



WHITE MOUNTAIN APACHE TRIBE

*A Sovereign Nation Exercising Self-Governance
Over the Fort Apache Indian Reservation*

Resolution No. 06-2012-72

(Removal of Judge Reagan Armstrong from the White Mountain Apache Tribal Court Bench)

WHEREAS, the White Mountain Apache Tribe (“Tribe”), as a federally recognized Indian tribal government, with inherent rights of self-governance, and pursuant to its Tribal Constitution, exercises rights of self-determination and self-governance through its duly elected Tribal Council (“Council”); and

WHEREAS, to provide a fair and independent forum to adjudicate all cases and matters arising within the jurisdiction of the Tribe, the Council established the Tribal Court System and adopted the Tribal Judicial Code for the purpose of administering justice on the Fort Apache Indian Reservation (“Reservation”); and

WHEREAS, the integrity of the Tribal Judiciary rests on the ability of judges to resolve all matters before the Court with impartiality, adherence to the law and in a manner that promotes public confidence in their ability to competently and fairly administer justice; and

WHEREAS, the Tribe’s Judicial Code affirms the high degree of trust and integrity required to serve as a Tribal Court judge and it establishes strict standards governing the behavior and actions of Tribal Court judges; and

WHEREAS, a judge’s failure to adhere to the strict standards laid out in the Judicial Code may result in the miscarriage of justice and provides the Tribal Council with a basis for removal from the position of Tribal Court judge and all of the responsibility that this entails; and

WHEREAS, the Tribal Council received several complaints concerning Judge Reagan Armstrong and his failure to uphold the level of integrity required to serve as Tribal Court judge. The complaints constituted violations of the Judicial Code and were detailed as follows:

WMAT Judicial Code Standards of Conduct Violations

§2.17(A)(1). A judge shall not discuss a case, or any business related to such a case, with a party to that case, or any person who has an interest in the case.

Judge Armstrong on several occasions met with the Plaintiffs and discussed the proceedings pending before the court; and

§2.17 (A)(4) a judge shall avoid any communication with members of the Tribal Council in respect to any pending litigation before the Tribal Court.

Judge Armstrong on several occasions met with the Plaintiffs, who were members of the Tribal Council, and discussed the proceedings pending before the court; and

§2.17(B) A judge shall not discuss any matter which is or may be before the Court with a party.

Judge Armstrong on several occasions met with the Plaintiffs, who were members of the Tribal Council, and discussed the proceedings pending before the court; and



§2.17(C)(2) A Judge shall not let social relationships, his or her political views influence the decisions he makes in court.

Judge Armstrong on several occasions met with the Plaintiffs, who were members of the Tribal Council, and discussed the proceedings pending before the court. It was impossible to view Judge Armstrong as an impartial arbiter of fact and law but rather a litigant firmly held and pre-existing views on the matter before him. At a December 13, 2011 hearing, in which the Court spoke to the Election Commission for thirty minutes, advising that there was no doubt that the Plaintiff in the proceeding, Rubert Lupe, was qualified to seek office (and thereby be entitled to receive nomination petitions). The Court made this conclusion without hearing from the Commission, even adjourning the hearing without giving the Commission the opportunity to speak or present evidence. The Judge ruled, in clear violation of the rules of civil procedure, that the defendants, the Election Commission and the Tribe, were not entitled to legal representation at the hearing. The Judge also ignored the most basic Indian Law principle - sovereign immunity; and

WMAT Judicial Code Conflict of Interest Violation

§2.15(D)(2) Conflicts of Interest. A judge shall disqualify himself from hearing a case in which the Judge has interests which may be affected by the outcome, has formed an opinion about the merits of the case, or has personal knowledge of the facts which would prevent him from considering all sides impartially.

Judge Armstrong made rulings regarding his own legitimacy as Chief Judge. He made the assertion despite the fact that his appointment clearly was in doubt. It was clear that there was at the very least uncertainty concerning his ability to hear the cases. That matter should have prompted Judge Armstrong to disqualify himself. Rather he inserted himself as a plaintiff in the matter and even re-captioned an already filed lawsuit to include the Tribal Court as a party against inanimate objects – the ballot counting equipment; and

Misuse and Abuse of Contempt Power

Judge Armstrong made contempt rulings against persons who were not parties, who were not served and who were not compelled to act by lawful court orders. Specifically he issued contempt orders for the Tribal Chairman Ronnie Lupe, the Scout Newspaper, KNNB and Chief of Police Ray Burnette; and

WMAT Judicial Code Licensing Violation

§2.28. Removal of Licensure. Any removal of license to practice before the Tribal Court requires that the matter be referred to a disciplinary committee.

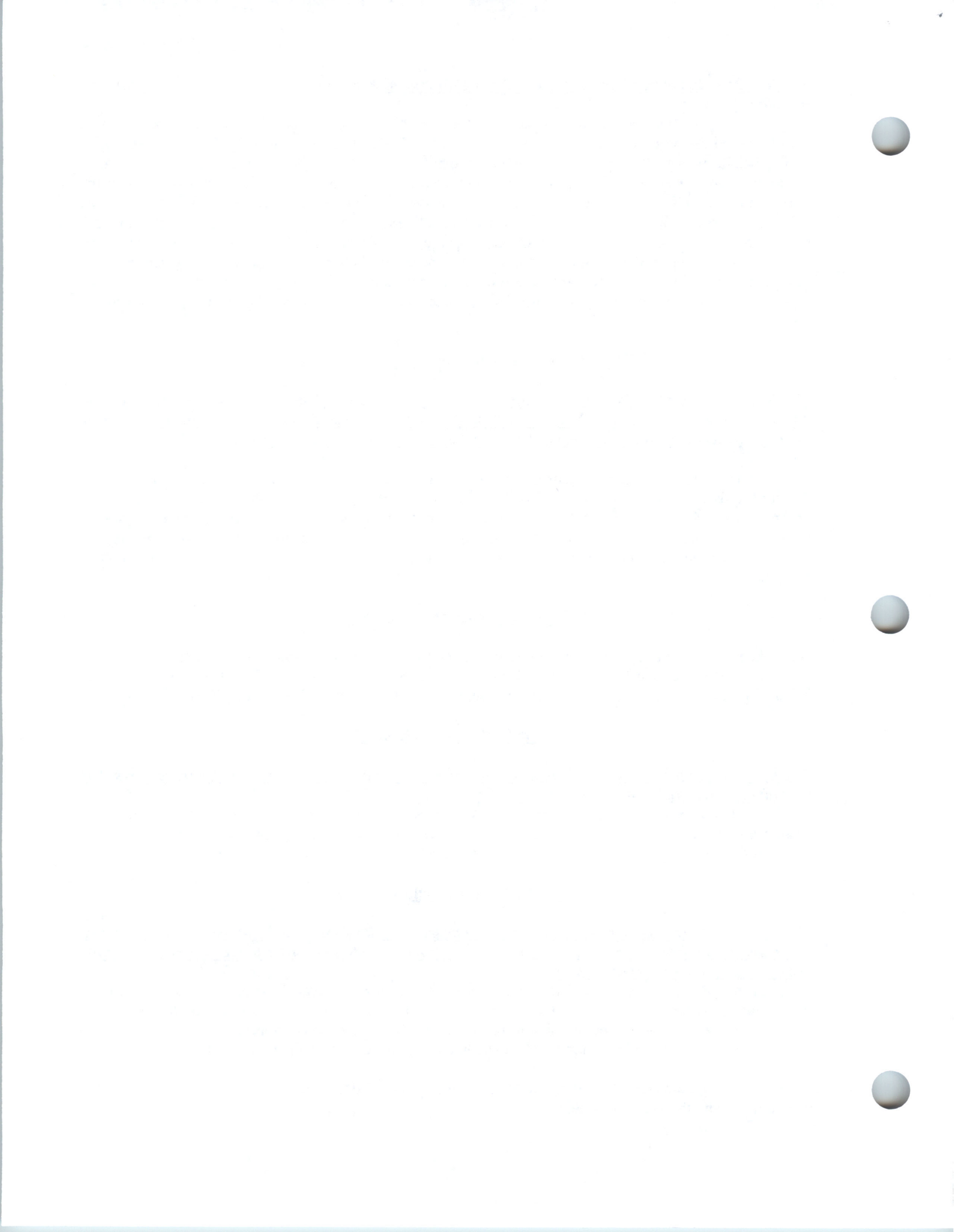
Judge Armstrong attempted to unilaterally revoke Mr. Richard J. Palmer, Mr. George Hesse and Judge Ryan Reinhold's his license to practice before the Tribal Court without any due process or without referring the matter first to a disciplinary committee; and

WMAT Victims Rights Violation

§7.1 Victim's Bill of Rights requires that a victim be treated with dignity, to be informed, upon request, when the accused or convicted person is released from custody and to be heard at any proceeding involving a post-arrest release decision.

Judge Armstrong released adult Defendant accused of serious aggravated assault on a child on own recognizance without any notice to the victim or victim's parents and did not provide victim an opportunity to have input to the decision to release. The Defendant did not appear at a later hearing and victim suffered serious and justified fear that Defendant would seek to harm victim while on release; and

WHEREAS, the complaints constituted abuse of office, neglect of duty, and gross misconduct under the standards established by the Judicial Code; and



WHEREAS, based on the seriousness of the complaints, the Council suspended Judge Armstrong from his judicial post; and

WHEREAS, on May 4, 2012 written notice of the complaints was delivered to Judge Armstrong at his Tribal Court mailbox; and

WHEREAS, Judge Armstrong was directed to provide a written response to the complaints by close of business on May 14, 2012; and

WHEREAS, Judge Armstrong did not provide a written response to the complaints as directed and the complaints were therefore deemed admitted and a default entered against Judge Armstrong without hearing; and

WHEREAS, based on the seriousness of the violations of the Judicial Code and the lasting harm to the public confidence in the Tribal Court Judiciary, it is in the Tribe's best interest to remove Judge Armstrong from the White Mountain Apache Tribal Court bench and terminate his employment with the Tribe.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that based on the seriousness of Judge Armstrong's violations of the Judicial Code and the lasting harm to the public confidence in the Tribal Court Judiciary, it hereby removes Judge Armstrong from the White Mountain Apache Tribal Court bench and terminates his employment with the Tribe.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances or Federal Laws, this Resolution shall be declared null and void and have no legal effect. This Resolution shall not be subject to Judicial Interpretation, only the Tribal Attorney, with the assistance of the Tribal Council Secretary, may opine on Tribal Council intent and the meaning of the language as used herein.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Acting Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution. In the event that the Chairman fails to delegate signatory authority to an Acting Chairman, the Vice-Chairman may sign provided that the Tribal Secretary and a Tribal Attorney attest to the veracity of the subject matter of this Resolution.

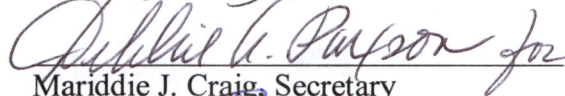
The foregoing resolution was on June 1, 2012 duly adopted by a vote of FIVE for and ONE against by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (b), (s), (t) and (u) of the Tribal Constitution, ratified by the Tribe September 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

7-12-12

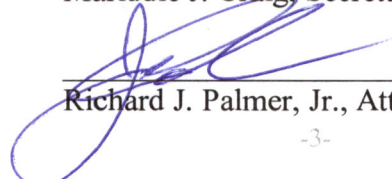
Date



Mariddie J. Craig, Secretary

7-12-12

Date



Richard J. Palmer, Jr., Attorney

7/12/12

Date

