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10 Attorneys for Plaintiffs,

11 **UNITED STATES DISTRICT COURT**

12 **EASTERN DISTRICT OF CALIFORNIA**

13 **THE PICAYUNE RANCHERIA OF THE**
14 **CHUKCHANSI INDIANS**, a federally
15 recognized Indian Tribe; **CHUKCHANSI**
16 **ECONOMIC DEVELOPMENT**
17 **AUTHORITY** a wholly owned,
18 unincorporated entity of the Tribe,

19 Plaintiffs,

20 vs.

21 **GIFFEN TAN**, an individual; **JOYCE**
22 **MARKLE**, an individual; **LARRY KING**, an
23 individual; **JOHN AND JANE DOES 1-20**;
24 **XYZ CORPORATIONS 1-20**,

25 Defendants.

Case No.:

**AFFIDAVIT OF REGINALD LEWIS
IN SUPPORT OF EX PARTE
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND
MOTION FOR PRELIMINARY
INJUNCTION**

Date:

Time:

Courtroom:

Honorable

26 I, REGINALD LEWIS, hereby declare as follows:

27 1. I am over the age of eighteen, am competent and of sound mind, have personal
28 knowledge of the facts set forth below and, if called as a witness, I can and will testify truthfully
to each of the following.

2. I am a member of the Picayune Rancheria of the Chukchansi Indians ("Tribe"), a
federally recognized Indian tribe, and serve on the Tribe's Tribal Council as Tribal Chairman.

Case No.:

AFFIDAVIT OF REGINALD LEWIS ISO EX PARTE APPLICATION FOR TRO

1 The Tribe currently consists of approximately 900 members.

2 3. As a member of the Tribe and having served as Tribal Chairman for a number of
3 years, I am intimately familiar with and have firsthand knowledge of Tribal law and the operation
4 of our Tribal Government.

5 4. The Tribe adopted a Constitution in 1988 and operates its government pursuant to
6 its Constitution, ordinances, regulations, policies, customs, traditions and bylaws. The seven-
7 member Tribal Council is delegated under the Constitution with broad governing authority as is
8 necessary to carry out its powers.

9 5. On or about June 15, 2001, the Tribal Council passed Resolution No. 2001-11,
10 which enacted an ordinance establishing and governing the Chukchansi Economic Development
11 Authority (the "CEDA Establishing Ordinance"). Pursuant to this June 15, 2001 Ordinance, the
12 Board of Directors of CEDA (the "CEDA Board") is comprised of the sitting members of the
13 Tribal Council. Thus, the members of the CEDA Board and the Tribal Council are identical.

14 6. The CEDA Establishing Ordinance granted CEDA the power to, among other
15 things, own and operate the Chukchansi Gold Resort and Casino (the "Casino"), which opened in
16 2003.

17 7. In order to ensure compliance with federal gaming laws, including but not limited
18 to IGRA, its implementing regulations, National Indian Gaming Commission ("NIGC")
19 standards, the Tribal-State Compact required under IGRA ("Tribal-State Compact"), as well as
20 the Tribal Gaming Ordinance required under the Tribal-State Compact, the Tribe established the
21 Tribal Gaming Commission in or around 2003 (the "Gaming Commission" or "TGC"). The
22 Gaming Commission is an independent regulatory body tasked with ensuring the Casino's
23 compliance with Tribal and federal law and the mandates of the Compact. As part of its
24 regulatory duties, the Gaming Commission is responsible for the protection of Tribal gaming
25 assets.

26 8. In May 2012, the Tribe, intending to refinance the debt that it incurred to build the
27 Casino and to make certain capital improvements, issued certain secured notes pursuant to an
28 Indenture dated May 30, 2012. In keeping with the IGRA and the Tribe' Gaming Ordinance (as

1 mandated by IGRA and the Tribal—State Compact), the Indenture required that CEDA and the
2 Tribe’s membership maintain the sole proprietary interest in the Casino and its revenues. The
3 Casino revenues belong to CEDA and the Tribe’s membership. Pursuant to its obligations under
4 the Indenture, CEDA makes interest payments to its creditors. However, the Tribe is the primary
5 beneficiary of the Casino.

6 9. Defendant Giffen Tan has been working with other Casino management—
7 Defendant Joyce Markle and Defendant Larry King (“Defendants”)— to distribute Casino
8 revenues to persons or entities that are not recognized by the United States government as the
9 Tribe’s Tribal Council.

10 10. Defendants were hired, in their current capacities, by persons and entities that are
11 not recognized by the United States government as the Tribe..

12 11. The distributions of gaming revenues that Defendants make to any person or entity
13 that is not recognized by the United States government as the Tribe violate Tribal and federal law.

14 12. Defendants, individually and collectively, as Casino Management, have a duty and
15 responsibility, expressed in part as a fiduciary duty, to exercise control over the daily operations of
16 the Casino and they must thereby make decisions and take action required and as needed to ensure
17 that the Casino is run responsibly, that it earns a healthy profit for the Tribe, and that its operations
18 are in compliance with all applicable laws.

19 13. Defendants owe their fiduciary duty to the Tribe and its membership, and their
20 fiduciary duty includes their obligation to act to safeguard the Casino’s assets from disbursement
21 to any person or entity that is not otherwise authorized to receive such assets under the applicable
22 law or through a binding contract. A breach of such duty would include Defendants’ act of
23 disbursing Casino revenue to any person or entity that is not recognized by the United States
24 government as the Tribe’s Tribal Council.

25 14. The IGRA requires Class III gaming to be conducted in compliance with the
26 Tribal—State Compact, 25 U.S.C. § 2710(d)(1)(C).

27 15. Section 6.1 of the Tribe’s Tribal-State Compact requires that gaming activities
28 comply with “all rules, regulations, procedures, specifications, and standards duly adopted by the

1 Tribal Gaming Agency.” (A true and correct copy of the Tribe’s Tribal-State Compact is attached
2 hereto as Exhibit A.)

3 16. The Tribe’s Tribal Gaming Ordinance, at Section 1.3, requires that the Tribe must
4 regulate and control all gaming activity and further requires that all revenues must be used
5 exclusively for the benefit of the Tribe. (A true and correct copy of the Tribe’s Tribal Gaming
6 Ordinance is attached as Exhibit B.)



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12 18. On February 11, 2014, the United States (specifically, the Bureau of Indian
13 Affairs), issued a written decision declaring that it recognizes Reggie Lewis, Dora Jones, Morris
14 Reid, Chance Alberta, Nokomis Hernandez, Jennifer Stanley and Nancy Ayala, collectively
15 constituted as the Tribe’s Tribal Council which pursuant to the Tribe’s laws if the governing
16 authority of the Tribe with which it will engage in its government-to-government relationship
17 (“the BIA decision”). (A true and correct copy of the BIA decision is attached as Exhibit D.)

18 19. Unless Defendants are enjoined from issuing payments of Casino funds in
19 violation of Tribal and federal law to any person or entity that is not recognized by the United
20 States government as the Tribe’s Tribal Council, Plaintiffs will lose the assets of the Tribe to an
21 unrecognized entity and, once disbursed, those assets cannot be recovered.

22 20. Unless Defendants are enjoined from issuing payments of Casino funds in
23 violation of Tribal and federal law, the Tribe and CEDA will face irreparable harm because assets
24 of the Tribe are going to an unrecognized entity and, once disbursed, cannot be recovered.

25 21. I have reason to believe that unless injunctive relief is granted, Defendants will
26 issue additional disbursements to persons or entities that are not recognized by the United States
27 government as the Tribe.

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I declare under the penalty of perjury under the laws of the State of California that the foregoing statements are true and correct.

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Sworn to on this 14th day of February, 2014 at Fresno, California.

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Reginald Lewis
REGINALD LEWIS

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10 STATE OF CALIFORNIA
11 COUNTY OF FRESNO

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Reginald Lewis being first duly sworn upon oath, deposes and state that, Reginald Lewis has personal knowledge of the facts giving rise to this affidavit and if called as a witness can and will testify truthfully to the foregoing and as such am authorized to make this verification.

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Reginald Lewis
REGINALD LEWIS

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SUBSCRIBED AND SWORN to before me on this 14th day of February, 2014.

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Elena M. Sanders
NOTARY PUBLIC

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