



# WHITE MOUNTAIN APACHE TRIBE

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

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## **Resolution No. 01-2014-10**

**( Rescinding Res No. 12-2013-232 Due to Material Misrepresentation of Facts )**

- WHEREAS,** pursuant to Article IV, Section 1(a) of the Constitution of the White Mountain Apache Tribe (“Tribe”), *inter alia*, the Tribal Council has the authority to represent the Tribe and act in all matters concerning the welfare of the Tribe. Article IV, Sec. 1(s) empowers the Council regulate itself; and
- WHEREAS,** on December 4, 2013, the Tribal Council, during a regularly scheduled general meeting, passed Resolution No. 12-2013-232 (“Resolution”). The Resolution authorized the Tribe to enter into an agreement with Smith Bagglely, Inc. d/b/a Cellular One for placement of a telecommunications tower in Cedar Creek; and
- WHEREAS,** in passing the Resolution, the Tribal Council relied on information that is now known to have been misrepresented by Councilman Clinton Kessay Jr. during the December 4<sup>th</sup> Council meeting; and
- WHEREAS,** as a result of Kessay knowingly providing false information to the Council (that the contract was forwarded to and reviewed by attorney George Hesse because of the Attorney General’s inability to secure a deal and that it the agreement merely secured a Cedar Creek Tower and nothing more) the Tribal Council had no choice but to suspend Councilman Clinton Kessay Jr., pursuant to Resolution No. 01-2014-09; and
- WHEREAS,** although the Attorney General’s Office immediately contacted Cellular One’s legal counsel and declared the Resolution invalid, the Council seeks to reinforce the Attorney General’s position that the contract presented by Councilman Kessay was executed pursuant to fraudulent acts for reasons presumably related to Kessay’s attempt to run for Tribal Chairman; and
- WHEREAS,** Cellular One’s general counsel Timothy Shaffery was immediately contacted by the Attorney General, but after discussing this matter with Cellular One management, he insisted that a valid contract was executed, that he refused to get involved in the politics, and that if the Tribe disagreed with the terms, the Tribe would have to take Cellular One to court; and
- WHEREAS,** for all of the reasons stated hereto, the Council finds it in the best interest of the Tribe to rescind Resolution No. 12-2013-232 that purported to authorize a deal between the White Mountain Apache Tribe and Cellular One for a tower placement in Cedar Creek.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby rescinds Resolution No. 12-2013-232 because it was passed through fraudulent means, with material misrepresentations knowingly made to Council and reliant upon the suspended Councilman’s statement to the Council that attorney George Hesse reviewed the document because of Councilman Kessay’s lack of confidence in the Tribe’s Attorney General to secure the deal.

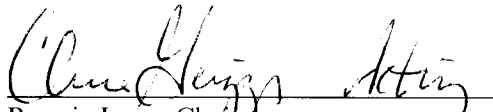
**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby declares the fraudulent agreement executed pursuant to Resolution No. 12-2013-232 as invalid and of having no legal effect as far as the White Mountain Apache Tribe is concerned. The Tribe has initiated all legal remedies and criminal prosecution is underway as a result of the actions of the suspended District II Councilman Clinton Kessay's actions on December 4<sup>th</sup>.

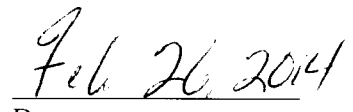
**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

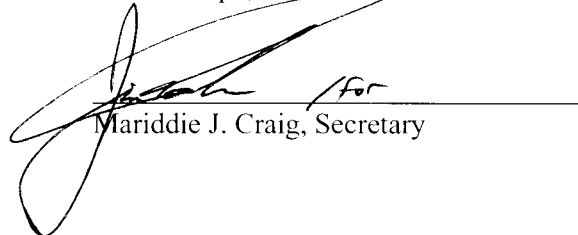
**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances or Federal Laws, or any material facts concerning the issues presented are later found to be false, this Resolution shall be declared null and void and have no legal effect.

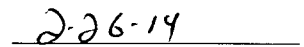
**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Acting Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution. In the event that the Chairman fails to delegate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

The foregoing resolution was on JANUARY 21, 2014 duly adopted by a vote of SIX for, ZERO against, and ZERO abstention by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (b), (d), (k), (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).

  
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Ronnie Lupe, Chairman

  
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Date

  
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Mariddie J. Craig, Secretary

  
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Date