



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Removing Judge Kane Pursuant to Judicial Code, Sec. 2.12 and 2.17)

- WHEREAS,** pursuant to Article IV, Section 1(a) and 1(s) of the Constitution of the White Mountain Apache Tribe (“WMAT”), *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,** on October 21, 2015, members of the governing body became concerned over allegations raised against Judge Candace Kane by several employees that have regular contact with the court and are involved in critical daily functions of Tribal operations; and
- WHEREAS,** due to the nature of the allegations, the Council passed *Resolution No. 10-2015-218*, suspending Judge Kane with pay, under advisement by the Attorney General’s Office, in order to grant the accused an opportunity to be heard; as is her right pursuant to the Judicial Code, Section 2.12, which governs over Removals and Forfeiture of Office; and
- WHEREAS,** prior to passing the resolution to suspend, members of the Tribal Council indicated an interest in affording due process, and ensuring that in the event of removal, the Council would have a clear understanding of the facts giving rise to the allegations raised; and
- WHEREAS,** on this day, the governing body held an administrative hearing with Associate Judge Kane and the accusing party to determine whether the Judge had conducted herself in a manner that violated Section 2.17 of the Judicial Code, as alleged, thereby making the judge eligible for removal under Section 2.12; and
- WHEREAS,** the Judge and accusing party addressed the behavioral issues that gave rise to the administrative review and scrutiny under sections 2.12 and 2.17 of the Judicial Code; and
- WHEREAS,** both the Tribe and Judge presented their positions before the Tribal Council in an open morning session, as stipulated to by the Tribe and Judge; and
- WHEREAS,** in summary, Attorneys for the Tribe cited Judicial Code Sections 2.17(c)(1), (2), and (3), and argued that behavior exhibited by Judge Kane was in clear violation of all three sections. Only one violation is necessary to qualify a judge for removal; and
- WHEREAS,** the Judge denied all allegations against her and argued that her actions were not prejudicial against the Tribe or its members, that she was not hostile towards the accusers on the date in question, and that her behavior did not amount to a violation of 2.17(c) and she further asserted that her behavior did not merit suspension or removal; and

Resolution No. 11-2015-228

WHEREAS, after hearing statements by both parties in an open session, engaging in further fact-finding, participating in sensitive discussions in executive session, and allowing the Judge to confront her accusers, District III Representative Floyd Walker motioned, with a second by District IV Representative Jerome Kasey in support of the motion. The Council agrees that the accusing party presented sufficient evidence to show that violations of Sections 2.17(c) of the Judicial Code occurred; and

WHEREAS, the Tribal Council of the White Mountain Apache Tribe has considered various types of discipline, including a corrective action plan, mandatory training, and other less severe penalties, however, after much deliberation and a first-hand display of the behavior in question, the governing body finds that Tribal Members, whether employees of the Tribe, or simply enrolled members of the Tribe, deserve to be treated with dignity and respect, and the Council believes that in general there should be a higher standard of conduct for our Judges as required by the Judicial Code.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that Judge Candace Kane shall be removed pursuant to Section 2.12 for violating Section 2.17(c), which requires that Judges be conscientious, patient, courteous, and promote the utmost respect for the law, among others, and directs that the Judge be terminated effective immediately.

BE IT FURTHER RESOLVED by the Tribal Council that it hereby declares that this Resolution represents a final decision of the governing body on this matter. The Council is confident, and the Attorney General's Office agrees, that considerable due process has been afforded the accused. As such, no waiver of immunity or considerations for legal review shall be considered.

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.

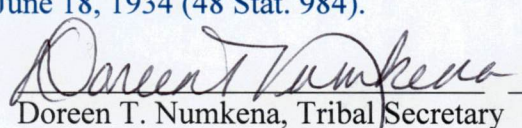
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances, or any material facts concerning the issues presented are later found to be false, this Resolution shall be deemed 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 Vice-Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on **NOVEMBER 10, 2015** duly adopted by a vote of **SEVEN** for, **ONE** against, and **ONE** abstaining by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it under the enumerated powers listed in Article IV, Section 1 of the WMAT Constitution, so ratified on September 30, 1993, and federally recognized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).


Ronnie Lupe, Tribal Chairman

11-9-15
Date


Doreen T. Numkena, Tribal Secretary

11-10-15
Date