

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case No. _____

MICCOSUKEE TRIBE OF INDIANS
OF FLORIDA, a sovereign nation and
Federally recognized Indian tribe,

Plaintiff,

vs.

SALLY JEWELL, United States Secretary of
the Interior, Department of the Interior,
JACOB J. LEW, United States Secretary of
the Treasury, Department of the Treasury,
ERIC HOLDER, Attorney General of the
United States, United States Department of
Justice, JAMES FURNAS, special agent of the
Internal Revenue Service,

Defendants.

_____ /

COMPLAINT

COMES NOW Plaintiff, the Miccosukee Tribe of Indians of Florida (hereinafter, the “MICCOSUKEE TRIBE”), on behalf of itself and its People, by and through its undersigned counsel and brings this action against SALLY JEWELL, United States Secretary of the Interior, Department of the Interior (hereinafter, “Defendant JEWELL”), JACOB J. LEW, United States Secretary of the Treasury, Department of the Treasury (hereinafter, “Defendant LEW”), and ERIC HOLDER, Attorney General of the United States, United States Department of Justice (hereinafter, “Defendant HOLDER”), JAMES FURNAS, Special Agent for the Internal Revenue Service (hereinafter, “Defendant FURNAS”) and in support thereof states:

NATURE OF THE SUIT

1. The MICCOSUKEE TRIBE brings this suit to redress intentional and gross breaches of trust by the United States, by and through the Defendants, with respect to the money and property of the MICCOSUKEE TRIBE and its People.

2. This suit involves willful, purposeful, and malicious actions by the United States, by and through the Defendants, by selectively targeting the MICCOSUKEE TRIBE and its People for federal tax audits.

3. The procedures utilized to target the MICCOSUKEE TRIBE and its People were improper, secret, and conflict ridden.

4. These procedures were conflict ridden and improper because they involved dealings with persons acting outside the established scope of employment with the MICCOSUKEE TRIBE and whose legal interests were clearly and substantially adverse to the legal interests of the MICCOSUKEE TRIBE and its People.

5. Although the United States, acting by and through the Defendants, clearly knew that the individuals they were dealing with were acting to the detriment of the MICCOSUKEE TRIBE and its People, it allowed, encouraged, perpetrated, and protected them in order to improperly obtain tax assessments, penalties, and interest against the MICCOSUKEE TRIBE and its People amounting to millions of dollars.

6. Although the United States, acting by and through the Defendants, clearly knew that some of the individuals they were dealing with were actively engaged in violation of the criminal laws of the United States while purporting to represent the interests of the MICCOSUKEE TRIBE, the United States allowed, encouraged, perpetrated, and protected

these individuals in order to improperly obtain tax assessments, penalties, and interest against the MICCOSUKEE TRIBE and its People amounting to millions of dollars.

7. These losses to the MICCOSUKEE TRIBE and its People are permanent and of a continuing nature, as interest continues to accrue on the tax assessments instituted by the United States, acting by and through the Defendants.

8. As a direct and proximate cause of the intentional and wrongful actions, as well as the gross breach of trust by the United States, acting by and through the Defendants, the MICCOSUKEE TRIBE and its People have suffered irreparable harm by losing millions of dollars through the Defendants' arbitrary and indiscriminate imposition of tax liabilities, penalties and interest.

JURISDICTION AND VENUE

9. This Court has jurisdiction over the subject matter of this suit by virtue of:

- a. Federal question jurisdiction pursuant to 28 U.S.C. § 1331, involving an action arising under the Constitution and laws of the United States; and
- b. Mandamus jurisdiction pursuant to 28 U.S.C. § 1361, involving an action of mandamus to compel an officer or employee of the United States to perform a duty owed to the MICCOSUKEE TRIBE.

10. This Court has jurisdiction over the Defendants because:

- a. Each Defendant transacts business within this judicial district; and,
- b. Each Defendant is amenable to service of process within the meaning of Federal Rule of Civil Procedure 4(e), 4(f).

11. Venue is proper pursuant to 28 U.S.C. § 1391(e)(2) because the Defendants are federal officers acting in their official capacity and charged with carrying out the trust

obligations of the United States, either reside or transact business in this district, or alternatively, a substantial part of the events or omissions giving rise to the claim occurred in this district.

PARTIES

12. The MICCOSUKEE TRIBE, located in Miami-Dade County, Florida, is a sovereign nation and federally recognized Indian tribe exercising powers of self-governance under a Tribal Constitution approved by the Secretary of the Interior, pursuant to the Indian Reorganization Act of 1934, 25 U.S.C. § 461 *et. seq.*

13. Defendant JEWELL is the Secretary of the Interior and chief officer of the United States Department of the Interior, and as such is charged by law with carrying out the duties and responsibilities of the United States as trustee for the MICCOSUKEE TRIBE and its People.

14. Defendant LEW is the Secretary of the Treasury, and chief officer of the United States Department of the Treasury, and as such is charged by law with carrying out the duties and responsibilities of the Internal Revenue Service including enforcing tax laws upon Indian tribes through its Office of Indian Tribal Governments.

15. Defendant HOLDER is the Attorney General of the United States, and chief law enforcement officer of the United States Department of Justice, and as such is charged by law with carrying out the legal duties and responsibilities of the United States as trustee for the MICCOSUKEE TRIBE and its People.

16. Defendant FURNAS is a special agent of the Internal Revenue Service (hereinafter, "IRS") charged by law with carrying out the legal duties and responsibilities of

a special agent, who is the special agent in charge of the tax examination of the MICCOSUKEE TRIBE and its People.

17. For purposes of this Complaint, the relevant period of time is December 2004 through and including August 2013.

18. In December 2004, Defendant FURNAS of the IRS commenced contact with the MICCOSUKEE TRIBE and requested access to Miccosukee Indian Gaming (hereinafter, “MIG”) in order to conduct “a tax examination.”

19. Defendant FURNAS was granted access to MIG by the MICCOSUKEE TRIBE in order to perform the tax examination of MIG.

20. Subsequently, Defendant FURNAS expanded the scope of his tax examination from MIG to the MICCOSUKEE TRIBE.

21. When confronted with reluctance from the MICCOSUKEE TRIBE regarding the investigation of Tribal governmental records, Defendant FURNAS threatened that unless he was granted access to the records of the MICCOSUKEE TRIBE he would place every member of the MICCOSUKEE TRIBE under personal tax examination.

22. On December 6, 2005, Defendant FURNAS issued an IRS Summons to BILLY CYPRESS (hereinafter, “CYPRESS”), Chairman of the MICCOSUKEE TRIBE at the time, as well as all of the members of the Miccosukee Business Council, and key Tribal officials of the MICCOSUKEE TRIBE in the Finance and Police Departments. A copy of these IRS Summonses is attached as **Composite Exhibit 1**.

23. On December 26, 2005, the Defendants were fully aware that CYPRESS was improperly charging personal expenses in the hundreds of thousands of dollars on his Tribal issued credit card.

24. On December 29, 2005, high ranking members of the IRS, Defendant FURNAS, and lawyers that purported to represent the MICCOSUKEE TRIBE secretly met to discuss the IRS Summonses issued against CYPRESS, as well as all the members of the Miccosukee Business Council and key officials of the MICCOSUKEE TRIBE.

25. The lawyers that purported to represent the MICCOSUKEE TRIBE at this meeting were DEXTER WAYNE LEHTINEN (hereinafter, "LEHTINEN") and GUY LEWIS (hereinafter, "LEWIS"), among others.

26. On December 29, 2005, the Defendants were fully aware that LEHTINEN had been hand-picked by CYPRESS as General Counsel for the MICCOSUKEE TRIBE and had been acting in that capacity since 1992.

27. The Defendants were also fully aware that LEHTINEN was a legal and political confidant of CYPRESS, as well as the architect of a "unique legal tax system" created for the MICCOSUKEE TRIBE and its People, under which LEHTINEN represented that quarterly distributions from the MICCOSUKEE TRIBE to individual Tribal members were not subject to federal taxation and withholdings.

28. The Defendants were also aware that LEHTINEN had charged the MICCOSUKEE TRIBE tens of millions of dollars for this "unique legal advice." This "unique legal advice" allowed LEHTINEN and CYPRESS to boast to the Miccosukee People that they, the Miccosukee People, enjoyed a unique exempted status under the federal tax laws.

29. Defendants knew that the MICCOSUKEE TRIBE was not withholding federal taxes on these distributions as a result of this "unique legal tax advice" by LEHTINEN and CYPRESS.

30. On December 29, 2005, the Defendants were fully aware that LEWIS was a former Director of the Executive Office for the United States Attorneys for the United States Department of Justice in Washington, D.C..

31. Defendants knew or should have known that a few months prior to the December 29, 2005 meeting, LEWIS had been forced to resign from employment by the United States Department of Justice due to official misconduct, including, but not limited to, travel malfeasance, the submission of improper invoices, travel vouchers, and other related expenses for reimbursement.

32. On December 29, 2005, the Defendants were fully aware that LEWIS' forced resignation from the United States Department of Justice was a plea deal to spare the United States Department of Justice the public embarrassment of LEWIS' official misconduct.

33. On December 29, 2005, the Defendants still possessed the discretion to conduct a criminal investigation and possible prosecution of LEWIS for his official misconduct. No criminal prosecution was ever instituted against LEWIS.

34. Although on December 29, 2005, the Defendants were fully aware that LEWIS was simultaneously representing CYPRESS and the MICCOSUKEE TRIBE, in a clear conflict of interest, the Defendants showed no ethical concerns in dealing with LEWIS, by treating LEWIS as an honest broker for the MICCOSUKEE TRIBE, with the knowledge that he was not trustworthy.

35. During this meeting of December 29, 2005, these high ranking members of the IRS and the aforementioned lawyers reached a secret deal for the sole benefit of CYPRESS to the detriment of the MICCOSUKEE TRIBE and its People. The deal was a plea bargain to spare CYPRESS from tax liability and possible criminal prosecution. In exchange, LEWIS

and LEHTINEN, secretly turned over the private and personal financial records, including, but not limited to, social security numbers of individual Tribal members, in order to allow Defendant FURNAS to conduct individual tax examinations on members of the MICCOSUKEE TRIBE. A copy of the letter from the IRS memorializing this secret deal is attached as **Exhibit 2**.

36. This secret deal between the IRS and CYPRESS, obtained by LEWIS and LEHTINEN, was not revealed to the Miccosukee People and was discovered only after CYPRESS was voted out of office by the Miccosukee People and a new Chairman was elected.

37. Defendant FURNAS has repeatedly admitted that he could not have been able to conduct a tax examination of individual Tribal members without this personal financial information, provided by CYPRESS, through LEWIS and LEHTINEN, for the sole benefit of CYPRESS and to the detriment of the MICCOSUKEE TRIBE and its People.

38. As a result of this secret bargain, on September 29, 2006, CYPRESS, through LEWIS, LEHTINEN, and Jose I. Marrero (hereinafter "MARRERO"), an employee of Rachlin, Cohen and Holtz, LLP, disclosed the private financial information to Defendant FURNAS, without the authorization of the MICCOSUKEE TRIBE. This information included social security numbers belonging to the Miccosukee People.

39. As a result of this secret bargain, from December 29, 2005 through and including December of 2009, CYPRESS, through LEWIS, LEHTINEN, and a small group of "accountants" hand-picked by CYPRESS and LEWIS, namely Miguel Hernandez, Director of the Miccosukee Finance Department, Julio Martinez, Chief Financial Officer for the Miccosukee Tribe, Jodi Goldenberg, Senior Accountant for the Miccosukee Tribe, and

James P. Robinson (hereinafter, "ROBINSON") of Preston, CPA of Gerson, Preston, Robinson CPA, to assist, enable, and aid CYPRESS in stealing millions of dollars from the MICCOSUKEE TRIBE. This was done with the knowledge and the tacit approval of the Defendants.

40. In one particular example of a flagrant conflict of interest, for which the Defendants had knowledge of, ROBINSON acted simultaneously as the accountant to CYPRESS, the MICCOSUKEE TRIBE, LEWIS, and LEWIS' law firm, LEWIS TEIN, PL, during the relevant time period. A copy of the recent deposition of ROBINSON is attached as **Exhibit 3**.

41. Under the protection of this secret bargain with the Defendants, from December 29, 2005, through and including December of 2009, CYPRESS stole with impunity more than **eleven million dollars (\$11,000,000.00)** from the Miccosukee People by means of cash advances from ATM machines in gambling establishments across the country. In addition, CYPRESS charged more than **three million dollars (\$3,000,000.00)** in personal expenses to Tribal issued credit cards, accumulated an impressive real estate empire of more than **ten (10) homes**, and purchased a flotilla of expensive cars. A copy of the civil complaint filed by the MICCOSUKEE TRIBE against CYPRESS and his co-conspirators in the District Court for the Southern District of Florida is attached as **Exhibit 4**.

42. Also, under the protection of this secret bargain with the Defendants, from December 29, 2005, through and including December of 2009, LEWIS with the arbitrary consent, approval, and protection of CYPRESS was able to improperly bill the Miccosukee People more than **ten million dollars (\$10,000,000.00)** in legal fees that were excessive, exorbitant, and unreasonable for work that fictitious, unsubstantiated, sub-par, and created

for the sole purpose of generating fees as a reward for their protection of CYPRESS, which resulted in the detriment of the MICCOSUKEE TRIBE and its People. A copy of the evidentiary hearing transcript is attached as **Exhibit 5**, showing that the trial court found LEWIS TEIN, PL's fees to be unreasonable.

43. Under the protection of this secret bargain with the Defendants, from December 29, 2005, through and including December of 2009, LEWIS, with the arbitrary consent, approval, and protection of CYPRESS was able to accumulate a flotilla of unique luxury antique vehicles, real estate, and personal properties at the expense of the Miccosukee People.

44. Under the protection of this secret bargain with the Defendants, from December 29, 2005, through and including December 2009, LEHTINEN, with the arbitrary consent, approval, and protection of CYPRESS collected **tens of millions of dollars** in legal fees while continuing to openly reaffirm his "unique legal tax advice" to the Defendants. A copy of LEHTINEN's reaffirmation of his "unique tax system" to the IRS is attached as **Exhibit 6**.

45. At all times material hereto, the IRS, with the tacit approval of the other Defendants, allowed LEHTINEN and LEWIS to act as purported legal representatives of the MICCOSUKEE TRIBE. The IRS and the other Defendants knew very well that LEHTINEN and LEWIS were acting under a clear conflict of interest and that their only purpose was to protect the legal interests of CYPRESS to the exclusion and detriment of the MICCOSUKEE TRIBE its People.

46. At all times material hereto, the IRS, with the tacit approval of the other Defendants, allowed LEHTINEN and LEWIS to use the MICCOSUKEE TRIBE and its

People as a legal shield and bargaining tool for the protection of CYPRESS and for the unique purpose of allowing the IRS to accumulate millions of dollars in tax assessments, penalties, and interests against the MICCOSUKEE TRIBE and its People.

47. Although Defendant FURNAS received the financial records necessary to conduct his tax examination in September 2006, he purposely failed to utilize these records for more than three (3) years during which exorbitant amounts of penalties and interests were accumulated against the MICCOSUKEE TRIBE and its People. These willful actions by the Defendants have resulted in the financial detriment of the MICCOSUKEE TRIBE and the Miccosukee people, and are in clear violation of the federal trust responsibility owed by the United States to Indian tribes, which requires the preservation and protection of the same.

48. On or about March 2010, three (3) months after the ousting of CYPRESS as Chairman, and the election of a new Chairman, the IRS, with the tacit approval of the other Defendants, summarily commenced an unprecedented campaign of individual tax examination of Tribal members.

49. Under this well organized campaign, almost all adult members of the Miccosukee Community were exposed to tax examinations. Even though the IRS and the other Defendants were fully aware that the MICCOSUKEE TRIBE and its People had followed the tax advice designed, implemented, and perfected by LEHTINEN for many years, these individual tax examinations covered several years and retroactively imposed penalties and interests in excess of forty percent (40%) of the alleged liability for intentional disregard of the tax laws.

50. Since on or about March of 2010 until the present, Defendant FURNAS, who has characterized this tax examination of the MICCOSUKEE TRIBE and its People as a

project, a plan, and an example for Indian Country. Defendant FURNAS, with the approval and assistance of the other Defendants has arbitrarily and without a uniform set of standards or procedures set out to indiscriminately target the MICCOSUKEE TRIBE and its People for tax examinations.

51. Since on or about March of 2010 through the present, Defendant FURNAS, with the approval and assistance of the other Defendants has arbitrarily and without a uniform set of standards attempted to circumvent the rule of law and devised a plan under which the IRS demanded payment from the MICCOSUKEE TRIBE amounting to millions of dollars.

52. Since on or about March of 2010, through the present, Defendant FURNAS, engaged in a campaign of tax examinations against the MICCOSUKEE TRIBE and its People and in bad faith has designed this arbitrary and capricious campaign only to intimidate, harass, and coerce the MICCOSUKEE TRIBE and its People into payment of unreasonably set federal taxes, interests, and penalties.

53. Since on or about March of 2010, Defendant FURNAS, with the approval and assistance of the other Defendants has systematically engaged in an arbitrary and capricious campaign of tax examinations against the MICCOSUKEE TRIBE and the Miccosukee people that is in bad faith and designed only to intimidate, harass, and coerce the MICCOSUKEE TRIBE and its People into payment unreasonably set federal taxes, interests, and penalties.

54. The above described actions by Defendant FURNAS and the IRS show that their actions in regards to the MICCOSUKEE TRIBE and its People differ from other similarly situated taxpayers.

COUNT I

Violation Of The Trust Responsibility Of The United States And Of The Defendants With Respect To The Miccosukee Tribe And Individual Members Of The Miccosukee Tribe

55. The MICCOSUKEE TRIBE realleges and reavers the allegations in paragraphs 1 through 54 as though fully set forth therein.

56. The United States, acting by and through the Defendants, has violated its Trust Responsibility to the MICCOSUKEE TRIBE and its People by actively, purposely, and in bad faith targeting the MICCOSUKEE TRIBE and its People with arbitrary, unreasonable, and discriminatory tax investigations that threaten their survival and welfare.

57. The United States, acting by and through the Defendants, by engaging in the acts described herein, including, but not limited to, tax examinations without a uniform set of standards or procedures against the MICCOSUKEE TRIBE and its People, receiving unauthorized personal financial records of Tribal members, and engaging in improper dealings with individuals whose legal interests were clearly in conflict and adverse to the legal interests of the MICCOSUKEE TRIBE and its People.

58. WHEREFORE, the MICCOSUKEE TRIBE requests that this Court:

- a. Find that the United States has violated and breached its Trust Responsibility to the Miccosukee Tribe.

COUNT II

Violation Of The MICCOSUKEE TRIBE'S Equal Protection Rights Under The Constitution

59. The MICCOSUKEE TRIBE realleges and reavers the allegations in paragraphs 1 through 54 as though fully set forth herein.

60. The Equal Protection rights of the Miccosukee People include the Constitutional guarantee that federal government action will result in treatment of similarly situated individuals in similar manner.

61. The IRS and Defendant FURNAS have singled out the Miccosukee People, as a class, for individual tax examination for no justifiable reason other than their status as Indians and members of an Indian tribe.

62. The individual targeting of the Miccosukee People for tax examinations by the IRS and Defendant FURNAS constitute discriminatory treatment as compared with similarly situated taxpayers.

63. Since on or about March 2010 to the present, the federal Defendants have violated the rights of the MICCOSUKEE TRIBE and its People by acting in a manner that deprived the MICCOSUKEE TRIBE and its People of equal protection of the laws guaranteed through disparate and unequal and discriminatory use of the federal tax examination process.

64. In doing so, Defendants were actively and directly involved in violations of the Constitutional guarantees of equal protection of the laws owed to the MICCOSUKEE TRIBE and its People.

65. In addition, the Miccosukee People, consisting of all racially-defined Miccosukee Indians, as a discrete and insular minority, which is less able to use the majoritarian protections of the political system to protect their rights.

66. Thus, governmental actions or classifications which discriminatorily and adversely disfavor the Miccosukee People (in favor of non-Miccosukee interests) are subject to heightened scrutiny under the equal protection clause. The governmental action alleged

herein fails the test of heightened scrutiny, because the governmental action does not achieve any compelling interest, the governmental action is not essential or necessary because it disregards viable alternatives which would be less harmful to the MICCOSUKEE TRIBE and its People.

67. The MICCOSUKEE TRIBE seeks a declaration that Defendants are applying the tax laws and provisions of the Internal Revenue Code as applied to individual tax examinations, as well as the federal tax examination process in a selective, discriminatory, and unconstitutional manner that does not provide the MICCOSUKEE TRIBE and its People with meaningful participation and with equal protection of the laws and an injunction is necessary to prevent any further harm.

68. Wherefore, the MICCOSUKEE TRIBE requests that the Court:

- a. Declare that the Defendants have violated and continue to violate the Equal Protection rights under the United States Constitution of the MICCOSUKEE TRIBE and the Miccosukee people.
- b. Declare that the Defendants are applying the tax laws and provisions of the Internal Revenue Code, as applied to individual tax examinations, as well as, the federal tax examination process, in a selective, discriminatory and unconstitutional manner against the MICCOSUKEE TRIBE and its People.
- c. Enjoin the Defendants from applying the tax laws and provisions of the Internal Revenue Code against the MICCOSUKEE TRIBE and the its People in a discriminatory manner and require the Defendants to

provide the MICCOSUKEE TRIBE and its People with Equal Protection under the law.

- d. Enjoin the Defendants from continuing the violations of rights of the MICCOSUKEE TRIBE and its People, set forth above.
- e. Grant the MICCOSUKEE TRIBE such other further relief as may be just.

COUNT III

Civil Rights Violation For Vindictive Enforcement

69. The MICCOSUKEE TRIBE realleges and reavers the allegations in paragraphs 1 through 54 as though fully set forth herein.

70. The MICCOSUKEE TRIBE has a protected right to be tax exempt and to be free from arbitrary, unreasonable, and discriminatory use of the federal tax laws and the individual federal tax examination process by the IRS and its agents.

71. The IRS and Defendant FURNAS have a stake in their arbitrary exercise of the federal tax laws and the individual tax examination process because they are trying to unjustly punish the MICCOSUKEE TRIBE and its People by harassing and selectively targeting its members for individual tax examination without just cause.

72. The IRS and Defendant FURNAS have engaged in a relentless pattern of harassment and vindictiveness against the MICCOSUKEE TRIBE and its People that is unconstitutional and in violation of the federal laws of the United States.

73. The unreasonable actions by the IRS and Defendant FURNAS were initiated with the intent to punish the MICCOSUKEE TRIBE and its People for their exercise of their protective right to be tax exempt.

74. Wherefore, the MICCOSUKEE TRIBE requests that this Court:

- a. Issue judgment against the Defendants for violation of the MICCOSUKEE TRIBE's and its People's civil rights for vindictive enforcement of the federal tax laws and the use of the individual tax examination process.
- b. The MICCOSUKEE TRIBE be granted such other further relief as maybe just.

COUNT IV

Abuse Of Process

75. The MICCOSUKEE TRIBE realleges and reavers the allegations in paragraphs 1 through 54 as though fully set forth herein.

76. The IRS and Defendant FURNAS have improperly used the federal tax laws and the individual tax examination process to attempt to intimidate, harass, and coerce the MICCOSUKEE TRIBE and its People in an attempt to collect unreasonable set federal taxes.

77. The IRS and Defendant FURNAS have done so by systematically bombarding individual Tribal members, their families, the elderly, the infirmed, and even the deceased with federal tax examinations which have damaged the MICCOSUKEE TRIBE and its People by creating an environment of trepidation, apprehensions, anxiety, and concern amongst the Miccosukee People, especially the elder and the infirmed population .

78. Wherefore, the MICCOSUKEE TRIBE requests that this Court:

- a. Issue judgment against the Defendants for abuse of the federal tax laws and the individual tax examination process.

COUNT V

Bivens Action Against Irs Agent Defendant FURNAS And Other Officers In Their Individual Capacity

79. The MICCOSUKEE TRIBE realleges and reavers the allegations in paragraphs 1 through 54 as though fully set forth herein.

80. Defendant FURNAS, acting under the color of the federal law, has violated the constitutional rights to Equal Protection of the MICCOSUKEE TRIBE and its People by arbitrarily, willfully, and systematically targeting the MICCOSUKEE TRIBE and its People for individual tax examinations based on their status as Indians and members of an Indian Tribe.

81. Defendant FURNAS has proceeded against the MICCOSUKEE TRIBE and its People in a selective and vindictive manner and treated them differently than other similarly situated tax payers.

82. The MICCOSUKEE TRIBE has no alternative means of obtaining redress except through the use of the judicial process in an action against Defendant FURNAS in his individual capacity.

83. There are no special factors present to justify the willful, capricious, and arbitrary actions by Defendant FURNAS. These actions do not require an appropriate judicial deference towards the will of Congress or administrative agency.

84. Wherefore, the MICCOSUKEE TRIBE seeks:

- a. Damages against Defendant FURNAS.
- b. That it be granted any other relief as may be just.

DEMAND FOR JURY TRIAL

The MICCOSUKEE TRIBE demands a jury trial on all counts and issues so triable.

s/ Bernardo Roman III
BERNARDO ROMAN III, Esquire