the boundaries of argument established by Judge Roberts and he only wants the parties to argue the “in and outs” of the facts and law of cases filed over the UPA and nothing else. I appreciate the help many of you have provided to me about explaining the significance of these historical documents. However, please understand that I must exercise due caution and diligence in not going outside of arguing the cases identified by the defendants as preventing our action for an accounting from going forward. If I am able to add relevant historical documents to help make our argument, I will do so but only in a manner allowed by the boundaries set by Judge Roberts.

The next step in the case will come when we beat the motion and we engage in formal discovery where then the “flood gates” to the historical documents/information related to the accounting open up. When we get the documents/information from the defendant I am confident that we will prove that monies owned by the 490 *before* the UPA was passed by Congress were unaccounted for. We are arguing that when these monies were lumped in with other funds after “termination” that this plainly proves the UPA was implemented in a defective manner and, thus, it must be declared “null and void”. The end result of this failure to account was that others who obtained “shares” by fraud and deception, including non-Indians, are getting immense benefit from monies that Congress *never* intended for them to receive.

### **EFFECT OF COBELL ON OUR CASE**

Recently, the United States has consented to settle the longstanding *Cobell* case to the benefit of anyone who had a IIM account during a specific period. On the *Cobell* case, it only applies to us because it also is an action for an accounting filed under P.L. 108-108. We have to keep up the battle in *Felter* because it is my feeling that when the federal courts allowed *Cobell* to go through all the way to a settlement, then it proves that our case is worthy of going all the way to the end and a similar positive resolution. Everyone is “buzzing” around in Indian Country talking about *Cobell* and what it means to them. I think it is safe to say that *Cobell* will exclude from its “class of beneficiaries” any of the 490 terminated Uintas and other individual Indians who were terminated before 1994. This is exactly why we must keep *Felter*

in the courts! Only time will tell if this is the situation. At this time, the *Cobell* lawyers have yet to determine exactly who will be able benefit from the settlement agreement.

### **DEMAND TO BRING ACCOUNTS CURRENT**

I am frustrated that many of you whose names appear in *Felter* have refused to pay anything at all or are just sitting around thinking you will be able to benefit from the case once we win it. If you don't bring you accounts up to current status by paying in full or explaining why you can't make at least a partial payment, your name will be formally removed from the list of plaintiffs. The deadline for payment is January 31, 2010. I will file a motion with Judge Roberts to remove your name from the case. This is your last chance! We just can not keep giving "free rides" in this major national Federal Indian Law case.

I cannot understand why anyone would just outright have a bad attitude about paying into this extremely significant civil case over an Act of Congress, the UPA, that remains on the books of law and hurts many of you to this day! We have fought the United States in *Felter* with everything we have for several years and the fact we have the case positioned before Judge Roberts for his key decision should serve as an inspiration to all plaintiffs.

For Instance, I have spent many many hours over the years that I have not been fully compensated for. Over the years I have spent many hours on extensive research, reading and reviewing thousands of documents. We have spent a great deal of time and effort to contact many Indian Tribes to get their support. In trying to gain support for *Felter*, I have traveled to many business and social functions where I have spread the word about "the 490 and their descendants" whom almost anyone didn't even know you exist. I have been on radio talk shows and on the steps of the California State Capitol spreading the word about this very important case and its legal issues. Our opponents do not want the public to know about the absolutely shameful actions that took place and are taking place in Utah. Further, I have presented Petitions to NCAI, done press releases and wrote countless letters to spread the word. These uncompensated efforts have been on my own, but it is now time that 'all of you' help to carry your case through to the light of justice. Others like Oranna and Earl Denver have dedicated their time and resources to keeping the case moving on before the courts and the American Public. Had they charged the case for their time, there would be no case. Their work is free. How many of you would spend seven almost eight years working for nothing? . We are fighting for justice and to remedy the

outrageous wrong done to you and your ancestors who have moved on to the Spirit World.

Funds were requested the first of the year and in July. Very few of you responded to this request. On Nov. 1, 2009, I requested a payment of \$200.00 from "each of you. Again, only the same dedicated plaintiffs sent their payments in. This cannot continue in this fashion. Either you help when requested or send me a letter stating "you don't want to stay on the case". If you stay on, you just like the others have got to help, and if you choose to not help, you will be taken off the case anyway.

I urge you to step up to the plate, keep the courage and send your funds in. I realize it is the Xmas Holidays but it is time for each of you to look into your hearts and decide if you are truly committed to the case and to contribute or let me know you don't want to stay on for the ride.

Either way I expect to hear from each one of you as soon as you receive this letter - Send your requested contributions in or you are going off the case, that's the two choices that you have to select from. We are at one of the most significant parts of *Felter* and I cannot afford to have anyone on board who is not truly 100% committed to the battle.

We all need to stick together with the same attitude we all had when the case first started which was that we will refuse to let the federal government or anyone else break our spirit. It is our spirit will keep the case going to the bitter end. Our ancestors and descendants are counting on us to hang in there and keep the fires burning on our "Journey for Justice" that is the getting closer and closer.

**Send your funds to: Oranna B. Felter, for *Felter v. Salazar*, P.O. Box 465, Ft. Duchense, Utah.**

Sincerely,

/s/

Dennis G. Chappabitty, Counsel of Record