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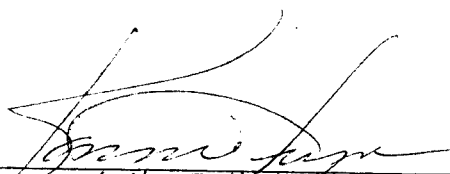
Resolution No. 82-73

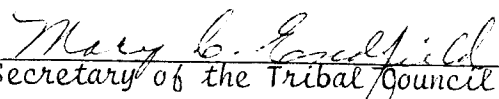
FORT APACHE INDIAN
AGENCY

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

- WHEREAS, the Superintendent of the Fort Apache Indian Agency has interpreted Article II, Section 2 of the Amended Constitution and By-Laws of the White Mountain Apache Tribe to prohibit Bureau of Indian Affairs employees who are also tribal members from serving on a Board of Directors of a Cattle Association, and
- WHEREAS, the Executive Office of the Tribal Chairman, by letter dated March 15, 1982, a copy of which is attached hereto and incorporated by reference, advised the Superintendent of the Fort Apache Indian Agency that the Tribe's interpretation of Article II, Section 2, of the Amended Constitution and By-Laws did not prohibit tribal members who were Bureau of Indian Affairs employees from serving on a Board of Directors of a livestock association based upon the historical and legal reasons set forth in said letter, and
- WHEREAS, the Superintendent on March 23, 1982 sent a copy of the Tribal Chairman's letter of March 15, 1982 together with a request for an interpretation of the said Article and Section to the Field Solicitor's Office for an opinion, a copy of which is attached hereto, and
- WHEREAS, on March 31, 1982 the Superintendent of the Fort Apache Indian Agency advised the Tribal Chairman, Ronnie Lupe, that he had withdrawn his interpretation of Article II, Section 2 of the Tribal Constitution and By-Laws upon the advice of the Field Solicitor's Office which gave weight to the tribe's interpretation of Article II, Section 2, which does not prohibit tribal members who are Bureau of Indian Affairs employees from serving on the Board of Directors of a livestock association, a copy of which is attached hereto.
- BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that based upon its interpretation of Article II, Section 2 as set forth in the Tribal Chairman's letter of March 15, 1982 to Superintendent Henry Dodge of the Fort Apache Indian Agency; that it hereby interprets Article II, Section 2 of the Tribal Constitution and By-Laws, as amended, not to be a prohibition for Bureau of Indian Affairs employees who are also tribal members from serving on the Board of Directors of a livestock association.
- BE IT FURTHER RESOLVED by the Tribal Council that this interpretation of Article II, Section 2 of the Amended Constitution and By-Laws of the White Mountain Apache Tribe is restricted to the factual situation in which a tribal member who is also a Bureau of Indian Affairs employee serves on the Board of Directors of a livestock association.

The foregoing resolution was on May 11, 1982 duly adopted by a vote of 9 for and 1 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (i & s) of the Amended Constitution and By-Laws of the Tribe, ratified by the Tribe June 27, 1958 and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).


Chairman of the Tribal Council


Secretary of the Tribal Council

INDIAN LEADER
CHAIRMAN

Executive Office of the Chairman
WHITE MOUNTAIN APACHE TRIBE

March 15, 1937

Superintendent Henry Dodge
Fort Apache Indian Agency
Whiteriver, AZ 85941

Dear Mr. Dodge:

This letter is directed at your interpretation of Article II, Section 2 of the Amended Bylaws of the White Mountain Apache Tribal Constitution.

Article II, Section 2 states as follows:

"No tribal member shall become a member of the White Mountain Apache Tribal Council, or serve on any board of directors of any tribal enterprise or cattle association, or on any other committee, commission or board which is under the jurisdiction of the White Mountain Apache Tribal Council, if he is employed by the Bureau of Indian Affairs or by any other federal government agency."

It is my understanding that you have interpreted that section to mean that BIA employees who are also tribal members cannot serve on the board of directors of any cattle association. Accordingly, it is my further understanding that you have instructed those BIA employees who serve on the board of directors of various cattle associations to resign from those positions. It is my opinion and that of the Tribal Council that such a directive, if carried out, would not only be most unfortunate because of the loss of the valuable assistance of these tribal members on the Livestock Board of Directors but also would not be proper in light of the historical intent of Article II, Section 2 and the present status of the various livestock associations.

The livestock and cattle associations are regarded as private organizations made up of individual tribal members and are not considered by the Tribal Council to be directly accountable to and under the jurisdiction of the Tribal Council. Moreover, traditionally, disputes arising within those associations are usually brought before the Tribal Court and not the Tribal Council for resolution. The internal organization and bylaws of the livestock associations are determined by their own memberships and the purchase, sale, and branding of cattle in those associations is likewise set forth in their bylaws and by tribal ordinance.

Superintendent Henry Dodge

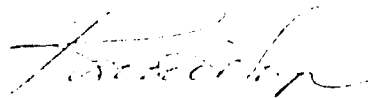
March 15, 1982

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It is readily apparent that Article II, Section 2 was inserted in the 1978 Amended Constitution in order to prevent undue influence by the Federal Government or the Bureau of Indian Affairs into the operation of tribal government. I can understand how this section would be applicable to a BIA employee who serves on the board of directors of a tribal enterprise, which is simply a subordinate economic association of tribal government, or on the Council itself. I can also understand the application of this section if the BIA employee also served on the board of directors of the tribal herd, for the tribal herd is an enterprise of the tribal government and potential conflict could arise because of the close connection between the enterprise and the Tribal Council. The cattle associations, however, are quite a different matter. They are far removed from the daily operation of tribal government and function totally as private associations rather than as an adjunct or subordinate economic organization of tribal government.

In conclusion, it is the Tribal Council's opinion that the jurisdictional relationship between the Tribal Council and the private livestock associations is very tenuous; and such that BIA employees who are also tribal members should be permitted to retain their positions on the various board of directors of those livestock associations without being in conflict with Article II, Section 2 of the Bylaws of the White Mountain Apache Tribe. Accordingly, I implore you to reconsider your earlier decision that BIA employees resign their positions with the livestock association in light of the interpretation of Article II, Section 2 set forth in this letter.

Sincerely yours,



Ronnie Lupe
Tribal Chairman

cc: Dan Troncale, General Manager
Livestock Association

RL:mjm

MAR 23 1982

Superintendent, Fort Apache Agency

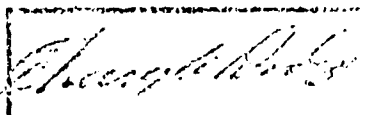
Interpretation of Article II, Section 2 of the Amended By-Laws of the
White Mountain Apache Tribe

Grant Solicitor's Office

Attention: William Bean

A question of interpretation of a section from the White Mountain Apache
Tribe's Constitution and Amended By-Laws has risen between the Tribe and
my office. The section pertains to my interpretation of Article II,
Section 2, (a copy attached), which I believe prohibits Bureau or any
other Federal employee (tribal member) from serving as a board member
on a cattle association. Also attached is a copy of the Tribal inter-
pretation and opinion on the same.

I request your early review and opinion on the section in question so
that we can advise our personnel accordingly.


Superintendent

Attachments

cc:

→ Mr. Ronnie Lupe, Chairman
Area Director
File
Chrono

HADodge:Imp 03-19-82

xc: [unclear]



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

FORT APACHE INDIAN AGENCY

Whiteriver, Arizona 85911

(602) 338-4364 Ext. 203

IN REPLY REFER TO:

MAR 21 1982

Mr. Ronnie Lupe, Chairman
White Mountain Apache Tribe
P.O. Box 1150
Whiteriver, Arizona 85941

Dear Mr. Lupe:

I had asked the Field Solicitor in Phoenix for advice regarding the proper interpretation of Article II, Section 2 of the Amended By-Laws of the White Mountain Apache Tribe. He has recommended that I withdraw my interpretation on the basis that as a general rule, the Bureau of Indian Affairs gives weight to tribal interpretations of tribal law in the case of ambiguity. Your letter to me acts as such an interpretation.

Further, the violation which I perceived is violation of a tribal conflict of interest rule, not a federal conflict of interest rule. I am advised that the responsibility to investigate and act on alleged violations of tribal conflicts rest with tribal authorities.

Based upon your request and advice of the Solicitor, I am officially withdrawing my interpretation. I will advise my staff accordingly.

Sincerely yours,

Superintendent

xc: Bob Brauchli
Ian Troncale