



**RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

(Amending and Resolving the Temporary Suspension of Tribal Employees under Tribal Resolution No. 02-2010-31)

WHEREAS, pursuant to Article IV, Section 1(a) of the Constitution of the White Mountain Apache Tribe, *inter alia*, the Tribal Council has the authority to represent the Tribe and act in all matters that concern the welfare of the Tribe; and

WHEREAS, the Tribal Council of the White Mountain Apache Tribe in a special meeting enacted Tribal Resolution No. 02-2010-31 entitled, "Temporary Suspension of Tribal Employees Pending Investigation": and

WHEREAS, the Tribal Council approved that a study be completed for the allegations of employee misconduct pursuant to the Personnel Policies and Procedures, specifically Section IX, B.6 and "other matters", the findings presented to the Tribal Council in the form of a Confidential Report; and

WHEREAS, the Tribal Council hereby finds that the results of the investigation dated March 2, 2010 final report findings that none of the allegations could be verified even with an attempt to obtain eye witnesses who were withheld from the Tribal Council:

- 1) by failing to interview fellow tribal employees who could verify the activities and locations of such employees and by using biased prosecutorial methods that could only incriminate the individual employees without due process;
- 2) by recognizing that two of the five employees were not identified as retaining tribal employee status versus "at-will" status who have legal employee rights that preclude such action by the Tribal Council that was designed to damage such employees by terminating their compensation and benefits without cause.
- 3) the failure to identify the employee position titles including the failure to recognize the employee status such as one employee who is an Enterprise employee who works for a Board of Directors, not the Tribal Council and another who works under federal program supervision whose supervisor is in the line of command within the Tribe;
- 4) the fact that the Tribal Attorney opinion letter advising the Tribal Council that no Election Code provisions were being violated was ignored and in fact were omitted from the report findings that may have resulted in intimidation of the Tribal Attorney's Office;
- 5) that the findings indicate that voters were restricted from voting by the actions of these employees when in fact, the results of the absentee ballot count indicate no unusual trends or harm to candidates; and

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- 6) that the Tribal Prosecutor rejected a request for subpoena power due to the lack of merit of the findings under tribal law;
- 7) that the Election Commission rejected the formal challenge by Councilman Kirk Massey due to a lack of merit of the case and that the alleged activities did not meet the minimum requirements of the Election Code violations, including any such findings in the Consultant report.

WHEREAS, the Tribal Council in a special meeting on March 10, 2010, rejected further investigation by a 4 to 3 vote that indicates that the matter is settled in accordance with Tribal Resolution 02-2010-31.

WHEREAS, the Tribal Council after due consideration, finds that the report should be referred to the Tribal Prosecutor for review and that no other investigation is warranted under tribal law.

WHEREAS, it is the sense of the Tribal Council in final consideration of the investigation conducted and submitted to the Tribal Council lacked substance, and that further delay can only continue to harm or damage the five employees, unless otherwise determined to be to the contrary by the Tribal Prosecutor of the White Mountain Apache Tribe; and

WHEREAS, Cathy Tate, Milfred Cosen, and Doreen Gatewood, along with their legal counsel Marjorie Grimes, attended a Council meeting on April 12, 2010 where Mrs. Grimes attempted to relay to Chairman Lupe that they were there to address an issue before the Tribal Council; however, Chairman Lupe abruptly adjourned the meeting; and

WHEREAS, given the urgency of the request, the Tribal Council further finds that this needs to be considered and made outside of its regularly scheduled meeting; and

WHEREAS, the Tribal Council further finds that: (1) this Resolution may be voted upon by signature of a member of the Tribal Council where a signature indicates a vote for this Resolution, (2) the Tribal Council Secretary should attempt to obtain signatures for members of the Tribal Council personally, (3) no signature would mean that the respective Tribal Council member is against this Resolution, (4) the Tribal Council Secretary should wait no longer than a reasonable period of time to obtain a vote by signature or by no signature and so indicate that this Resolution was presented to the respective member of the Tribal Council for a vote.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that given the urgency of the request, this resolution may be voted upon outside the Council's regularly scheduled meeting as follows: (a) by signature of a member of the Tribal Council, including the Chairman of the Tribal Council and the Vice-Chairwoman of the Tribal Council, where a signature indicates a vote for this Resolution, (b) the Tribal Council Secretary shall attempt to obtain signatures for members of the Tribal Council personally, (c) no signature shall mean that the respective Tribal Council member is against this Resolution, (d) the Tribal Council Secretary should wait no longer than a reasonable period of time to obtain a vote by signature or by no signature, and so indicate that this Resolution was presented to the respective member of the Tribal Council for a vote.

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BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that such employees be immediately reinstated to include back pay from February 2, 2010, reimbursement of any annual leave payments as applicable, to continue their health benefits premium deductions, including coverage restoration from the date of removal from health coverage rolls, and to pay for any legal expenses for their advocate up to the final date of this settlement, including the attached Form E actions attached herewith and forward all information contained in any such reports to the Tribal Prosecutor and to direct the Election Commission to follow its Code by submitting its findings of the Challenge to the Chief Judge immediately; and

BE IT FURTHER RESOLVED by the White Mountain Apache Tribal Council that the Chairman's Office immediately rescind any personnel actions taken against the five employees with a full report to the Tribal Council on the corrective action taken within five (5) working days of this action including a copy of payments made to each employee and that such allegations of violations of employee misconduct pursuant to the Personnel Policies and Procedures, specifically Section IX, B.6 and "other matters" be permanently removed from their personnel files accordingly.

BE IT FURTHER RESOLVED by the White Mountain Apache Tribal Council that the process of determining and resolving the status of the five employees in questions be monitored by two Council members who will witness by signature the approval of this action immediately including witness by the Tribal Attorney to resolve the matter at the earliest possible time.

BE IT FURTHER RESOLVED by the Tribal Council that in the event of any inconsistency between this Resolution and any prior Resolution or Policy, this Resolution shall govern.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Vice Chairwoman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on April 13, 2010, duly adopted by a vote of 8 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Sections 1 (a), (b), (s), (t) and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

Ronnie Lupe, Chairman of the Tribal Council

Cyndy R. Harvey-Gatewood

Cyndy R. Harvey, Secretary of the Tribal Council

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Signatures of the members of the Tribal Council represent their approval of Tribal Council Resolution No. 04-2010-72 initiated the 12th day of April 2010.

Presented Personally by Tribal Council Secretary (TCS)-Indicated by Initials

TCS Initials


Ronnie Lupe
Tribal Chairman

Date Signed

TCS Initials

Margaret Baha-Walker
Vice Chairwoman

Date Signed



4/13/10
Date Signed

CR TCS Initials

Arnold Beach, Sr.
District I Council Member

Date Signed

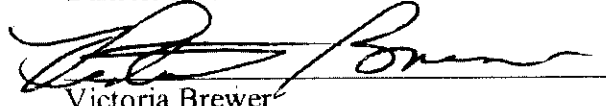


4/14/10
Date Signed

CR TCS Initials

Evangeline Gatewood
District I Council Member

Date Signed



4/13/10
Date Signed

CR TCS Initials

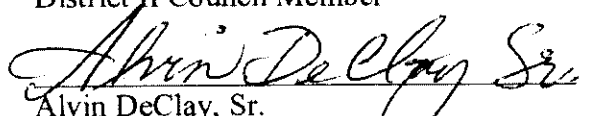
Victoria Brewer
District II Council Member

Date Signed

TCS Initials

Rubert Lupe, Sr.
District II Council Member

Date Signed

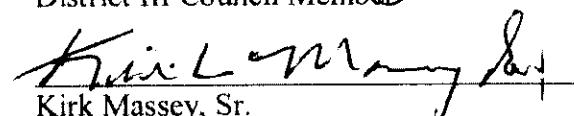


04/13/10
Date Signed

CR TCS Initials

Alvin DeClay, Sr.
District III Council Member

Date Signed

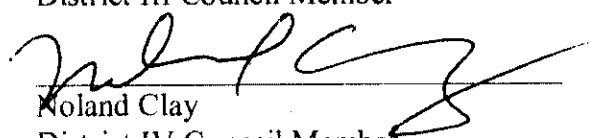


4/13/10
Date Signed

CR TCS Initials

Kirk Massey, Sr.
District III Council Member

Date Signed

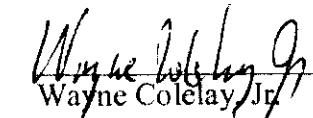


4/13/10
Date Signed

CR TCS Initials

Roland Clay
District IV Council Member

Date Signed

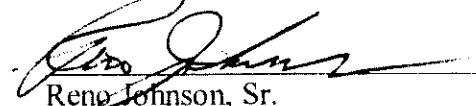


4-14-10
Date Signed

CR TCS Initials

Wayne Colelay, Jr.
District IV Council Member

Date Signed



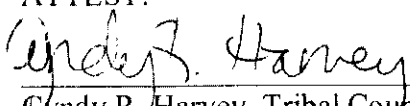
4-13-10
Date Signed

CR TCS Initials

Rene Johnson, Sr.
District IV Council Member

Date Signed

ATTEST:



4.14.10
Date Signed

Cyndy R. Harvey, Tribal Council Secretary

Date Signed