

that the Skywalk is drawing tourists.

On an afternoon in the middle of the week, hundreds of tourists wait their turn to stroll on the glass bridge. An usher keeping track of the visitors has counted more than 1450 visitors on her shift. In 2010, some 620,000 tourists visited. Each one paid \$29.99 just to enter the Skywalk, and many will fork over another \$27.99 to take home a photo. Most come by bus or helicopter on package tours.

"It's breathtaking really, it's unbelievable," said Melissa Peck, a tourist from New Jersey as she gazed down at the bottom of the canyon, 4,000 feet below.

The structure was built when Las Vegas businessman David Jin struck a deal with the Hualapai tribe. He would put up \$30 million to build the Skywalk and a Visitor Center, and then would manage the site for the next 25 years. The profits would be split evenly between Jin's corporation, Grand Canyon Skywalk Development, LLC, and the tribe's corporation, 'Sa' Nyu Wa. But now both sides say the other isn't keeping up their end of the bargain. The Hualapai's main grievance is the unfinished visitor center.

The line of tourists winds through the unfinished building on the way to the Skywalk entrance. The exterior of the building is complete, but inside it looks like a construction zone. It's been that way since the attraction opened, said Waylon Honga, a member of the Hualapai Tribal Council.

"There's no ceiling, there's no interior walls, It is one big empty space," said Honga, as he toured the empty space that is supposed to house a restaurant and a gift shop for tourists. "It's got a long ways to go."



By Jude Joffe-Block

Hualapai Tribal Council member Waylon Honga stands in front of bags of insulation that have yet to be installed in the unfinished visitor center.

Honga and the rest of the council insist the unfinished construction is Jin's fault.

"What is stipulated in the contract was for Mr. Jin to extend the water, the sewer and electric lines and complete the building," the councilman said. "And it hasn't been done."

Jin maintains that the utilities are the tribe's responsibility. He has plenty of his own accusations against the tribe--including embezzlement. According to Jin's spokeswoman, Aimee Romero, Jin hasn't received his share of the profits.

"Mr. Jin has not received any of the management fees that were agreed to by the tribe since 2007," Romero said.

Those owed fees could be as high as \$8 million, according to Jin's estimates. Romero said Jin has tried to pursue arbitration with the tribe, but the tribe has refused. For their part, the tribal council says Jin's claims are false.

Now they are weighing whether to use newly acquired powers of eminent domain to undo Jin's contract to manage the Skywalk. The council passed an ordinance earlier this month that would allow the tribal government to use that power for the first time.

"The Hualapai Tribal Council is just looking out for the best interest of its membership," Honga said.

Asserting eminent domain would be a highly unusual move in this case, according to legal experts.

"I don't know that any tribe and any outside investor have gone down this path before," said Gavin Clarkson, a law professor specializing in tribal economic development at the University of Houston Law Center.

Still Clarkson says the tribal government should have the power to void the contract and pay Jin the value of what he would have earned. That argument was echoed by the tribe's attorney, Paul Charlton.

"Any contractor who enters into an agreement with a government has to follow rules of that government," Charlton said. "If the contractor enters into an agreement with the Hualapai people, it has to follow Hualapai rules."

But prominent tribal law expert Troy Eid joined David Jin's legal team out of fear that such a move by the tribe could have damaging effects on other development projects in Indian country. Eid contends that the tribe does not have authority to assert eminent domain over Jin's property rights, since he and his company are outside of the tribe.

"The bottom line is if a tribe can come in and condemn someone's contract, when two corporations are doing business, that has a chilling effect on all private parties that might want to do business with Indian nations," Eid said.

After the Hualapai Tribal Council approved the new eminent domain ordinance, Jin's company, Grand Canyon Skywalk Development, LLC, asked a federal judge to stop the tribe from seizing the company's contract. The judge rejected Jin's request since the tribe had not taken action, but he has ordered discovery. Another motion is pending in tribal court that could compel both sides to enter into arbitration.

In the meantime, up on the Skywalk, tourists like Melissa Peck are missing out on some of the amenities.

"I have to tell you, I was shocked when I walked in, because I thought the inside of the building was a gift shop," Peck said. "But then when I saw nothing was there, I was kind of taken aback."

More like this story

- Tribal Council Votes to Take Over Skywalk
- Navajo Nation Split On Grand Canyon Flight Restrictions

- [California Indian Tribe Expels 154 Members](#)
- [Feds Act To Stop Uranium Mining Near Grand Canyon](#)
- [Coal Remains King On Navajo Nation...For Now](#)

Comments



Add a comment...

Comment using...

Facebook social plugin

Sections

[Arts](#), [Border](#), [Demographics](#), [Environment](#), [Immigration](#), [Law Enforcement](#), [Mexico](#), [Native Americans](#) [Politics](#) [Mobile Site](#)

About

[Fronteras Desk](#), [Staff](#), [Member Stations](#), [Contact](#), [Public Insight Network](#), [Corporation for Public Broadcasting](#)

Stations

[KJZZ](#), [KNAU](#), [KNPR](#), [KPBS](#), [KRWG](#), [KSTX](#), [KUAZ](#)

Locations

[Arizona](#), [California](#), [Nevada](#), [New Mexico](#), [Texas](#)

Social Media

[Facebook](#), [Twitter](#), [YouTube](#), [Flickr](#)

Disclaimer

[Terms of Service](#), [Privacy Policy](#)

Contents of this site are © Copyright 2012 Fronteras Desk. All rights reserved.

March 01, 2012 |

4:39 pm | 70°

Opinions

- Type Size: A A A
- Print
- Email
- Most Popular
- SHARE

Honga and Vaughn: Skywalk's potential will be realized

by Waylon Honga and Charles Vaughn - Jun 6, 2011 12:00 AM
Our turn

Recommend One person recommends this.

Tweet 0

The Grand Canyon Skywalk is a one-of-a-kind attraction that has enthralled thousands of tourists from around the globe and given them a window into our culture since it opened in 2007.

We are grateful to these visitors, who have helped the Hualapai Tribe diversify and solidify our economic prospects, providing funds for roads, health care and basic services for our 2,100 tribal members, who are all descendants of a people who have occupied this spectacular and spiritually significant land for millions of years.

That said, the skywalk could be - and should be - so much more than it is today.

As has been widely reported, the Hualapai entered into an agreement with Las Vegas developer David Jin to build the skywalk and manage the project. Jin and his investors agreed to finance construction of the skywalk, a visitors center and gift shop with a restaurant as well as all on-site and off-site utilities and other infrastructure, including restrooms.

In exchange for the management contract for the skywalk and the surrounding area, Jin and his investors would divide revenue from the skywalk and gift shop.

Our tribe has entered into numerous mutually beneficial contracts with vendors and tour operators, and we have always conducted business scrupulously and ethically. We saw this deal as a good one, and he seemed genuine. Now, we can't be so sure.

The skywalk we were promised to build is an empty shell - an uninspiring building that hangs from the ceilings and holes in the floor. There are no bathrooms, as Jin promised - for the thousands of tourists who visit each year. And yet, there is no electricity, water or sewer to the skywalk, a appalling breach of the contract.

When we asked Jin to account for his actions, Jin did finally show his proactive side by filing lawsuits against our people. Both are frivolous and reckless. In a press public-relations campaign he launched a few months ago, he said the public will see through his cynical crusade to denigrate our people.

Our tribe has decided we prefer not to settle our disputes in faraway courts. Jin's sensational claims, the Tribal Council is still considering. We have options, including an eminent domain action, to protect the land and end this painful dispute.

Our tribe states that the council will not enforce eminent domain on anyone who occupies the land or deny to any person within its jurisdiction the equal protection of the laws. "No person shall be deprived of life, liberty or property without due process."








If the tribe asserts its eminent domain rights, the tribe is ready and more than willing to provide investors fair market value for their financial commitment.



Once the situation is resolved, it will allow the tribe to complete the Skywalk Visitors Center and provide a world-class facility that tourists from around the globe deserve.

Waylon Honga and Charles Vaughn are members of the Hualapai Tribal Council.

- Type Size: A A A
-  Print
-  Email
-  Most Popular
-  SHARE   

AZ FACT CHECK



AZ FACT CHECK

Researching and reporting the validity of political claims and key topics. Help us keep Arizona honest. Check out the findings.



LATEST NEWS HEADLINES

- [5 workers fired after deadly NYC elevator accident](#)
- [Woman sentenced to life for taking boy from womb](#)
- [Senate defeats bill to reverse birth control rule](#)
- [Disney changes obesity exhibit after complaints](#)
- [States consider drug testing welfare recipients](#)
- [Despite Romney wins, both sides eye Jeb Bush](#)
- [California walloped by snow storms](#)
- [Man shot in chest with shotgun behind Phoenix house](#)
- [Texas 7 gang leader put to death](#)
- [Conservative publisher Breitbart dies at 43](#)

EXHIBIT 10

Pamela M. Overton (AZ Bar No. 009062)
 Tracy L. Weiss (AZ Bar No. 027289)
 GREENBERG TRAURIG, LLP
 2375 E. Camelback Rd., Ste. 700
 Phoenix, Arizona 85016
 Telephone: (602) 445-8000
 Facsimile: (602) 445-8100
 E-mail: OvertonP@gtlaw.com; WeissT@gtlaw.com

Mark Tratos (NV Bar No. 1086) (Admitted *Pro Hac Vice*)
 GREENBERG TRAURIG, LLP
 3773 Howard Hughes Parkway
 Ste. 400 North
 Las Vegas, Nevada 89169
 Telephone: (702) 792-3773
 Facsimile: (702) 792-9002
 Email: TratosM@gtlaw.com

Troy A. Eid (CO Bar No. 21164) (Admitted *Pro Hac Vice*)
 Robert S. Thompson IV (CO Bar No. 42658) (Admitted *Pro Hac Vice*)
 GREENBERG TRAURIG, LLP
 1200 17th Street, Suite 2400
 Denver, CO 80202
 Telephone: (303) 572-6500
 Facsimile: (720) 904-7621
 Email: EidT@gtlaw.com, thompsonro@gtlaw.com

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF ARIZONA

Grand Canyon Skywalk Development,
 LLC, a Nevada limited liability
 company,

Plaintiff,

vs.

'SA' NYU WA, et al.,

Defendants.

No. No. 3:12-08030-DGC

AFFIDAVIT OF ROBERT BRAVO, JR.

STATE OF NEVADA)
) ss:
 COUNTY OF CLARK)

1 I, ROBERT BRAVO, JR., being duly sworn under oath, states under penalty of perjury
2 under the laws of the United States that the facts contained herein are of my personal
3 knowledge, and if called upon, I could and would competently testify to them.

4 1. I am a member of the Hualapai Tribe. I was born in Kingman, Arizona on March
5 22, 1964 and have lived and worked in and for the tribe and its business entities for many years.

6 2. Beginning in 1997, I began working for Hualapai Enterprise, also know as Grand
7 Canyon Resort Corporation ("GCRC") for Grand Canyon West. After one year I left the
8 company on good terms to seek employment elsewhere. During that time I was asked by the
9 Tribal council to become a member of the Board of Directors for GCRC, which I served for
10 approximately one year as another position became available at Grand Canyon West. In
11 November of 2011 I applied for and received the position of Assistant Operation Manager for
12 GCRC.

13 3. I have had numerous positions with the company including special projects
14 manager and interim general manager of Grand Canyon West.

15 4. In September 2009, I became the interim CEO of GCRC and served in that
16 position until September 2011 when I was placed on administrative leave without explanation.
17 Shortly after I was placed on administrative leave, I was terminated without a full explanation as
18 to why.

19 5. I am familiar with the litigation that has been occurring over the last year between
20 SNW, GCSD, and Mr. Jin, and I am aware of the numerous allegations that have been asserted
21 by the Tribe's public relations firm and certain members of the Tribal council alleging that Mr.
22 Jin and GCSD are in breach of their agreement for failing to complete the visitors center and
23 failing to bring the utilities to Eagle Point.

24 6. I know from being both a member of the Tribe and involved with GCRC in
25 various capacities that it was always anticipated that the Tribe would solely be responsible for
26 bringing utilities to Eagle Point and the Skywalk. For example the Indian Village at Eagle Point
27 which has a gift shop facility was in need of utilities for the guests that arrived there. The Tribe
28 would never allow someone who is not a member of the Tribe to own the utilities that would

1 service the entire Grand Canyon West, including water, power, and sewer. Importantly, the
2 Tribe has been attempting to get Federal funding to install these utilities for the time I have been
3 involved with GCRC. For example, the water line is currently under construction and controlled
4 by the Tribe.

5 7. I know also that the completion of the building was halted by the Tribal council
6 and was never abandoned by GCSD or Mr. Jin. I was physically at a Tribal council meeting in
7 December of 2010 where the Tribal council voted to allow Mr. Jin to complete only one floor of
8 the existing structure. Surprisingly, just a week later, the Tribal council reversed itself and
9 withdrew the authorization and has refused to allow Mr. Jin to complete the building. As the
10 interim CEO of GCRC, I can tell the court this was frustrating to me because a completed visitor
11 center would generate considerably more revenue and a better visitor experience for GCRC and
12 the Tribe. It appears that some members of the Tribal council who have taken over and now
13 manipulate the Tribal activities believed that they needed a basis for alleging a breach of
14 contract.

15 8. As a life long member of the Hualapai Tribe, I can further attest that the manner in
16 which the eminent domain ordinance was passed in 2011, was highly unusual and completely
17 contrary to the typical custom and practice of the Hualapai in adopting new ordinances. It has
18 been the custom and practice for the Tribal council to submit the proposed law for publication in
19 the Tribal newspaper, Gamyu. Members of the Tribe then are able to read it, consider it, make
20 comment on it and vocalize their support or opposition to members of the Tribal council who
21 are there to represent them. This did not occur with respect to the eminent domain ordinance.
22 The Hualapai public was never given the opportunity to review the ordinance in advance,
23 comment on it or have input as the bulk of the work on the ordinance occurred in secret through
24 Executive Sessions of the Tribal council.

25 9. I understood that SNW was in arbitration with GCSD in Phoenix, Arizona and
26 was aware as most Tribal members were, that GCSD alleged it was owed monies and certain
27 members of the Tribal council alleged that Mr. Jin owed the Tribe money. Most of us believed
28 that the truth would come out in the arbitration. I was surprised to learn that the attorneys for

1 SNW and the Tribe have terminated the arbitration by claiming they now own GCSD's
2 contractual rights and have decided not to proceed with the arbitration. I believe this will be
3 injurious to the Tribe because we will never know the truth as to which party is owed money
4 and we will never know why the members of the Tribal council have refused to produce
5 financial data and information to an independent tribunal who could fairly evaluate the claims.

6 10. As an entrepreneur, businessman, and someone who wants the Hualapai Tribe to
7 continue to profit and benefit from having outside investment by entities such as GCSD and Mr.
8 Jin, I am concerned that the conduct of certain members of the Tribal council is sending all of
9 the wrong signals and messages to outside business partners and the public. Per the 2003
10 Agreement, SNW promised to resolve any disputes through arbitration. SNW promised to share
11 50% of the profits with GCSD from Skywalk operation; SNW promised that GCSD and Mr. Jin
12 would receive the most favorable pricing for tickets in exchange for paying the entire
13 development costs of the Skywalk, and SNW promised that it would be fair in its financial
14 dealings with GCSD. The current actions by certain members of the Tribal council do not
15 appear to be professional and businesslike, and any potential business partners will be dis-
16 inclined to enter into development agreements with the Tribe if they fail to honor their promises.

17 11. I am providing this affidavit for only one reason to ensure that the Court and the
18 members of the Tribe know the truth. Some members of the Tribal council that have taken over
19 and are manipulating the Tribe by falsehood and deception should be stopped. Since the
20 Skywalk has opened, the Tribe has made more money than it ever imagined possible. It appears
21 that even through the face of a terrible recession, the Tribe has done better year after year.
22 Instead of rejoicing in their good fortune to have a successful operation run by GCSD, the Tribe
23 is allowing manipulation and greed by some members of the Tribal council to permanently
24 damage our ability to attract additional outside investment and honest business partners to work
25 with the Tribe on the reservation.

26 ...

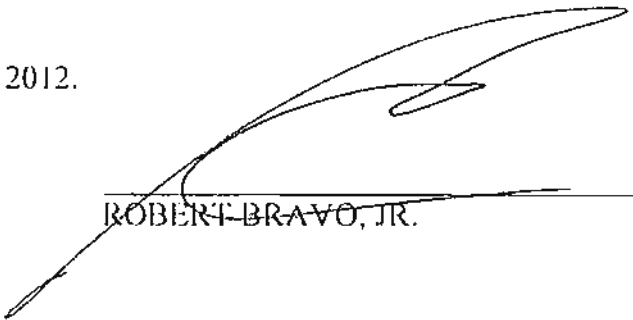
27 ...

28 ...

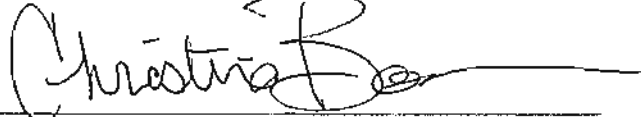
1 12. I would be happy to testify in Court regarding these topics and anything further
2 the Court would like to obtain information on and am willing to do so any time of the Court's
3 choosing.

4 Further affiant sayeth naught.

5 Executed this 28 day of February 2012.

6
7 
8 ROBERT BRAVO, JR.
9

10 SUBSCRIBED and SWORN to before
11 me this 28 day of February, 2012.

12 

13 Notary Public

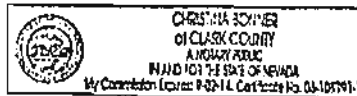


EXHIBIT 11

GALLAGHER & KENNEDY

P.A.

LAW OFFICES

GLEN HALLMAN
DIRECT DIAL: (602) 530-8471
E-MAIL: GH@GKNET.COM

2575 EAST CAMELBACK ROAD
PHOENIX, ARIZONA 85016-8225
PHONE: (602) 530-8000
FAX: (602) 530-8500
WWW.GKNET.COM

February 7, 2011

VIA FACSIMILE 702.792.9002
AND US MAIL

Mark G. Tratos
GREENBERG TRAURIG
3773 Howard Hughes Parkway, Suite 400 North
Las Vegas, NV 89169

Re: Hualapai Indian Nation: 'Sa' Nyu Wa, Inc. -- Skywalk

Dear Mr. Tratos:

This letter responds to your January 31, 2011 letter to my partner Terry Thompson, purporting to serve a "Notice of Arbitration."

As your co-counsel Teddy Parker has surely informed you, he was informed almost a year ago, on March 24, 2010, that it had come to the attention of the Hualapai Tribal Council that a company known as Y-Travel, an affiliate of Mr. David Jin, was unlawfully operating a shuttle service on the Hualapai Reservation without having obtained prior permission to do so. The Council therefore immediately demanded that Y-Travel cease and desist from such activities. Attached are Mr. Thompson's emails of March 24, 2010 so informing Mr. Jin.

When you first introduced yourself via your January 11, 2011 letter, you indicated that you were "representing Mr. Jin" as to the "Y-Travel matter." Given the prior cease-and-desist letter, we assumed that Y-Travel was finally contemplating petitioning the Tribe for permission to operate on the Reservation. However, if we understand your letter of January 31, 2011 correctly, you are claiming that YTI wants to be rewarded for unlawfully operating on the Reservation in violation of the Council's order.

Your purported "Notice of Arbitration" is in fact an attempt by Y-Travel – which has no contract with the Tribe or any of its affiliates – to invoke the arbitration clause of a contract with one of its affiliates, Grand Canyon Skywalk Development, LLC. As you

Mark G. Tratos
February 7, 2011
Page 2

know, the only current agreements pertaining to shuttle service on the Reservation are the Diamond Bar and GCW shuttle agreements (the "2010 Shuttle Agreements"). Y-Travel is not a party to the 2010 Shuttle Agreements. Also, of course, neither was Y-Travel a party to the original 2003 Agreement. In any event, to the extent the 2003 Agreement addressed employee shuttles, it was superseded by the 2010 Shuttle Agreements.

Accordingly, the Tribe's prior demand that Y-Travel cease and desist operations on the Reservation is hereby reiterated. Any further unauthorized conducting of such activities constitutes, among other things, trespass on the Reservation, and the Tribe will exercise all rights and remedies with regard thereto.

Furthermore, your attempt to boot-strap Y-Travel into the 2003 Agreement and then to use YTI as a pretext for invoking arbitration under the Agreement is misplaced.

Therefore, we consider the "Notice of Arbitration" to be void and of no effect.

We also assume that your January 31, 2011 letter refutes your previously professed desire to re-open negotiation of the remaining agreements, which had been the subject of extensive negotiation for over a year. Accordingly, any future correspondence regarding this matter should be directed to my partner Paul Charlton or me.

Sincerely yours,

GALLAGHER & KENNEDY, P.A.

By:



Glen Hallman

GH:kjh
2663410 / 14434-15
cc: Teddy Parker

EXHIBIT 12

GALLAGHER & KENNEDY

P.A.
LAW OFFICES

GLEN HALLMAN
DIRECT DIAL: (602) 530-8471
E-MAIL: GH@GKNET.COM

2575 EAST CAMELBACK ROAD
PHOENIX, ARIZONA 85016-9225
PHONE: (602) 530-8000
FAX: (602) 530-8500
WWW.GKNET.COM

March 2, 2011

VIA FACSIMILE 702.792.9002
AND US MAIL

Mark G. Tratos, Esq.
GREENBERG TRAURIG
3773 Howard Hughes Parkway, Suite 400 North
Las Vegas, Nevada 89169

Re: Hualapai Indian Nation: 'Sa' Nvu Wa, Inc. – Skywalk

Dear Mr. Tratos:

This letter responds to yours of February 25, 2011.

First, we assume that the copy of the disbursement request enclosed with your letter was merely a courtesy copy of a draft disbursement request that GCSD was simultaneously submitting to SNW. Under both the Development and Management Agreement (Article 15.11) and the Skywalk Trust Agreement (Article 3), all such requests and drafts thereof must be submitted directly to SNW. Injecting the lawyers into the process would be contrary to the Trust Agreement, as well as both unnecessary and counterproductive.

Also, prior to the execution and implementation of the Skywalk Trust Agreement in the spring of last year, your client had full control of all funds, and has not adequately accounted for that period (including several months in 2010). Thus it is impossible to determine whether or not Gross Operating Revenues in 2010 exceeded Gross Operating Expenses, and if so by how much.

Further, in any event, determining the amount of any distribution would fall within the Alternative Dispute Resolution provisions of the Skywalk Trust Agreement (Article 8).

Mark G. Tratos, Esq.
March 2, 2011
Page 2

Simply, your client, by its own actions in resisting a full accounting of its handling of funds, has prevented a determination of whether there are any net revenues from which to pay a Manager's Fee.

Finally, we note that the claims you have asserted with regard to Y-Travel expenses must be reserved for by SNW, although SNW denies any such expenses are payable.

Sincerely yours,

GALLAGHER & KENNEDY, P.A.

By:



Glen Hallman

GH:kjh
26800005 / 14434-15

EXHIBIT 13

Exhibit to Consent to Disbursement

Regarding: Particular items as to which consent is withheld or limited
(pursuant to Section 3.3.3.2(b))¹

Y-Travel: Y-Travel is a company affiliated with GCSD and OTTI, and thus any payments to Y-Travel would be improper, as provided in Skywalk Trust Agreement (Section 3.3.3.1(c)).

¹ Pursuant to Section 3.3.3.2(b), the Disbursement Request is hereby deemed modified to exclude the item(s) as to which consent is withheld, and to limit the amount to be disbursed for the item(s) as to which a limitation is indicated.

CONSENT TO DISBURSEMENT¹

Date: 04/05, 2011

To: US Bank National Association, as Trustee

In connection with Disbursement Request No. 040511-1 dated 04/05, 2011 (a signed copy of which is attached hereto), submitted to you by Grand Canyon Skywalk Development, LLC ("Manager") pursuant to the Skywalk Trust Agreement dated as of March 10, 2010, among you, the undersigned and Manager, the undersigned hereby consents to payment of the items listed in such Disbursement Request, except to the extent that (pursuant to Section 3.3.3.2(b)), consent to a particular item is withheld or limited as set forth on an exhibit hereto.

'SA' NYU WA, INC.

By 

SNW Representative or
Other Authorized Signator

¹ This document may be electronically completed, executed and delivered by any means deemed mutually acceptable by all the Parties (such as by having the completed and executed document scanned as a ".pdf" file and then sent by email). A recipient is entitled to require that the signator confirm the document by providing a signed original counterpart to the recipient.

EXHIBIT 14

1 Glen Hallman (Bar No. 05888)
2 Paul K. Charlton (Bar No. 012449)
3 Benjamin C. Runkle (Bar No. 026358)
4 **GALLAGHER & KENNEDY, P.A.**
5 2575 East Camelback Road
6 Phoenix, Arizona 85016-9225
7 Telephone: (602) 530-8000
Facsimile: (602) 530-8500
Email: gh@gknet.com
Attorneys for Defendant 'Sa' Nyu Wa, Inc.

8 **IN THE HUALAPAI TRIBAL COURT**

9 **PEACH SPRINGS, ARIZONA**

10
11 **GRAND CANYON SKYWALK**
12 **DEVELOPMENT, LLC, a Nevada limited**
13 **liability company,**

14 **Plaintiff,**

15 **v.**

16 **'SA' NYU WA, INC., a Hualapai Indian**
17 **tribally chartered corporation,**

18 **Defendant.**

Case No. 2011-CV-006

**MOTION TO DISMISS WITH
PREJUDICE**

(Assigned to the Honorable Ida Wilber)

19
20 Pursuant to Article XVI, Section 1, of the Constitution of the Hualapai Indian
21 Tribe, Defendant 'Sa' Nyu Wa ("SNW"), through undersigned counsel, moves the Court
22 to dismiss Plaintiff's Complaint in the above-captioned matter with prejudice because
23 SNW has not waived its sovereign immunity from being sued in Hualapai Tribal Court.
24

25 ///

26 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

FACTS

On February 25, 2011, Plaintiff filed this lawsuit against SNW seeking an order from the Hualapai Tribal Court commanding SNW to participate in binding arbitration with Plaintiff. Plaintiff alleged that it is entitled to such an order under the authority of a 2003 Development and Management Agreement (the "2003 Agreement").

On April 1, 2011, SNW filed its Answer to Plaintiff's Complaint. In that Answer, SNW asserted that it is immune from suit under the doctrine of sovereign immunity, and that it had not expressly made itself amenable to suit in the Hualapai Tribal Court. As an economic arm of the Hualapai tribal government, SNW is entitled to sovereign immunity, as is the Hualapai Tribe generally. Furthermore, nothing in the 2003 Agreement cited by the Plaintiff allows for an action to be brought against SNW in the Hualapai Tribal Court. As a result, SNW cannot be sued in the Hualapai Tribal Court; accordingly, this Court should dismiss Plaintiff's Complaint in the above-captioned matter with prejudice.

LAW AND ARGUMENT

I. The Court Should Dismiss Plaintiff's Complaint With Prejudice Because SNW Is Immune From Suit in the Hualapai Tribal Court.

Article XVI, Section 1 of the Constitution of the Hualapai Indian Tribe guarantees that "the Tribe is immune from suit except to the extent that the Tribal Council expressly waives sovereign immunity." In matters related to tribal sovereignty, the Tribe's commercial activities are indistinguishable from other types of governmental activities. *See Kiowa Tribe v. Mfg. Techs., Inc.*, 523 U.S. 751, 754 (1998) (declining to draw a

1 distinction between governmental and commercial activities for the purpose of
2 determining a tribe's immunity from suit). The Court's protection of the Tribe's
3 sovereign immunity is of utmost importance because the doctrine promotes the self-
4 sufficiency and economic development of the Tribe.

5
6 SNW is wholly-owned by the Hualapai Tribe and has been incorporated under the
7 laws of the Hualapai Tribe. Furthermore, while still maintaining ultimate control, the
8 Hualapai Tribal Council has delegated its authority to manage SNW to the SNW Board
9 of Directors.¹ As a result of this structure, SNW is a subordinate economic arm of the
10 tribal government and entitled to immunity from suit. *See, e.g., White Mountain Apache*
11 *Tribe v. Shelley*, 480 P.2d 654, 655-57 (Ariz. 1971) (concluding that a business created
12 for economic purposes as authorized by tribal law constitutes a subordinate economic
13 organization and is therefore entitled to immunity from suit); *Hwal'bay Ba:j Enterprises,*
14 *Inc. v. Beattie*, App. Div. Case No. 2008-AP-007, at 6 (Hualapai App. Div. 2008). The
15 Appellate Division of the Hualapai Nation has affirmed SNW's right to immunity from
16 suit. *Hwal'bay Ba:j Enterprises, Inc. v. Beattie*, App. Div. Case No. 2008-AP-007, at 6
17 (Hualapai App. Div. 2008), attached hereto as **Exhibit A**.

18
19
20
21 As a sovereign nation, the Hualapai Tribe is entitled to such immunity from suit to
22 the extent the Tribe has not clearly waived it. *See, e.g., Kiowa Tribe*, 523 U.S. at 754;
23 *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 58 (1978). Any purported waiver of
24

25
26 ¹ The Hualapai Tribal Council possesses the authority "to manage all tribal economic affairs and enterprises."
Hualapai Const. Art. V, Sect. m.

1 sovereign immunity must be construed strictly in favor of the sovereign and not enlarged
2 beyond what the language requires. See *United States v. Nordic Village, Inc.*, 503 U.S.
3 30, 34 (1992). Once a tribe's sovereign immunity has been established, the plaintiff has
4 the burden of establishing that its claim falls under an express waiver. *Hwal'bay Ba:j*
5 *Enterprises, Inc. v. Beattie*, App. Div. Case No. 2008-AP-007, at 5 (Hualapai App. Div.
6 2008) (citing *Colville Tribal Enterprises Corp. v. Orr*, 5 CCAR 1 (Colville Confederated
7 Tribes Ct. App. 1998)).
8

9
10 In this case, Plaintiff cannot establish an express waiver of SNW's sovereign
11 immunity to allow it to be sued in Hualapai Tribal Court.² The limited waiver of
12 sovereign immunity in the 2003 Agreement does not include an action in the Hualapai
13 Tribal Court. As a result, this Court must dismiss Plaintiff's Complaint with prejudice.
14

15 CONCLUSION

16 Because SNW possesses sovereign immunity and has not waived its immunity
17 with respect to Plaintiff's claims, this Court must dismiss Plaintiff's Complaint with
18 prejudice.
19

20 ///

21 ///

22 ///

23
24
25 ² To be clear, SNW is *not* contending that this action should (or could) be brought in any other court – only that
26 there has been no express waiver of its sovereign immunity from suit in Tribal Court. And in any event, parties
cannot confer jurisdiction upon any court; courts independently determine whether they have jurisdiction over any
matter.

1 Respectfully submitted this 14th day of June, 2011.

2 GALLAGHER & KENNEDY, P.A.

3
4 By:


Glen Hallman

Paul K. Charlton

Benjamin C. Runkle

2575 East Camelback Road

Phoenix, Arizona 85016-9225

Attorneys for Defendant 'Sa' Nyu Wa, Inc.

1 **ORIGINAL of the foregoing filed via facsimile this**
2 **14th day of June, 2011 with:**

3 Clerk of the Court
4 HUALAPAI INDIAN TRIBE, TRIBAL COURT
5 Hualapai Indian Reservation (AZ)
6 P.O. Box 275 - 960 Rodeo Drive
7 Peach Springs, AZ 86434
8 Fax: 928-769-2736

9 **Copy of the foregoing mailed this**
10 **14th day of June, 2011 to:**

11 Pamela M. Overton / Aaron C. Schepler
12 GREENBERG TRAUIG, LLP
13 2375 East Camelback Road, Suite 700
14 Phoenix, AZ 85016
15 Fax: 602-445-8100

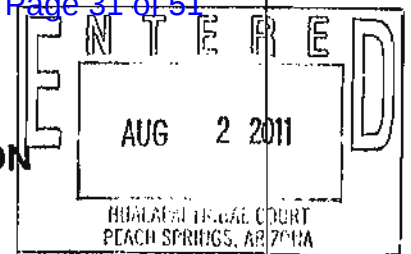
16 Mark Tratos
17 Donald L. Prunty
18 GREENBERG TRAUIG, LLP
19 3773 Howard Hughes Parkway
20 Suite 400 North
21 Las Vegas, NV 89169
22 Fax: 702-792-9002

23 Troy A. Eid
24 Robert S. Thompson
25 GREENBERG TRAUIG, LLP
26 1200 17th Street, Suite 2400
Denver, CO 80202
Attorneys for Grand Canyon Skywalk
Development, LLC
Fax: 303-572-6540

By: Donna M. Navarro

2774682 / 14434-0015

EXHIBIT 15



**IN THE COURT of THE HUALAPAI NATION
HUALAPAI RESERVATION, ARIZONA, 86434**

**GRAND CANYON SKYWALK
DEVELOPMENT, LLC, a Nevada limited
Liability company**

Petitioner,

V.

**"SA' NYU WA, INC., a Hualapai Indian
Tribally chartered corporation**
Respondent(s)

Case No. 2011-CV-006

ORDER: MOTION TO DISMISS

ARBITRATION COMPLAINT

The Court Finds that:

1. This matter came before the Court on July 8, 2011, on a Motion to Dismiss regarding a December 31, 2011 contract (Agreement) entered between the parties, in the above referenced matter.
2. Present and ready to proceed were Troy Eid and Mark Tratos on behalf of the Petitioner, Grand Canyon Skywalk Development, (GCSD) and Glen Hallman on behalf of the Respondent, 'SA NYU WA, (SNW).
3. Hualapai Tribal Court has jurisdiction to hear this matter pursuant to Article VI§ 2 of the Hualapai Constitution, Chapter 2.2 of the Hualapai Law and Order Code (Code).
4. It is well settled that only the United States Congress or a tribe can expressly waive sovereign immunity.
5. SNW expressly preserved its assertion of sovereign immunity in its April 1, 2011, Answer and then filed a Motion to Dismiss on June 14, 2011.
6. A Sovereign Nation has the right and power to state when and how it may be sued and must be free from interference from unconsented to

1 litigation. SNW is a subordinate economic arm of the government and is
2 entitled to immunity.

3 7. There is no dispute that SNW expressly waived its sovereign immunity for
4 the limited purpose of mandatory arbitration. The issue is whether it
5 waived sovereign immunity in Hualapai Tribal Court.

6 8. The Plaintiff has the burden of proving that the claim falls under an
7 express waiver.

8 9. SNW argued that it expressly waived sovereign immunity for the limited of
9 purpose of mandatory arbitration in federal court only.

10 10. Article 15, General Provisions §§ 15.4 (a), (b), (c) and (d) read together
11 support SNW's sweeping position. SNW is a subordinate economic arm
12 of government and is entitled to immunity. SNW agreed to mandatory
13 arbitration and expressly agreed to a limited waiver of sovereign
14 immunity. The Governing Laws provision in § (b) identifies Hualapai and
15 Arizona law as applicable, however, § (c) clarifies any ambiguity. This
16 section indicates that any provision of the agreement determined to be
17 unenforceable shall be reformed or severed by a federal court of
18 competent jurisdiction. The express limited waiver combined with the
19 Choice of Law for arbitration constitutes a mutually agreed upon forum
20 selection. This negotiated forum selection eliminates enforcement of
21 arbitration in Hualapai Court in this case only.

22 11. It counter-intuitive and disappointing, that the attorneys who negotiated
23 the agreement advised SNW to specifically seek arbitration outside
24 Hualapai jurisdiction. However, once the SNW asserts its sovereign
25 immunity, the tribal court is deprived of jurisdiction.

1 12. The Plaintiff has acted with good faith, complied with each court order
2 and was respectful of the tribal court.

3 13. SNW simply delays the inevitable because it conceded that it expressly
4 waived sovereign immunity for the limited purpose of mandatory
5 arbitration in Federal Court.

6
7 **IT IS HEREBY ORDERED that:**

- 8 1. Granting SNW Motion to Dismiss based on Sovereign Immunity.
9 2. The Plaintiff has exhausted all tribal court remedies and may seek resolution in
10 federal court pursuant to §15.4 of the Agreement and as conceded by SNW.

11
12
13 Dated this 29th Day of July, 2011

14
15 Ida B. Wilber

16 Ida B. Wilber, Judge Pro Temp

17 Distribution of copies to:

18 Petitioner, GCSD

19 Petitioner's Attorney(s)

20 Respondent, SNW

21 Respondent's Attorney(s),
22
23
24
25

EXHIBIT 16

AMERICAN ARBITRATION ASSOCIATION

Commercial Panel

No. 76 517 Y 00191 11 S1M

In the Matter of the Arbitration of

Grand Canyon Skywalk Development, LLC

and

'Sa' Nyu Wa, Inc.

REPORT OF PRELIMINARY HEARING AND SCHEDULING ORDER (No. 5)

Shawn Aiken conducted Preliminary Hearing No. 5 via telephone on Tuesday, January 10, 2012, beginning at 9:00 a.m. MST. Attorneys Mark Tratos Donald Prunty, and Pamela Overton appeared for Claimant Grand Canyon Skywalk Development, LLC. Attorney Glen Hallman appeared for Respondent 'Sa' Nyu Wa, Inc. Our case manager, Ms. Lynn Cortina, started the call.

1. Status of Document Production. Counsel reported on the status of document production. The parties plan to address three main issues: (a) production of bank account records, including statements for the operational accounts; (b) point of sale information, including inspections of records (point of sale and otherwise) in Las Vegas and Peach Springs; and (c) production of tribal council meeting minutes, including executive session, and minutes of standing construction subcommittees. The parties plan to address production of records by the relevant auditors, including Moss Adams, and, within the next week, whether the tribunal should issue a subpoena for production of audit reports, work papers, and related documents.

2. Witnesses and Depositions. No later than the close of business on Friday, January 13, 2012, counsel shall exchange lists of deponents, both fact and

expert witnesses. In the case of expert witnesses, although the names of those witnesses may not be available, counsel should nevertheless list those witnesses. Counsel plan to then discuss the scheduling of depositions in February, especially fact witnesses (first half of the month) and financial experts (latter half of the month). In preparation for the financial depositions, representatives of Navigant (respondent) and one or more representatives for claimant may meet in order to discuss the adequacy of production and other preparation for their testimony. As a result of this work plan, Mr. David Emery's failure to respond to requests for production becomes less important.

3. Preliminary Hearing No. 6. Our case manager will arrange for and confirm our next preliminary hearing, via telephone, on January 25, 2012, at 11:00 a.m. (Arizona time). During that hearing, we will discuss the status of document production and deposition schedule for February, including key fact witnesses and the proposed, tentative schedule for all witnesses.

Dated: January 10, 2012
Phoenix, Arizona

/s/ Shawn K. Aiken
Shawn K. Aiken, Arbitrator

EXHIBIT 17

AMERICAN ARBITRATION ASSOCIATION

Commercial Panel

No. 76 517 Y 00191 11 S1M

In the Matter of the Arbitration of

Grand Canyon Skywalk Development, LLC

and

'Sa' Nyu Wa, Inc.

REPORT OF PRELIMINARY HEARING AND SCHEDULING ORDER (No. 6)

Shawn Aiken conducted Preliminary Hearing No. 6 via telephone on Wednesday, February 1, 2012, beginning at 11:00 a.m. MST. Attorneys Mark Tratos Donald Prunty, and Pamela Overton appeared for Claimant Grand Canyon Skywalk Development, LLC. Attorney Glen Hallman appeared for Respondent 'Sa' Nyu Wa, Inc. Our case manager, Ms. Lynn Cortinas, started the call.

1. **Report on Status of Document Production.** Counsel discussed production of records by each side and responses to subpoenas from third parties. The parties agreed to submit their separate statements of positions on the current discovery disputes, including the scope of the subpoena to Wells Fargo and the point of sale documentation, no later than **February 8, 2012**. We will discuss those papers on our next telephone call at **11:00 a.m. (Arizona/MST) on February 9, 2012**. The decision will follow on or very shortly after **February 13, 2012**. In the meantime, Mr. Hallman reported, the Tribe will make all good faith efforts to produce certain point of sale documentation by **February 10, 2012**. Near the end of the call, the parties agreed that each side would produce point of sale information related to ticket sales. The only question appeared to be whether those records would reflect monthly or yearly data. Counsel agreed that daily records were not needed for production but available only for review, if needed.

2. **Status of Deposition Scheduling.** The parties have not discussed or confirmed the schedule for expert or lay depositions. As Mr. Hallman pointed out, the expert witnesses must review the reports and other data related to ticket sales. Counsel will discuss, agree upon, and submit their joint prehearing schedule, including proposed dates for depositions. The four-hour presumptive limit will apply to non-parties and the seven-hour presumptive limit to parties and principals of parties.

3. **Agreed Upon Modification To Subpoenas.** Mr. Prunty and Mr. Hallman agreed that the parties will produce responsive documents related to the skywalk operations. Mr. Prunty will draft and Mr. Hallman will review the proposed language modifying the subpoenas, which they will submit to the arbitrator no later than **Wednesday, February 8, 2012.**

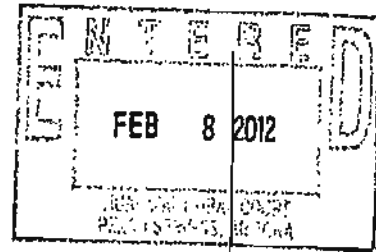
4. **Payment to Accountant.** The parties continue to dispute the payment to the accountant (Ms. Jan Allen). Mr. Hallman reports that his client made the payment ordered by the Tribunal, but she did not provide the required information, Mr. Hallman explained. The parties will submit their positions on this dispute for hearing on **February 9th** and resolution by the Tribunal thereafter.

5. **Preliminary Hearing No. 7.** Our case manager will arrange for and confirm our next telephonic preliminary hearing on **February 9, 2012 at 11:00 a.m. (Arizona/MST).** During that hearing, the arbitrator will confirm the pre-hearing schedule (if not agreed upon) and resolve any outstanding discovery disputes.

Dated: February 7, 2012
Phoenix, Arizona

/s/ Shawn K. Aiken
Shawn K. Aiken, Arbitrator

EXHIBIT 18



1 Glen Hallman (SBN 05888)
 2 Paul Charlton (SBN 012449)
 3 Christopher W. Thompson (SBN 026384)
 4 **GALLAGHER & KENNEDY, P.A.**
 5 2575 East Camelback Road
 6 Phoenix, Arizona 85016-9225
 7 Telephone: (602) 530-8000
 8 Facsimile: (602) 530-8500
 9 Email: gh@gknet.com
 10 paul.charlton@gknet.com
 11 chris.thompson@gknet.com
 12 *Attorneys for Plaintiff*

9 **IN THE HUALAPAI TRIBAL COURT**
 10 **PEACH SPRINGS, ARIZONA**

12 **THE HUALAPAI INDIAN TRIBE OF THE**
 13 **HUALAPAI INDIAN RESERVATION,**
 14 **Arizona,**

15 **Plaintiff,**

16 **v.**

17 **GRAND CANYON SKYWALK**
 18 **DEVELOPMENT, LLC, a Nevada limited**
 19 **liability company,**

20 **Defendant.**

Case No. *2012-CV-017*

**TEMPORARY RESTRAINING
ORDER**

22 This matter came before the Court on the Hualapai Indian Tribe's (the "Tribe")
 23 Application for Temporary Restraining Order (the "Application"). Upon the file, record,
 24 and proceedings in this action, the Tribe has shown that Defendant Grand Canyon
 25 Skywalk Development, LLC ("GCSD") poses a threat of actual or imminent harm to the
 26 property interests of the Hualapai Tribe.

RECEIVED
FEB 08 2012

GALLAGHER & KENNEDY, P.A.
 2575 EAST CAMELBACK ROAD
 PHOENIX, ARIZONA 85016-9225
 (602) 530-8000

1 NOW THEREFORE, sufficient cause appearing,

2 IT IS HEREBY ORDERED that GCSD, its officers, agents, employees and
3 persons and entities in active concert or participation with GCSD are restrained and
4 enjoined from destroying or damaging any property located at the Grand Canyon
5 Skywalk and which is the subject of GCSD's contractual interest in that certain
6 Development and Management Agreement, dated as of December 31, 2003, as amended
7 (the "Skywalk Agreement"), and from taking, removing, or absconding with such
8 property from the Hualapai Reservation.

9 IT IS HEREBY FURTHER ORDERED that the parties shall appear before the
10 Court on the 17th day of February, 2012, at 3:00 o'clock P.m.,
11 to show cause, if any, why a preliminary injunction should not issue.

12 IT IS HEREBY FURTHER ORDERED that this Temporary Restraining Order
13 shall expire on the above date, unless otherwise ordered by the Court.

14
15
16 DONE IN OPEN COURT THIS 8th day of February, 2012.

17
18 Marilyn Cookstew 1/9/12
19 Hualapai Tribal Court Judge
20 Duane Yellowhawk
21
22
23
24
25
26

Name and Address of Applicant:

Hualapai Indian Tribe, c/o
Glen Hallman
Paul Charlton
Christopher Thompson
GALLAGHER & KENNEDY, P.A.
2575 East Camelback Road
Phoenix, Arizona 85016-9225
Telephone: (602) 530-8000
Facsimile: (602) 530-8500

Name and Address of the Restrained Party:

Grand Canyon Skywalk Development, LLC, c/o
Pamela M. Overton
GREENBERG TRAURIG, LLP
2375 East Camelback Road, Suite 700
Phoenix, AZ 85016

AND

Mark Tratos
GREENBERG TRAURIG, LLP
3773 Howard Hughes Parkway, Suite 400 North
Las Vegas, NV 89169

AND

Troy A. Eid
GREENBERG TRAURIG, LLP
1200 17th Street, Suite 2400
Denver, CO 80202

2979734

EXHIBIT 19

HUALAPAI TRIBAL

2012 FEB -8 PM 3:56

FILED

1 Glen Hallman (SBN 05888)
 2 Paul Charlton (SBN 012449)
 3 Christopher W. Thompson (SBN 026384)
 4 **GALLAGHER & KENNEDY, P.A.**
 5 2575 East Camelback Road
 6 Phoenix, Arizona 85016-9225
 7 Telephone: (602) 530-8000
 8 Facsimile: (602) 530-8500
 9 Email: gh@gknet.com
 10 paul.charlton@gknet.com
 11 chris.thompson@gknet.com
 12 *Attorneys for Plaintiff*

IN THE HUALAPAI TRIBAL COURT

PEACH SPRINGS, ARIZONA

12 THE HUALAPAI INDIAN TRIBE OF THE
 13 HUALAPAI INDIAN RESERVATION,
 14 Arizona,

Plaintiff,

v.

17 GRAND CANYON SKYWALK
 18 DEVELOPMENT, LLC, a Nevada limited
 19 liability company,

Defendant.

Case No. 2012-2Y-017

DECLARATION OF TAKING

(Eminent domain)

22 Plaintiff, the Hualapai Indian Tribe (the "Tribe"), by and through its
 23 attorneys, pursuant to Section 2.16(F)(2-4) of the Hualapai Tribe Law and Order Code,
 24 hereby declares that it has taken possession of all interests of Grand Canyon Skywalk
 25 Development, LLC ("GCSD") in that certain Development and Management Agreement
 26 by and between GCSD and 'Sa' Nyu Wa, a tribally chartered corporation, dated

GALLAGHER & KENNEDY, P.A.
 2575 EAST CAMELBACK ROAD
 PHOENIX, ARIZONA 85016-9225
 (602) 530-8000

1 December 31, 2003, and that certain first amendment to Development and Management
2 Agreement by and between GCSD and 'Sa' Nyu Wa, a tribally chartered corporation,
3 dated September 10, 2007 (hereinafter individually and collectively referred to as the
4 "Skywalk Agreement").

5 Accordingly, the Tribe is entitled to an order from the Court that absolute title in
6 such contractual interests vests in the Tribe and that the Tribe shall be the party to the
7 Skywalk Agreement in full place and stead of GCSD, with the right to just compensation
8 vesting in GCSD.

9 The public use for which the property is taken is the construction and management
10 of the Skywalk located at Eagle Point within the Hualapai Tribal Reservation, which
11 construction and operation concerns the entirety of the Hualapai Indian Tribe and its
12 people and promotes the general interest of the Hualapai Indian Tribe and its peoples.

13 The amount of money estimated by the Tribe to be just compensation for the
14 property taken is \$11,040,000.

15 Now, therefore, the Tribe requests the Court enter an order vesting absolute title in
16 GCSD's contractual interests in the Skywalk Agreement and that the Tribe shall be the
17 party thereto in full place and stead of GCSD, with the right to just compensation vesting
18 in GCSD.

19
20 Respectfully submitted this 8 day of February, 2012.

21 GALLAGHER & KENNEDY, P.A.

22 By: 

23 Glen Hallman

24 Paul Charlton

25 Christopher W. Thompson

26 2575 East Camelback Road

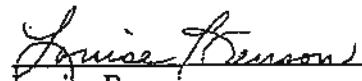
Phoenix, Arizona 85016-9225

Attorneys for Plaintiff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Tribal Certification

I, Chairwoman, Louise Benson hereby certify this Declaration of Taking, and declare that the property described in the Complaint is taken for the Tribe.



Louise Benson

1 ORIGINAL of the foregoing filed
2 this ~~8th~~ day of February, 2012 with:

3 The Hualapai Tribal Court
4 960 Rodeo Way
5 P.O. Box 275
6 Peach Springs, AZ 86434

7 COPY sent via U.S. Mail
8 this same day to:

9 Pamela M. Overton
10 GREENBERG TRAURIG, LLP
11 2375 East Camelback Road, Suite 700
12 Phoenix, AZ 85016
13 E-mail: OvertonP@gtlaw.com

14 AND

15 Mark Tratos
16 GREENBERG TRAURIG, LLP
17 3773 Howard Hughes Parkway, Suite 400 North
18 Las Vegas, NV 89169
19 E-mail: TratosM@gtlaw.com

20 AND

21 Troy A. Eid
22 GREENBERG TRAURIG, LLP
23 1200 17th Street, Suite 2400
24 Denver, CO 80202
25 E-mail: EidT@gtlaw.com

26 *Attorneys for Grand Canyon Skywalk Development, LLC*

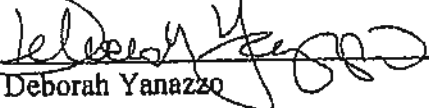
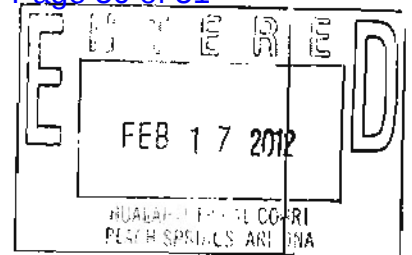
27 
28 Deborah Yanazzo

EXHIBIT 20



**IN THE COURT of THE HUALAPAI NATION
HUALAPAI RESERVATION, ARIZONA, 86434**

**HUALAPAI INDIAN TRIBE OF
HUALAPAI RESERVATION**
Petitioner,

Case No. 2012 CV 017

**V,
GRAND CANYON SKYWALK
DEVELOPMENT, LLC, a Nevada
Limited Liability company**
Respondent

ORDER: SEVERANCE OF §2.16(K)
Complaint in Condemnation
(Eminent Domain)

The Court Finds that:

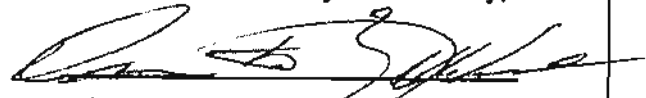
1. The Court is in receipt of Petitioner, Hualapai Nation (Tribe) filed a Complaint in Condemnation /Eminent Domain on February 8, 2012. Petitioner submitted a letter indicating that pursuant to §2.16(K) of the Law and Order Code that no pro tem judge could preside over this matter. This provision invades the province of the court.
2. Upon review of the Hualapai Constitution, Article VI §§1, 2, 3, 10, 14 it is clear that the court has jurisdiction in all cases and controversies within the jurisdiction of the Tribe, in law and equity whether criminal or civil in nature.
3. The Court has the power to declare the laws of Hualapai Tribe void when such laws are not in agreement with this constitution pursuant to Article VI §3 (b) and establishment procedures for Hualapai judiciary, additionally §2.16 (T) of the Code allows for severance of §2.16(K).

4. The constitution does not mention pro tem judges however pursuant to Article VI, § 14, leaves this unenumerated area to the judiciary, meaning the Chief Judge.
5. The Chief Judge and Associate Judge have conflicts in this matter pursuant to Article VI §10 and are precluded from presiding over this condemnation case.
6. There appears good cause for appointment of a pro tem judge.

IT IS HEREBY ORDERED that

1. Section 2.16(K) shall be severed from the Condemnation Ordinance pursuant to §2.16 (T) because it invades the province of the Court, violates the Separation of Powers and is therefore unconstitutional.
2. Chief Judge Yellowhawk and Associate Judge Marshall shall be recused from this case pursuant to Article VI§10 of the Constitution. This will preserve the Independence and Integrity of the judiciary.
3. The Chief Judge shall appoint a pro tem judge to hear the matter.

Dated this 17th Day of February, 2012


Duane Yellowhawk, Chief Judge
Hualapai Nation Tribal Court

Distribution of copies to:

Petitioner,

Hualapai Nation
Office of the Chairman
PO Box 179
Peach Springs, AZ 86434

Petitioners' Legal Counsel

Respondent,

Respondent's Legal Counsel