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UNITED STATES DISTRICT COURT
8
DISTRICT OF ARIZONA

9
10 United States of America,
11 Plaintiff,
v.

**VERIFIED COMPLAINT FOR
FORFEITURE *IN REM***

12 \$741,480.00 seized from Fidelity
13 Investment Account Number ZXX-
XX0913, held in the name of Cultural
14 Preservation Board, signers are Leon Koruh
and Robert Mahkewa, Jr.,
15 Defendant *In Rem*.

16
17 Plaintiff United States of America brings this Complaint and alleges as follows in
18 accordance with Rule G(2) of the Federal Rules of Civil Procedure, Supplemental Rules
19 for Admiralty or Maritime Claims and Asset Forfeiture Actions (“Supplemental Rules”):

NATURE OF THE ACTION

20
21 1. This is a civil action *in rem* brought to enforce the provision of 18 U.S.C. §
22 981(a)(1)(A) for the forfeiture of \$741,480.00 seized from Fidelity Investment Account
23 Number ZXX-XX0913, held in the name of Cultural Preservation Board, signers are
24 Leon Koruh and Robert Mahkewa, Jr. (“defendant property”). The defendant property is
25 subject to forfeiture as property involved in a transaction or attempted transaction in
26 violation of 18 U.S.C. §§ 1956 and 1957. This includes the commission of a specified
27 unlawful activity as defined in 18 U.S.C. §§ 1956(c)(7) and 1961(1), including 18 U.S.C.
28 § 1343, Wire Fraud.

2. This is a civil action *in rem* brought to enforce the provision of 18 U.S.C. § 982(a)(1)(C) for the forfeiture of the defendant property. The defendant property is property which constitutes or is derived from proceeds traceable to a violation of a specified unlawful activity as defined in 18 U.S.C. §§ 1956(c)(7) and 1961(1), including 18 U.S.C. § 1343, Wire Fraud.

3. This Court has jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345 and an action for forfeiture under 28 U.S.C. § 1355. Venue is proper in this district: (a) pursuant to 28 U.S.C. § 1355, because the acts or omissions giving rise to the forfeiture occurred in this district; and (b) pursuant to 28 U.S.C. § 1395, because the defendant property is located in this district.

THE DEFENDANT IN REM

4. The defendant property was seized on October 6, 2015 and is currently in the custody of the United States Marshals Service.

BACKGROUND

I. Introduction

5. The Village of Mishongnovi (“Village”) is located on the Hopi Reservation in north central Arizona. For over two decades the Mishongnovi Village Board of Directors (“Board”) and the Cultural Preservation Board (“CPB”) have been involved in a dispute over who is the legal governing body for the Village who controls the spending of hundreds of thousands of dollars the Hopi Tribe allots to the Village each year for its benefit.

6. In 1994 CPB brought a civil lawsuit in the Hopi Tribal Court regarding this dispute. The lawsuit was dismissed with prejudice in 2005, and the dispute over Village governance continued. In 2011, the Hopi Tribal Council, acting on its own authority, passed a resolution, removed CPB from power in the Village, and reinstated the Board as the Village governing body. Soon thereafter CPB filed another lawsuit, this time against the Hopi Tribal Council, the Hopi Tribe, and the Board, and requested that the Hopi Tribal Court rule that CPB was the legitimate Village governing body, not the Board. The

1 Hopi Tribal Court denied CPB's request, and in 2012 ruled in favor of the Board instead.
2 In 2013, the Hopi Appellate Court, the tribe's highest court, affirmed that the Board, not
3 CPB, was the legal governing body of the Village.

4 7. Despite the 2012 and 2013 rulings by the Hopi tribal courts and earlier
5 actions by the Hopi Tribal Council, CPB, acting in a rogue and illegitimate capacity,
6 ignored the Hopi rule of law and managed to illegally conceal, move, and spend over
7 \$1.4 million of Village funds from 2011 to 2015. The Village money spent by CPB after
8 April 7, 2011, was used to personally enrich CPB members and did not benefit the
9 Village or its residents.

10 8. Federal agents traced and found the location where CPB illegally hid and
11 kept Village funds; on October 5, 2015 a United States Magistrate Judge issued a seizure
12 warrant to seize those funds (case no. 15-04032 MB); and on October 6, 2015
13 \$741,480.00 of Village funds were seized for forfeiture.

14 15 **II. Brief History of Village Dispute – Board vs. CPB**

16 9. The Hopi Reservation is in north central Arizona, partially in Navajo
17 County and partially in Coconino County, approximately 95 miles northeast of Flagstaff,
18 Arizona. There are 12 villages on the Hopi Reservation located in three regions: First
19 Mesa, Second Mesa, and Third Mesa. The Second Mesa region is approximately 27
20 square miles entirely within Navajo County, and is home to three Hopi Villages. One of
21 those three villages is the Village of Mishongnovi. According to a 2000 census, the
22 population of the Second Mesa region was approximately 820 people. The median
23 income of the Second Mesa region was approximately \$25,000.

24 10. The Hopi Tribe generates funds through royalties, land settlements, and
25 water leases. These funds are together referred to as "H-13 Funds" and are included in the
26 tribe's annual General Fund Budget that is approved by the Hopi Tribal Council.

27 11. Each year, one budget item on the Hopi Tribe's General Fund Budget is an
28 annual allotment designated to each village to be used by village leaders for the benefit of

1 the village and its community members. In any given year, the Hopi Tribe allocates a
2 dollar figure (i.e. \$375,000) for each of the 12 Hopi Villages (with the exception of the
3 Moenkopi, which receives twice the allocated amount due to having two regions, Upper
4 and Lower Moenkopi). In recent years it has been permissible for villages to “rollover”
5 unused village funds from the Hopi Tribe to the following year.

6 12. As with all Hopi villages, the H-13 Funds allocated to the Village by the
7 Hopi Tribe are the primary source of funds provided to the Village leaders for the
8 purpose of “promoting self-sufficiency and self-government at the individual village level
9 and to deliver positive goods and services to the constituency of the Village.”

10 13. Pursuant to the authority given it by the 1936 Hopi Constitution, in
11 December 1988 the Village drafted its own Village Operating Guidelines. In it the
12 Village organized a Board of Directors of elected Village members to serve as a
13 “decision-making body to strengthen the village government system.” The Cultural
14 Preservation Board, by contrast, was created in 1979 and was comprised of Village
15 members who volunteered to preserve the culture, traditions, and ceremonies of the
16 Village. They were not elected officials and did not operate as a Village governing body.

17 14. By 1992, however, CPB had taken control of village governance from the
18 Board, including the handling of Village finances and H-13 Funds, and maintained it
19 through 2002. In 2002, at the request of the Village members and with the assistance of
20 the Hopi Tribal Council, an interim Board was placed in control of the Village and CPB
21 removed from power.

22 15. Meanwhile, CPB’s lawsuit in the Hopi Tribal Court against the Board,
23 which had dragged on from 1994 to 2005, finally concluded (Hopi Tribal Court Case No.
24 94 CV 000008). Dismissed with prejudice on October 31 2005, the Hopi Tribal Court
25 was very critical of petitioner CPB and its counsel and determined that they were
26 intentionally unprepared for a long-awaited trial date (over 11 years in the making) in an
27 attempt to prolong the case:

28 It was quite obvious to the court that [CPB’s counsel] was not prepared to
proceed with trial as he had not even arranged to subpoena his witnesses.

Under these circumstances, I assumed that [counsel] was purposely attempting to delay the trial unnecessarily to the detriment of the court and the respondents.

16. The court further lamented that CPB's delay tactics had made it impossible for the question of Village governance to be resolved in the lawsuit:

The Petitioner's delay in prosecuting their cause of action has also prejudiced the people of Mishongnovi. The cloud that was cast over the Board of Directors by members of the Cultural Preservation Board still looms without resolution in the minds, hearts, and spirits of the Mishongnovi people. The people themselves deserved a timelier resolution to the cause than [sic] has been provided by the Petitioner.

17. The 2002 Board stayed in place and operated the Village until 2008, when its last living member passed away. Soon thereafter and without authority, however, CPB took over governance of the Village again.

18. In 2011, members of the Village brought their grievances to the Hopi Tribal Council, which in turn removed CPB from the local government office, and again installed an interim Board as the legitimate governing body.

19. Hopi Tribal Court and Hopi Appellate Court decisions in 2012 and 2013 affirmed that the Board, not CPB, was the legitimate governing body of the Village.

20. Below is a timeline of Village governance:

Mishongnovi Village Timeline	
<i>Year</i>	<i>Event</i>
1979	Cultural Preservation Board founded
1988	Village drafts Village Operating Guidelines and organizes a Board of Directors
1992	CPB takes control of Village government
2002-2003	Hopi Tribal Council removes CPB, installs Interim Board
2008	Last member of Interim Board dies. CPB takes control of Village governance again
2011	Hopi Tribal Council removes CPB, installs Interim Board again
2012	Hopi Tribal Court rules against CPB
2013	Hopi Appellate Court rules against CPB

2015	Remaining Village funds seized from CPB (\$741,480.00)
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III. History of Hopi Government

21. As compared to contemporary Western or European governments, Hopi government is very unique. For hundreds, and by some estimates even thousands, of years, a complex tradition and religious-based government or village structure existed long before the arrival of Spanish explorers to Hopi lands in 1540, and it is still practiced by many Hopi today. The following by Hopi Appellate Court Justice Patricia Sekaquaptewa describes the “traditional” Hopi government system in more detail:

The Hopi Tribe today is comprised of twelve villages. Each of the older Hopi villages is made up of a hierarchy of clans based on their order of arrival to the area. According to village mythologies, Masau’u, a Hopi deity, holds the original claim to all Hopi lands. It was Masau’u who granted the leader of the original clan control or stewardship over village lands. Various plots were later allotted to clans as they arrived to the area in exchange for specific (often ceremonial) services. Modern villages and clan leaders trace their authority and rights in land to these original sources. Bear clan tends to be regarded as the first and highest ranking clan in a number of the villages with the male head of the clan serving as the village chief or “Kikmongwi.”

Traditional village government is a merger of clans, clan officers, religious societies and priesthoods. Many higher-ranking clans “own” religious societies, which are responsible for performing specific ceremonies or services for the villages. Although clan members fill the leadership positions within these societies, minor offices, and general membership in a society is usually open to any villager regardless of clan membership.

Beneath the clan hierarchy and village governance, lays the internal governance structure of clans. A Hopi clan is best described as a group of Hopi families, the females of which derive their clan through their mother’s line. The female head of the clan is often the oldest living female member of the clan. The male head of the clan is likely to be her maternal uncle, her brother, or her son - but never her husband. In the typical traditional household, daughters and their families remain in her mother’s home for life.

Female clan heads “own” the central clan homes and the male clan heads oversee a clan’s ceremonial responsibilities to the village. Traditionally, each clan had at least one “wuya” (a mask, figurine, or fetish referring to the clan ancestor or ancient). The wuya represents the heart of the clan and the ancestor or ancient that it refers to often plays a central role in the myths explaining the origin of the clan. Rightful possession of the wuya provides the authority for the holding of a society office and the exercise of certain

ceremonies. Where the wuya takes the form of a physical object, it is placed in the central clan house.

The female and male clan heads are often responsible, directly or indirectly for determining clan member land use rights. Two types of possible clan land holdings have been identified: 1) land allotted a given clan upon initial arrival to the village in ancient times; and 2) land reserved to the village chief who then allotted some of it to clans and officers of important ceremonies. In the former case, the female and male clan heads may have the final say with respect to clan member rights in land. In the latter case, it appears that plots were held only during terms of active ceremonial service and then reverted to the Kikmongwi.

Within every clan household the traditional disciplinarian and counselor is the maternal uncle or “Taha.” Young clansmen look up to their Taha as he will select and train them for ceremonial offices. The maternal uncle is also responsible for the practical care of his sister’s children and for supervising their upbringing. He is also responsible for narrating clan legends and for dispensing advice when problems arise.¹

22. With an understanding of its religious and village-based history in mind, the Hopi adopted a Hopi Constitution in 1936, which sought to respect each village’s right to self-governance, but still “... provide a way of organizing to deal with modern problems, with the United States Government and with the outside world generally.” Article III of the constitution stated “The Hopi Tribe is a union of self-governing villages sharing common interests and working for common welfare of all . . .”

23. Even though the Hopi Constitution established a Hopi Tribal Council and gave it some authority to resolve certain matters between villages, or other matters that impacted the tribe, or “union of villages,” as a whole, the majority of power or authority was given to each individual village to choose its own form of government and govern itself. The Hopi Constitution also granted authority to the Hopi Tribal Council to create a judicial system, which it did several years later, in 1972.

24. The primary drafter of the Hopi Constitution, Oliver LaFarge, said “it is necessary so to write the document that the old Hopi organization is recognized and protected, and at the same time, so that when the various villages reach the point at which their majorities will wish to take up more modern methods, they will be free to do so. This

¹ www.tribal-institute.org/lists/sekaquaptewa.htm

1 balance, or open choice, occurs in various places in the Constitution, as in Article III...”
2 He continued, “Leaders and committees in all the villages have considered this
3 Constitution most carefully. Again and again it has been corrected to suit their needs and
4 wishes. Progressives and Conservatives alike agree upon the document as formed. It
5 provides at once, protection for those who wish to continue in the old Hopi way, and
6 means of change from those who want it.”

7 **IV. Hopi Tribal Court and Hopi Appellate Court Decisions**

8 25. On June 1, 2012, the Hopi Tribal Court ruled that the Board, and not CPB,
9 was the governing body of the Village (Hopi Tribal Court Case No. 2011-CV-0023).

10 26. One of CPB’s primary arguments was that it was put in place by the
11 traditional village spiritual leader and chief, or Kikmongwi. It claimed that since the
12 adoption of the 1936 Hopi Constitution, Hopi villages have chosen to either be
13 “traditional” (led by the Kikmongwi), or “non-traditional” (led by an elected body). It
14 further stated that only by following a mandatory pattern exclusively authorized by the
15 Hopi Constitution, Article III, §§ 3-4, in which a village constitution is created, could a
16 village legally be anything other than a “traditional” village. CPB further argued that the
17 Village Board was not organized in this fashion, and thus could not be a legal “non-
18 traditional” village.

19 27. For a variety of reasons (including serious health issues for CPB’s key
20 witness Leon Koruh (“Koruh”)) the case was continued for several months. Also at CPB’s
21 request, the Hopi Tribal Court postponed for months the Village’s attempts to have new
22 Board elections.

23 28. By May 2012, however, the Hopi Tribal Court determined that after
24 continual delays for the better part of a year on CPB’s part, the Court was ready to
25 proceed.

26 29. On the eve of the trial to determine whether CPB’s purported spiritual
27 leader Archie Duwahoyeoma (“Duwahoyeoma”) was indeed the duly certified
28

1 Kikmongwi of the Village, CPB verbally withdrew this specific count (Count 1) from its
2 complaint. CPB stated it did this “to avoid the parading of sacred information in tribal
3 court in front of parties not entitled to such information.” Instead, CPB focused on its
4 other argument, which involved the Hopi Constitution, Article III issue.

5 30. Undeterred, the Hopi Tribal Court went forward with the trial hearings,
6 beginning with testimony from the defendants. When it was time for CPB’s attorneys to
7 proceed, they were advised by CPB to withdraw from the hearing, which they did.

8 31. On June 1, 2012, and based upon the evidence presented by the defendants
9 alone, the Hopi Tribal Court determined that the last legitimate Kikmongwi of the Village
10 had died in the late 1950s or early 1960s. Therefore, it held that CPB could not be the
11 legitimate governing body of the Village, because it did not have a legitimate Kikmongwi.
12 Additionally, the Tribal Court held that the 1988 Village Operating Guidelines that
13 organized the original Board of Directors were legitimate, and thus the Interim Board of
14 Directors also was legitimate.

15 32. The highest Hopi court, the Hopi Appellate Court, agreed with the Hopi
16 Tribal Court’s determination (that CPB was not the legitimate governing body of the
17 Village, and the Board was), but for different reasons (Hopi Appellate Court No. 2012-
18 AP-0002).

19 33. It held that only Hopi villages could determine “wholly internal” village
20 issues, such as who should lead it and how it should be led. The Hopi Appellate Court
21 held that the Village had formed a legitimate governing body in 1988, the Board of
22 Directors. It also held that the 1936 Hopi Constitution allowed for a traditional, non-
23 traditional, or any other kind of government the village members should decide upon. It
24 rejected the “either or” proposition offered by CPB, that is a village must be either
25 traditional and led by a Kikmongwi or non-traditional and organized with a village
26 constitution.

27 34. The Hopi Appellate Court also disagreed with CPB’s interpretation of the
28 following passage in the 1936 Hopi Constitution, Article III, Section 3:

Each village shall decide for itself how it shall be organized. Until a village shall decide to organize in another manner, it shall be considered as being under the traditional Hopi organization, the Kikmongwi of such village *shall be recognized as leader*. (Emphasis added by Hopi Appellate Court).

35. While CPB contended the Kikmongwi or “leader” was the actual village government in the absence of a village with a constitution, the Hopi Appellate Court thought differently:

Based on comparison of the roles assigned to Kikmongwi elsewhere in the Hopi Constitution, this Court concludes that the reference to the Kikmongwi as a “leader” in Article III, Section 3, recognizes only his role as official spokesman, communicator, or head of state for the Village, not as the repository of the Village sovereignty... Thus, rather consistently, the structure of the Hopi Constitution separates the Village as a political entity from the Kikmongwi and recognizes that the Kikmongwi primarily plays a spokesman role for the Village, rather than functioning as the only lawful government of the Village.

36. Additionally, the Hopi Appellate Court cited several local references, both old and new, which confirmed that the Kikmongwi or chief was not political in nature, and stated:

Historical records, the record in this case, and the experience and understandings of the Hopi members of this Court demonstrate that the Kikmongwi and related religious leaders traditionally controlled and were responsible for the religious and ceremonial life that formed the important center of the Village life, but traditionally would not concern themselves with the mundane non-ceremonial aspects of Village finances or governance. Thus, to the extent that Village Kikmongwi have purported to extend their claims of authority and leadership beyond their traditional roles and to intrude into matters of Village finance or governance, they have exceeded any role or responsibility traditionally exercised by them and intrude into matters that under the express terms of the 1936 Hopi Constitution were left exclusively to Village decision.

37. According to the Hopi Appellate Court and its interpretation of the 1936 Hopi Constitution, CPB and its Kikmongwi were not the Village’s governing body. The Village Board organized in 1988 by the Village was the governing body.

38. The Hopi Appellate Court, the tribe’s highest court, therefore determined that CPB was not, and never had been, the legitimate governing body for the Village.

V. 1992 to 2002 – Mismanagement of Village Funds by CPB

39. In 2000, members of the Village filed a petition and proposed resolution with the Hopi Tribal Council citing a lack of confidence in CPB’s fiscal accountability

1 and audit procedures. On November 21, 2000, the Hopi Tribal Council passed Resolution
2 H-135-2000 which:

- 3 a. ceased the release of Village funds from the Hopi Tribe to Village
4 representatives (which at the time was CPB);
- 5 b. required Village funds to be placed in an interest bearing account
6 managed by the Hopi Tribal Treasurer and Hopi Finance Office; and
- 7 c. established a requisition process by which Village expenses were
8 paid.

9 40. In late 2000, CPB began paying Village expenses using the requisition
10 process.

11 41. In 2002, the public accounting firm Walker & Armstrong LLP completed
12 an audit of Village finances for the period of 1992 to 2002. In reference to CPB's
13 management of the Village funds, the accounting firm found "significant deficiencies in
14 internal controls over financial reporting leading to inefficiencies in operations, a lack of
15 accountability and a risk of mismanagement of Village assets."

16 42. Following this audit, the Hopi Tribal Council conducted hearings in
17 September 2002, and January 2003, and passed resolution H-017-2003. The resolution
18 directed that a full investigation of Village expenditures of H-13 Funds be completed and
19 that an Interim Board be put in place to control the Village. CPB was removed from
20 Village governance.

21 **VI. 2003 to 2008 – Village Interim Board in Control**

22 43. From 2003 to 2008, the Village Interim Board paid Village expenses using
23 the requisition process established by Resolution H-135-2000. In March 2008, Village
24 members voted to remove all of the elected Board members except for Chairperson Myron
25 Honyaktewa ("Honyaktewa"). Honyaktewa was left in place to handle the administration
26 of the Village until a new Board could be elected. Prior to this election, however,
27 Honyaktewa passed away, leaving the Village with no Village Board members.

44. In April 2008, Vernon Sieweyumptewa (“Sieweyumptewa”), purported Kikmongwi for the Village, sent a letter to the Hopi Tribal Council, stating that he would assume authority to sign documents on the Village’s behalf until a new Board was appointed. However, no Village Board elections were held in 2008, and instead Sieweyumptewa asked CPB to take the place of the Board and handle the governance of the Village.

VII. 2009 - Unauthorized release of \$2.1 Million by Tribal Treasurer to CPB

45. In 2008, CPB members included the following:

- a. Robert Mahkewa Jr. (“Mahkewa”) – Community Services Administrator (“CSA”) for the Village and (at times) self-proclaimed president of CPB;
- b. Jerry Sekayumptewa (“Sekayumptewa”) – lay advocate licensed to practice law in Hopi courts and (at times) self-proclaimed secretary of CPB;
- c. Leon Koruh – Village Leader and (at times) self-proclaimed vice president and/or chairman of CPB;
- d. Archie Duwahoyeoma – Village Leader and an associate member of CPB; and
- e. Doreen Nez (“Nez”) – Village Secretary and an associate member of CPB.

46. The accounting firm Grant Thornton LLP conducted a forensic financial investigation. The investigation found that for several years the Village annually received approximately \$300,000 in H-13 funds from the Hopi Tribe. When Village funds weren’t entirely spent (for instance, \$250,000 spent by the Village, but \$50,000 went unused) the excess funds, as directed by Hopi Tribal Council Resolution H-135-2000, would be put into an interest bearing account (Wells Fargo #xxxxxx352), for the benefit of the Village. By July 31, 2009, after rollovers of unused funds from 2000 to 2008, this account had grown to a balance of \$1,982,409.73

1 47. According to Grant Thornton LLP lead investigator Eric Lee (“Lee”), for
2 several years the existence of the Village Wells Fargo account appeared to have been a
3 closely held secret. CPB was in control of Village operations and the Hopi Tribal
4 Treasurer, Russell Mockta, who controlled the Wells Fargo #xxxxx352 account, was a
5 close friend to several CPB members.

6 48. In direct violation of Hopi Tribal Council Resolution H-135-2000, on
7 August 7, 2009, Mockta released all the funds in Wells Fargo account #xxxxx352, which
8 had been in the control of the Hopi Tribe, to the investment account of Morgan Keegan
9 #xxxxx349, which was controlled by CPB. Additionally, on August 10, 2009, Mockta
10 transferred approximately \$126,000 of municipal bonds from a Hopi Tribal investment
11 account in the name of “Wildlife Endowment Fund” into the same Morgan Keegan
12 account #xxxxx349.

13 49. It is unclear why Mockta released this approximately \$2,108,000 from the
14 Hopi Tribe to CPB’s Morgan Keegan account, and he has since passed away. The signers
15 on the account were CPB members Koruh and Mahkewa, and the account was in the name
16 of “The Village of Mishongnovi.” Other than the \$126,000 that belonged to the Hopi
17 Tribe’s Wildlife Endowment Fund, the remainder of the funds – approximately \$2 million
18 – belonged to the Village.

19 50. This Morgan Keegan account #xxxxx349, as well as several other Morgan
20 Keegan accounts, were opened by Koruh and Mahkewa on or about August 4, 2009.

21 **VIII. 2011 – CPB Removed From Power, Forensic Investigation Begun**

22 51. On January 13, 2011, the Hopi Tribal Council passed a motion to “take
23 over” Village H-13 funds, and authorized the Interim Board to close CPB’s office and
24 obtain its office records. The Interim Board did so. Nez and Mahkewa were informed they
25 were under investigation.

26 52. On April 21, 2011, the Hopi Tribe hired the accounting firm of Grant
27 Thornton LLC to complete a forensic investigation into the financial activities of the
28 Village.

53. The investigation, which covered the time period of August 2009 through May 2012, found that CPB withdrew or spent over \$1 million of Village funds that it “used largely for the apparent benefit of Sekayumptewa, Mahkewa, Koruh, Nez, Duwayhoyeoma, and the CPB’s legal counsel Erin Byrnes/Graif Barret and Robert Fillerup, Jr.”

54. The investigation further showed that the last time CPB used the funds for the benefit of the Village in any way was on April 7, 2011.

55. During the August 2009 to May 2012 time period, at least nine different accounts at three different financial institutions were opened to transfer, invest, and spend the \$2.1 million. The nine accounts were all controlled by Mahkewa and Koruh, with Nez an authorized signer on two of the accounts. According to the investigation, “there was no apparent business purpose for transferring the funds into new accounts, other than moving the funds into accounts the Tribe and Interim Board could not access.”

56. Mahkewa, Koruh, and CPB did not have the authority to move, transfer or control Village funds during this time period.

57. Investigators found that approximately \$880,000 of the \$1 million that had been withdrawn or spent was paid either to individuals or companies in the form of debit transactions or written checks. As shown in the table in bold, much of the \$880,000 went to CPB’s members and its attorneys:

Top 10 Companies – Checks and Debit Card Payments		
Payee	Total Paid	No. of Trans.
Erin E. Byrnes/Graif Barrett (Attorney for CPB)	\$250,000.00	5
Falcon Power	\$68,000.42	5
Robert Fillerup (Attorney for CPB)	\$34,309.50	3
McCoy Motors, Inc.	\$32,409.48	1
Kachina Environmental	\$17,295.00	1

LOR Construction	\$14,900.00	1
Total Grand Rental	\$6,773.92	12
The Home Depot	\$6,722.03	25
Sam's Club	\$3,281.98	11
Best Buy	\$2,856.49	6
<i>Top 10 Company Total</i>	<i>\$436,553.02</i>	<i>70</i>
<i>% of Company Total</i>	<i>93%</i>	<i>22%</i>

Top 10 Individuals – Checks and Debit Card Payments		
Payee	Total Paid	No. of Trans.
Jerry Sekayumptewa	\$169,056.44	46
Leon Koruh	\$56,001.83	37
Archie Duwahoyeoma	\$51,580.00	21
Robert Mahkewa, Jr.	\$20,345.17	5
Doreen Nez	\$20,070.00	14
Roy Masayesva	\$15,025.00	31
Terry Naha	\$5,600.00	2
Brendon Mansfield	\$3,420.00	14
Marvin Nagua-hayeoma	\$3,270.00	9
Shaun Whitehair	\$3,210.00	8
<i>Top 10 Ind. Total</i>	<i>\$347,578.44</i>	<i>187</i>
<i>% of Total Individuals</i>	<i>86%</i>	<i>48%</i>

58. CPB and its two attorneys were paid over \$600,000 via checks and debit cards, or 68% of such transactions. Mahkewa, Koruh, and Nez were signers on all the checks, and according to a Compass Bank representative, all of the debit card transactions were tied to a card issued to Mahkewa.

1 59. Examples of these payments included:

- 2 a. January 18, 2011 – five \$15,000 checks totaling \$75,000 paid to
3 Duwahoyeoma, Mahkewa, Koruh, Sekayumptewa, and Nez;
4 b. March 11, 2011 – \$10,000 check to Sekayumptewa;
5 c. May 4, 2011 – two \$10,000 checks totaling \$20,000 to Koruh and
6 Sekayumptewa;
7 d. October, 25, 2011 – two \$60,000 checks totaling \$120,000 to Erin
8 Byrnes/Graif Barrett;
9 e. August 5, 2011 – \$10,000 check to Duwahoyeoma; and
10 f. November 11, 2011 - \$20,000 check to Sekayumptewa.

11 60. Check notes showed that \$48,000 of the check payments were to
12 individuals as “loans” or “advances.” Investigators were unable to identify any
13 documents to support that the loans/advances were ever paid back.

14 61. Sekayumptewa, who received \$169,000 in payments, did have a “Legal and
15 Consulting Agreement” with CPB for \$50,000 in January 2010, but it required detailed
16 monthly billing, which records showed he had not provided. Instead, his 10 months of
17 invoices reflected ambiguous and vague notations such as “at Office” or “In Office.”
18 Other additional payments to Sekayumptewa thereafter were described as “Payroll
19 Advance,” “Advance,” “Payroll/Loan,” or “Loan.” Interestingly, \$80,000 of
20 Sekayumptewa’s payments came after the January 2011 control shift, in which CPB was
21 no longer recognized as the Village’s governing body by the Hopi Tribal Council.

22 62. Over \$284,000 was paid to CPB’s attorneys by the end of the investigation
23 in May 2012 even though the Hopi Tribe’s Expenditure Authorization and Appropriations
24 Language for the fiscal year of 2009 specifically prohibited H-13 funds from being used
25 by villages to litigate against the Tribe.

26 63. In addition to the more than \$600,000 in debit card and check payments
27 made to CPB and its attorneys, CBP members also received over \$95,000 in cash and
28 ATM withdrawals, as noted below:

Cash Withdrawals

Withdrawal Slip Signer	Total
Doreen Nez	\$77,471.92
Robert Mahkewa, Jr.	\$14,893.58
Unknown	\$19,086.00
<i>Total Cash Withdrawals</i>	<i>\$111,451.50</i>

ATM Withdrawals

Debit Card Holder	Total
Robert Mahkewa, Jr.	\$3,126.00
<i>Total ATM Withdrawals</i>	<i>\$3,126.00</i>

Total Cash and ATM Withdrawals	\$114,577.50
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64. Examples of these cash withdrawals include the following transactions:
- March 19, 2010 – \$5,000 cash withdrawal by Mahkewa;
 - May 14, 2010 – \$10,000 cash withdrawal by Nez;
 - November 23, 2010 – \$6,000 cash withdrawal by Nez;
 - December 31, 2010 – \$803 ATM withdrawal in Pinetop-Lakeside, AZ using Mahkewa's ATM card; and
 - January 14, 2011 – \$23,407.75 cash withdrawal by Nez (this was just one day after the "Control Shift").

65. Forensic accounting investigators also checked to see if the Hopi Tribe continued to release H-13 funds to the Village during 2009-2012. This was important to investigators because, if in fact the Village was not receiving its usual allotment of H-13 funds during this time period, it was possible that CPB would argue that the \$1,982,415.16

1 taken from the Village (that originated in the Wells Fargo #xxxxx352 account) was used
 2 to pay for current Village expenses instead. However, research showed that the Village
 3 continued to receive and spend the usual H-13 funds allotted to it by the Hopi Tribe:

Hopi Tribe's H-13 Appropriations to the Village		
Year	Appropriation	Expenditures
2009	\$356,000	\$293,517
2010	\$300,000	\$259,880
2011	\$306,000	\$215,014
2012 (prorated thru Sept 28 th)	\$243,730	\$195,568
Total 2009-2012	\$1,287,400	\$963,979

12
 13 66. Forensic investigators also noted that the way in which CPB invested the
 14 funds was contrary to the instructions provided by the Hopi Tribal Council for “rollover”
 15 Village H-13 funds (as dictated by Resolution H-135-2000). While the initial Wells Fargo
 16 #xxxxx352 account was an interest-bearing account with low risk, as required by the Hopi
 17 Tribal Council, the investment account strategies agreed upon by CPB and the investment
 18 banks (Morgan Keegan and Scottrade) put the Village funds at a much greater risk of loss.

19 67. In addition to using some of the \$2.1 million to invest, margin loans were
 20 created at Morgan Keegan and Scottrade based upon these funds. The Village's margin
 21 loan balance was \$2,700,000 in August 2011 and was almost \$1,400,000 as of May 2012.
 22 Almost \$90,000 was paid to Morgan Keegan and Scottrade from August 2009 to May
 23 2012, for margin loan interest.

24 68. Lastly, in addition to investing the funds in a more risky manner than
 25 authorized, investigators determined that CPB was moving the funds simply to keep them
 26 away from the Hopi Tribe, the Board, and investigators:

27 The timing and the transfer of the funds into new accounts were
 28 immediately after the Tribe or Interim Board discovered the account, or
 requested information about the account and use of funds. Some of the

transfers were near the same time as proceedings in the litigation, including Tribal Court orders. There was no apparent business purpose for transferring the funds into new accounts, other than moving the funds into accounts the Tribe and Interim Board could not access.

VIII. Importance of January 2011 Control Shift from CPB to the Board

69. Investigators (both from the forensic accounting investigation and law enforcement) note the **January 13, 2011**, control shift for a variety of reasons:

a. It was a clear line of demarcation – **any spending of Village funds by CPB from this point forward was unauthorized.** And, unlike in decades past, investigators had financial records to show that: 1) CPB was indeed spending the money; and 2) after April 7, 2011, it was spending it exclusively on themselves and not the Village; and

b. With a record of CPB's financial movements from January 2011 on, investigators could see that through CPB's actions – opening multiple financial accounts, moving money frequently for no legitimate reason, changing the name on the accounts from the "Village of Mishongnovi" to CPB, declaring to financial institutions that they were the legitimate Village government when they were not – that CPB was consciously and deliberately disregarding the will of both the Village and the Hopi Tribal Council (and later, for that matter, the rulings of Hopi Tribal Court and the Hopi Appellate Court).

IX. Spending Between Control Shift (January 2011) and Hopi Tribal Court "Freeze" (April 2012)

70. The following table details suspicious behavior and activities by CPB members from the time of the January 13, 2011 control shift, to the Hopi Tribal Court decision on April 23, 2012, to freeze the money in dispute. Many CPB activities coincide with attempts to circumvent actions taken by the Interim Board to recover Village funds.

Date	Action	Suspicious Behavior
January 18, 2011	Mahkewa or Koruh authorized the release of five \$15,000 checks (for a total of \$75,000) from the Morgan Keegan account #32384349. Each of the following received a \$15,000 check: Mahkewa, Koruh, D. Nez, A. Duwahoyeoma, and J. Sekayumtewa.	CPB not authorized to spend Village funds. None of these checks benefit the Village but instead personally enrich CPB members. Comes just days after the control shift.
February 11, 2011	\$300,000 taken from Morgan Keegan account #32384349 and put into a new Morgan Keegan account #32867038. Signers for the account were Mahkewa and Koruh. Account named "The Village of Mishongnovi."	CPB not authorized to control or move these funds, or establish new accounts on the Village's behalf.
May 9, 2011	Interim Board learned of three Morgan Keegan accounts in the name of "The Village of Mishongnovi" (#32384349, #32384224, and 32533465). The only signers on the accounts were Mahkewa and Koruh.	CPB not authorized to open accounts on the Village's behalf.
May 9, 2011	Resolution 001-2011 adopted by the Village authorized changing the three above-listed Morgan Keegan accounts from CPB, Mahkewa, and Koruh, to those of the Interim Board.	
June 23, 2011 and June 24, 2011	Attorneys representing both the Interim Board and CPB contacted Morgan Keegan and stated that the three accounts belonged to it and not the opposing party. Morgan Keegan's general counsel contacted all parties and stated that the account would be restricted until non-conflicting instructions or a court order received.	
June 27, 2011	Mahkewa and Koruh opened a Scottrade Investment account in the name of "The Village of Mishongnovi," account #77199082. Mahkewa, Koruh, and Sekayumtewa falsely certified to Scottrade that CPB was the authorized governing body of the Village.	CPB not authorized to open accounts on the Village's behalf. The timing is especially suspicious as CPB was aware that the Board was contesting ownership of the funds and that Morgan Keegan was aware of this fact.
August 2, 2011	Contrary to Morgan Keegan's general counsel's earlier instructions, Morgan Keegan inexplicably released \$2,234,947.00 from Morgan Keegan account #32384349 to Scottrade Investment account #77199082.	CPB not authorized to control or move Village funds.
August 2, 2011	Mahkewa and Koruh instructed Scottrade to issue various check to CPB members.	CPB not authorized to spend Village funds. All funds used for CPB members' personal benefit.
August 2, 2011	Mahkewa and Koruh opened yet another Morgan Keegan account (#33014689), this	For the first time, CPB named its accounts "Cultural Preservation Board"

	time in the name of the “Cultural Preservation Board.” Mahkewa, Koruh, and J. Sekayumptewa certified to Morgan Keegan that CPB had passed the necessary resolutions to maintain the funds in the name of the CPB.	instead of “Village of Mishongnovi” in an attempt to further distance the funds from the Board and Village. CPB also falsely stated to Morgan Keegan it was the legitimate governing Village body.
August 31, 2011	CPB’s Morgan Keegan account #33014689 received a \$333,180.25 deposit from Scottrade account #77199082. Mahkewa and Koruh then instructed Morgan Keegan to issue various checks to CPB members for their personal benefit.	CPB not authorized to move or spend Village funds. All fund used for CPB members’ personal benefit.
October 25, 2011	CPB’s Morgan Keegan account #33014689 receives a \$1,264,489.46 transfer from Scottrade account #77199082	CPB not authorized to control or move these funds.

71. On April 23, 2012, Hopi Tribal Court Judge Richard Trujillo froze all but \$100,000 of the approximately \$1.3 million in Mishongnovi Village funds still in CPB’s control (Hopi Tribal Court No. 2011-CV-0023), until a decision could be made as to who legitimately governed the Village. The Interim Board was also instructed to continue to operate Village business. By this time the \$2.1 million originally released to CPB without authorization had shrunk by over \$800,000 because of CPB’s spending for its members’ personal benefit. The following Hopi Tribal Court transcript explains concerns over CPB’s spending and the Court’s decision to freeze the majority of the Village funds:

... Anything from either counsel Mr. Clare?

MR. CLARE: Yes, Your Honor. I do have a request. In light of the fact that you’re reaffirming the role of the Interim Board, I would like for you to issue an order freezing the monies in this Morgan Keegan Cultural Preservation Board Account. There’s simply no need for them to be spending any money, distributing any money, or doing anything of the like until we get this sorted out. And this is money that was the Village of Mishongnovi money, and I would like it frozen so that no further harm can be done.

THE COURT: Mr. Fillerup?

MR. SWEENEY: I would join in that request.

MR. FILLERUP: I think that – well, two things, Your Honor, that should apply both ways then although I don’t agree that anything should be frozen. What the Defendants have never represented to the Court is Mr. Duwahoyeoma still operates – for instance, the Tribe still refers matters to him, as the Village Leader, to be resolved, family disputes, land disputes. He’s still doing active service in the Village resolving those matters that are reserved to the Village Leader. He’s doing that on an ongoing basis.

1 There are other things that are happening. Our understanding is the Village Board
2 hasn't really – this new Board hasn't done much to help Village members. So
there's been assistance given that way by the Cultural Preservation Board.

3 The other problem would be, if you freeze the funds and they can't pay for their
4 attorneys, then that could be an issue. They're not squandering this money. Mr.
Clare keeps using that word, but I have seen no evidence of squandering of
5 money. They paid some legal fees, and that's about it.

6 MR. CLARE: Well, they've paid, Your Honor, in excess of a quarter million
dollars in legal fees from the Tribal funds. When the Board – I'm sorry, When the
7 budget resolutions are passed they expressly state that money given the villages
from the tribal council can't be used to sue the tribal council which is what
8 they've done here.

9 We'll raise that at the appropriate time, but I mean it's very disingenuous of Mr.
Fillerup to say that. And it seems to me that, given that you have said that the
10 Interim board is to continue on with the operations, their money comes from the
Tribe itself and they work through the Tribe. The Tribe issues the check. It's not –
11 it's not any of the Plaintiffs or any of the Defendants that are actually issuing
checks, unlike the Plaintiffs. So it's not a quid pro quo.

12 THE COURT: How much money are we talking about in the control of the
Cultural Board?

13 MR. CLARE: I think it's about \$1.3 million, Your Honor, at this point.

14 THE COURT: All right.

15 MR. CLARE: Down from \$2.2 million.

16 THE COURT: \$1.2 million is frozen. That will leave \$100,000 as I understand it.
17 Do you understand Mr. Fillerup?

18 MR. FILLERUP: I don't even know if those numbers are correct, Your Honor. I
have no idea how much is in these accounts, quite frankly. I don't know the
19 answer to that. I think Ms. Burns has a better handle on that than I do. I've not
been in touch at all.

20 MR. CLARE: Do it the other way, Judge. Give them access to a hundred
21 thousand and freeze the rest.

22 THE COURT: That's exactly what I was about to do. All except a hundred
thousand dollars is frozen, Mr. Fillerup. And I made that order, and I'll sign that
23 order, and that order is in effect now because it's an oral order. Mr. Fillerup, do
you understand that? All but \$100,000 is frozen. This is – what time is it?

24 MR. CLARE: Five minutes to 3:00, Your Honor.

25 THE COURT: As of 3:00 o'clock – as of 2:54 today's date all except \$100,000 is
26 frozen.

72. In summary, up to the time of the “freeze” by the Hopi Tribal Court – and according to the forensic accounting investigation – the following activity had occurred from August 2009 to May 2012:

CPB/Village Fund Activity (Nine Accounts)			
Additions	Details	Subtractions	Details
\$2,100,000	to Morgan Keegan #349 from Hopi Tribe's Wells Fargo #352 and Wildlife Endowment Fund		
\$280,000	Investment Earnings		
\$20,000	Unknown Deposits		
		\$880,000	Spending
		\$114,000	Cash and ATM Withdrawals
		\$90,000	Margin Interest Expense

May 2012 Remaining Balance	– Approximately \$1.3 million
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73. On June 1, 2012, about five weeks after the funds were frozen, the Tribal Court entered an Order holding that the Board, and not CPB, was the legitimate governing body of the Village.

74. Unfortunately, by October 2015, all that was left of the above-described \$1.3 million was \$741,480.00. CPB had spent considerable sums in violation of Tribal Council and tribal court findings and orders.

X. CPB Spending From “Freeze”(April 2012) to Hopi Appellate Court Decision (September 2013)

75. CPB continued to spend Village funds from April 23, 2012 (the date the Hopi Tribal Court “froze” Village funds) to the date of the Hopi Appellate Court Decision (September 24, 2013).

76. In April and May 2012, Mahkewa and Koruh instructed Morgan Keegan to issue checks from account #xxxxx689 to members of CPB for their benefit. The transactions included:

- a. April 23, 2012 - \$1,500 check to Koruh (the same date as the Court Order to “freeze” the account);
- b. April 24, 2012 - \$1,500 check to Koruh;
- c. May 1, 2012 - \$1,500 check to Sekayumptewa;
- d. May 8, 2012 - \$1,500 check to Sekayumptewa;
- e. May 17, 2012 - \$1,500 check to Sekayumptewa; and
- f. May 30, 2012 - \$1,500 check to Sekayumptewa.

77. In February 2013, Morgan Keegan acquired Raymond James, and Morgan Keegan Account #xxxxx689 converted to Raymond James account #xxxxx300. It was in the name of CPB, with Mahkewa and Koruh as the only signers.

78. Also in February 2013, Mahkewa instructed Raymond James to issue various checks from account #xxxxx300 to CPB members and the funds were used for their personal benefit.

XI. CPB Spending and Movement of Funds After the Hopi Appellate Court Case Decision (September 2013 to October 2015)

79. On September 24, 2013, the Hopi Appellate Court ruled against CPB, confirming that the Board was the legitimate government. Soon before the Hopi Appellate Court ruling, on September 10, 2013, Mahkewa and Koruh opened a new account, Fidelity investment account #xxx-xxx913 and, without authorization, funded the account with monies belonging to the Village. As before, the account was in the name of

the CPB, and Mahkewa and Koruh falsely certified to Fidelity that CPB was authorized by resolution to conduct financial activities for the Village.

80. This was an especially blatant disregard of the Hopi Appellate Court's decision and authority, as within the next few months, using this account and other new accounts it opened, CPB would begin a feverish attempt to illegally move, hide, and spend funds that belonged to the Village. The following details this activity.

Date	Action	Suspicious Behavior
January 2, 2014	Mahkewa and Koruh opened two Bank of America accounts in the name of CPB. Checking Account #457019436548 had an initial cashier's check deposit of \$1,096,574.90 from funds from Raymond James investment account #50843300, which was endorsed by both Mahkewa and Koruh. The funds from the cashier's check were the result of earlier bond trading with the Village's H-13 funds. \$410,000 was then transferred to Bank of America savings account #00457029598586 from the checking account.	No authority to move funds or open accounts on the Village's behalf.
January 3, 2014	Another \$500,000 is transferred from Bank of America checking account #457019436548 to Bank of America savings account #00457029598586.	No authority to move funds or open accounts on the Village's behalf.
January 15, 2014	CPB's Fidelity investment account #ZXX-XX0913 received a \$55,902.55 bond transfer from CPB's Raymond James investment account #50843300.	No authority to move funds or open accounts on the Village's behalf.
February 3, 2014	Mahkewa, the only account signer, opened a third Bank of America account, checking account #457019436519 in the name of CPB Investments	No authority to move funds or open accounts on the Village's behalf.
February 21, 2014	\$500,000 is transferred from CPB's Bank of America savings account #00457029598586 to Bank of America checking account #457019436519.	No authority to move funds or open accounts on the Village's behalf.
February 26, 2014	CPB's Fidelity Investment account #ZXX-XX0913 received a \$200,000 wire transfer from CPB's Bank of America account #457019436519.	No authority to move funds.
August 14, 2014	\$500,000 is transferred from CPB's Bank of	No authority to move funds.

	America savings account #00457029598586 to Bank of America checking account #457019436519.	
August 14, 2014	Check #0991 was drawn off CPB's Bank of America checking account #457019436519 and endorsed by Mahkewa for \$502,096.90. It was then deposited into the CPB's Fidelity investment account #ZXX-XX0913.	No authority to move funds

81. Bank of America records prove that from January 31, 2014, to May 1, 2015, CPB members personally received over \$300,000 from checking account #457019436548 from over 130 different checks. In all, \$341,805.28 was depleted from this Bank of America account by CPB during this time period. Account activity is shown below.

Date	Account Activity
January 31, 2014	cc#0817300265 (\$5k) Leon Koruh cc#0817300266 (\$5k) Robert Mahkewa jr cc#0817300267 (\$5k) Jerry S. cc#0817300268 (\$5k) Archie D. Ck#991 (\$2,000) to Cash (Robert M) Ck#992 (\$3,000) to Cash (Robert M) Ck#994 (\$750) to Jerry Sekayumtewa Sr.
February 28, 2014	Ck#993 (\$12,214.95) to Udall Law Firm Ck#1001 (\$750) to Leon Koruh Ck#1002 (\$750) to Jerry S. Sr. Ck#1003 (\$750) to Robert Mahkewa Jr. Ck#1004 (\$750) to Jerry S. Sr. Ck#1005 (\$750) to Leon Koruh ck#1006 (\$750) to Robert Mahkewa Jr. Ck#1007 (\$750) to Jerry S. Sr. Ck#1008 (\$5,000) to Archie D.
March 31, 2014	ck#1009 (\$2,500) to Robert M. Ck#1010 (\$750) to Leon Koruh Ck#1011 (\$750) to Leon Koruh Ck#1012 (\$750) to Jerry S. Ck#1013 (\$3,500) to Udall Law Ck#1014 (\$500) to Jerry S. Ck#1015 (\$750) to Jerry S. Ck#1016 (\$5,000) to Jerry S.

April 30, 2014	ck#1017 (\$5,000) to Jerry S. Ck#1018 (\$1,200) to Robert M. Ck#1019 (\$750) to Leon Koruh Ck#1020 (\$1,200) to Leon Koruh Ck#1021 (\$750) to Leon Koruh Ck#1022 (\$5,000) to Archie D. Ck#1023 (\$5,000) to Jerry S. Ck#1025 (\$60) to Postmaster Ck#1027 (\$5,000) to Jerry S.
May 1, 2014	ck#1024 (\$2,025) to Udall Law Firm Ck#1026 (\$1,500) to Leon Koruh Ck#1028 (\$3,000) to Jerry S. Ck#1029 (\$7,000) to Archie D. Ck#1030 (\$2,500) to Robert M. Ck#1031 (\$1,000) to Leon Koruh Ck#1032 (\$750) to Leon Koruh Ck#1035 (\$2,500) to Robert M. Ck#1037 (\$7,000) to Archie D. Ck#1038 (\$5,000) to Jerry S.
June 1, 2014	ck#1033 (\$750) to Leon K Ck#1034 (\$1,500) to Leon K Ck#1036 (\$2,500) to Robert M Ck#1039 (\$750) to Leon K. Ck#1040 (\$2,000) to Jerry S. Ck#1041 (\$2,000) to Cash (RM) Ck#1042 (\$5,000) to Jerry S. Ck#1045 (\$5,000) to Robert M. Ck#1046 (\$5,000) to Archie D. Ck#1047 (\$750) to Leon K Ck#1048 (\$1,000) to Leon K
July 31, 2014	ck#1043 (\$1,000) to Jerry S Ck#1044 (\$2,500) to Robert M ck#1049 (\$2,500) to Jerry S ck#1050 (\$1,000) to Leon K ck#1051 (\$5,000) to Archie D. ck#1052 (\$750) to Leon K ck#1053 (\$1,000) to Leon K ck#1054 (\$1,500) to Jerry S ck#1055 (\$410) to Fred Koruh ck#1056 (\$320) to Ronnie H. ck#1061 (\$1,000) to Leon K ck#1066 (\$5,000) to Robert M
August 31, 2014	ck#1062 (\$1,000) to Leon K ck#1063 (\$5,000) to Archie D. ck#1064 (\$3,000) to Leon K. ck#1067 (\$1,200) to Ronnie H. ck#1068 (\$8,000) to Archie D. ck#1069 (\$5,000) to Robert M
September 30, 2014	ck#1071 (\$1,500) to Jerry S ck#1072 (\$5,000) to Archie D. ck#1076 (\$750) to Robert M

	ck#1077 (\$1,000) to Leon K ck#1078 (\$5,000) to Archie D. ck#1079 (\$1,500) to Leon K ck#1080 (\$2,000) to Jerry S ck#1082 (\$8,040.36) to Udall Law ck#1083 (\$200) to Fred Koruh ck#1084 (\$1,500) to Jerry S
October 31, 2014	ck#1071 (\$1,500) to Jerry S ck#1072 (\$5,000) to Archie D. ck#1076 (\$750) to Robert M ck#1077 (\$1,000) to Leon K ck#1078 (\$5,000) to Archie D. ck#1079 (\$1,500) to Leon K ck#1080 (\$2,000) to Jerry S ck#1082 (\$8,040.36) to Udall Law ck#1083 (\$200) to Fred Koruh ck#1084 (\$1,500) to Jerry S
November 30, 2014	ck#1089 (\$2,000) to Leon K ck#1090 (\$3,500) to Leon K ck#1092 (\$2,500) to Robert M ck#1094 (\$1,500) to Leon K ck#1096 (\$1,300) to Fred Koruh ck#1097 (\$1,500) to Jerry S ck#1098 (\$1,500) to Jerry S ck#1099 (\$5,000) to Archie D. ck#1100 (\$600) to Fred Koruh
December 31, 2014	ck#1089 (\$2,000) to Leon K ck#1090 (\$3,500) to Leon K ck#1092 (\$2,500) to Robert M ck#1094 (\$1,500) to Leon K ck#1096 (\$1,300) to Fred Koruh ck#1097 (\$1,500) to Jerry S ck#1098 (\$1,500) to Jerry S ck#1099 (\$5,000) to Archie D. ck#1100 (\$600) to Fred Koruh
January 31, 2015	ck#1101 (\$1,500) to Jerry S ck#1102 (\$500) to Jerry S ck#1103 (\$1,000) to Leon K ck#1104 (\$1,500) to Leon K ck#1106 (\$5,000) to Archie D ck#1107 (\$1,500) to Jerry S
February 1, 2015	ck#995 (\$800) to Fred Koruh ck#1105 (\$1,200) to Leon K ck#1108 (\$1,500) to Jerry S ck#1118 (\$2,500) to Robert M
March 1, 2015	ck#1109 (\$3,000) to Archie D ck#1110 (\$1,000) to Jerry S ck#1111 (\$1,000) to Jerry S ck#1112 (\$1,000) to Leon K ck#1113 (\$1,000) to Leon K

	ck#1114 (\$1,500) to Leon K ck#1119 (\$500) to Fred Koruh ck#1120 (\$1,000) to Jerry S ck#1127 (\$800) to Fred Koruh
April 30, 2015	ck#1115 (\$1,000) to Leon K ck#1116 (\$1,500) to Leon K ck#1117 (\$5,000) to Leon K ck#1121 (\$3,000) to Archie D ck#1122 (\$1,500) to Jerry S ck#1124 (\$500) to Jerry S ck#1128 (\$1,500) to Fred Koruh ck#1130 (\$5,000) to Robert M ck#1131 (\$500) to Fred Koruh ck#1132 (\$1,000) to Archie D
May 5, 2015	ck#1123 (\$2,000) to Jerry S ck#1125 (\$3,000) to Archie D ck#1126 (\$1,000) to Jerry S ck#1133 (\$334.97) to Fred Koruh ck#1134 (\$1,500) to Leon K ck#1135 (\$7,000) to Leon K ck#1136 (\$5,000) to Robert M ck#1138 (\$1,700) to Fred Koruh

82. On August 31, 2014, the balance recorded in the Fidelity investment account # ZXX-XX0913 was \$774,344.00. The funds in this Fidelity account, as well as all of the funds/bonds in all of CPB's earlier investment accounts, are believed to be the result of bond trading with the Village of Mishongnovi's H-13 funds.

83. \$774,344.00 appeared to be all that remained of the \$2,234,947.00 found in CPB's earlier disputed Morgan Keegan account back in August 2011. This meant that – after investments, growth, expenses, and unauthorized spending – CPB had \$1,460,603.00 less of the Village's money² on August 31, 2014, than they began with on August 2, 2011. As noted earlier, all of this \$1,460,603.00 was used to personally benefit CPB, and in no way benefited the Village.

² As mentioned, approximately \$126,000 of the original \$2,108,000, or about 6 percent of the money transferred into Morgan Keegan account #xxxxx349 in August 2009 by the Hopi Tribal Secretary from Wells Fargo account #xxxxx352, actually belonged to the Wildlife Endowment Fund, not the Village of Mishongnovi. According to investigators, after the loss of this \$126,000 the board of the Wildlife Endowment Fund disbanded.

1 84. This CPB spending all occurred after the “Control Shift” of January 2011,
2 the Hopi Tribal Court decision in 2012, and the Hopi Appellate Court decision in 2013 –
3 each of which determined that CPB was not the Village government.

4 85. On October 6, 2015, the remaining \$741,480 was seized from CPB’s
5 Fidelity investment account #xxx-xxx913 by law enforcement.

6 **XII. Interview with Archie Duwahoyeoma**

7 86. On October 6, 2015, Duwahoyeoma was interviewed by an investigator.
8 Duwahoyeoma said the following.

9 87. About 10 or 11 years previously Duwahoyeoma was a member of the
10 Board as well as CBP.

11 88. CPB was formed to advise the Board regarding matters of heritage,
12 tradition, ceremony, and land issues. Several Board members served both on the Board
13 and on the CPB with him, though they are now all deceased. Current members of CBP
14 were Owen, Leon, Jerry, and Rueben.

15 89. CPB used to be the governing body of the Village and managed its money.
16 He believed CPB received about \$300,000 per year from the Hopi Tribe to do so.

17 90. CPB was ousted from power as the government of the Village about 10
18 years ago and Duwahoyeoma ceased being a paid employee of CPB at that time. CPB
19 never again regained power, and Duwahoyeoma believed CPB should act in an advisory
20 capacity to a lawfully elected board.

21 91. The investigator showed Duwahoyeoma multiple checks that
22 Duwahoyeoma had received and deposited from 2011 to 2015, averaging about \$30,000 to
23 \$32,000 per year. Duwahoyeoma acknowledged receiving these checks and said that CPB
24 did not say why they had given the checks to him and he did not ask why he’d received
25 them. He said that the checks might be back pay or severance pay. Robert or Leon signed
26 the checks and then handed them to him when they saw him, or they would bring the
27 checks to his residence.

XIII. Interview with Robert Mahkewa, Jr.

92. When interviewed by an investigator on October 6, 2015, Mahkewa said he began working for the Village in 2007 as a water operator, and then in 2009 became the Cultural Services Administrator (“CSA”) for the Village. Mahkewa said his boss was Koruh, who was the President/Chairman of CPB. Mahkewa said he remained CSA until 2011, at which time CPB was forced out of office by the Board.

93. Mahkewa said that CPB was formed in the 1970s, was elected by the people of the Village, and made up mostly of elders who worked with the Village leader.

94. Mahkewa said CPB controlled everything until the 1990s, at which time the Village elected a Board. He said CPB and the Board worked together but did not always agree.

95. Mahkewa said that the Hopi Tribe allocated around \$350,000 to the Village each year for salaries and projects. The CSA would send a requisition for funds to the Hopi Tribe, which would be paid when approved. Oftentimes Mahkewa said the CSA would be required to provide additional information to justify the payments from the Hopi Tribe.

96. Mahkewa said that CPB filed a lawsuit against the Board once CPB was removed in 2011.

97. Mahkewa further said that the funds were moved from Morgan Keegan to a Scottrade account once the lawsuit was filed because Morgan Keegan did not want to be involved in the lawsuit. He said the funds were later moved from Scottrade to Raymond James and Fidelity because CPB was spending too much money on margin calls for trading when with Scottrade.

98. To receive payments from CPB’s investment account, CPB board members would write a request with the reason for the payment and submit the request to Leon Koruh, who would then direct Mahkewa to write and deliver the check. This process only lasted briefly, however, and current requests are made verbally to Koruh. In 2012 or 2013, Mahkewa stopped signing or delivering checks altogether. He said that now only Koruh

1 delivered or signed checks. Mahkewa said he also had a debit card that he used to
2 purchase office supplies for CPB, and that Koruh maintained the records for all the
3 payments on CPB's account.

4 99. When specifically asked about Duwahoyeoma, Mahkewa said that when
5 Duwahoyeoma needed or wanted a check, he called Mahkewa or Koruh, Koruh authorized
6 the check, and then Mahkewa wrote the check and got it to Duwahoyeoma. Mahkewa said
7 he had no idea why Duwahoyeoma would claim to be ignorant as to why he received
8 checks from CPB.

9 100. Mahkewa reiterated he was a secretary of CPB, not a member, and believed
10 he had been paid approximately \$50,000 over the past four years for his work and meeting
11 attendance.

12 101. Mahkewa said that the last check was written in May or June 2015, because
13 CPB had run out of funds.

14 102. When asked about several large checks deposited into his personal account,
15 Mahkewa said he often deposited checks into his account, withdrew cash, and gave the
16 cash to either Duwahoyeoma or Sekayumptewa. He said Duwahoyeoma and
17 Sekayumptewa asked Mahkewa to do this because they did not want to deposit checks
18 into, or cash checks from, their own banks.

19 **XV. Interview with Leon Koruh**

20 103. When interviewed on October 6, 2015, Koruh gave a detailed and lengthy
21 history of his involvement with CPB and the Village.

22 104. Prior to 1996, Koruh said he was a school teacher making about \$40,000
23 per year. In 1996, Koruh took a position with the Cultural Center. He also served as a
24 member of the Hopi Tribal Council for the Village, on and off, from 1996 through 2011,
25 making \$35,000 per year. When not working for the Hopi Tribal Council, Koruh made a
26 living selling crafts, doing farm work, and, from time to time, working as a school board
27 member. From January 2011, through May 2015, and based on the decision of the Village
28 leader, Koruh received compensation comparable to what he had received while a member

1 of the Hopi Tribal Council, for his works that he claimed benefitted the Village. In 2013,
2 Koruh also began to receive Social Security Disability benefits.

3 105. In the early 1990s, some of the Hopi villages and the Hopi Tribe began to
4 turn away from traditional leadership, and instead instituted the election process to select
5 village leaders and councilmen. Consequently, some councilmen were elected and some
6 were appointed. Within the Village, a movement in the 1990s had begun to remove the
7 power from the Village leader and replace it with an elected board.

8 106. In 2009, a new Interim Board took control of the Village and began to have
9 disputes, to the detriment of the Village. At this time, there were two “pots” of money that
10 existed for the benefit of the Village. One pot consisted of the newly allocated money that
11 came to the Village on a yearly basis. This amounted to about \$375,000 per year. The
12 second pot was made up of older, accumulated funds from the 1990s that had not been
13 used, and was being held at the Tribal level in a non-interest bearing account for the
14 benefit of the Village. Koruh referred to these two types or pots of money as “Old Money”
15 and “New Money.”

16 107. In 2009 or 2010, tired of in-fighting among the Board, the CPB took
17 control of Village governance again. CPB and Mahkewa continued to manage both the
18 “Old Money” and “New Money.”

19 108. In October 2011, Sieweyumptewa passed away, and Village members loyal
20 to the traditional government “regrouped” and installed CPB member Duwahoyeoma as
21 the new Village leader.

22 109. Duwahoyeoma led CPB, and they often held their monthly meetings at the
23 Keams Canyon Cafe. Sometimes they met as often as four times a month. Work
24 performed by CPB included addressing ceremonial issues, land issues, boundary issues,
25 and water issues.

26 110. Soon after January 2011, Nez left CPB and Nez ceased doing anything
27 specific to benefit the Village.
28

1 111. In all, the payments Koruh and Mahkewa received averaged about \$1,500
2 every two weeks, but it was sporadic, and was sent to them when they requested it.

3 112. Koruh said that when he or Mahkewa received a check from Morgan
4 Keegan, it was because: (a) either Koruh or Mahkewa requested a specific amount; and
5 (b) the majority of the rest of CPB approved the check be issued.

6 113. Duwahoyeoma requested and received checks from Koruh or Mahkewa
7 without CPB member approval being necessary since he was the Village leader and no
8 one had the authority to deny him a request. Only twice were Koruh's requests for travel-
9 related reimbursements denied.

10 114. Since being tossed out in January 2011, CPB did not spend any money on
11 projects that benefited the Village, other than to hire a couple of laborers, Rick Koruh and
12 Ron Honyumptewa, to do a few jobs, and to pay some previously obligated expenses,
13 such as constructing a retaining wall. The reason CPB was not spending any of the "Old
14 Money" on Village projects was because the "other group" could not cease their in-
15 fighting.

16 115. Otherwise, from January 2011, to March 2011, CPB spent approximately
17 \$100,000 of "Old Money" on legal fees, and less than that amount on their members for
18 services and travel expenses.

19 116. Because of a rumor that the Interim Board was trying to take the "Old
20 Money," CPB opened a Scottrade account into which the "Old Money" was moved and
21 then CPB opened a new Morgan Keegan account in the name of CPB instead of the
22 Village and moved the "Old Money" into it. The purpose of the new accounts and the
23 movement of funds was "keeping the other group from getting the money."

24 117. The purpose of later movement of the funds to other accounts was to "hang
25 onto" the "Old Money," and to avoid investment bank fees that CPB determined were too
26 high.

27 118. The money was eventually moved to another financial institution, and then
28 to Bank of America. Checks continued to be cut by Mahkewa at the request of the

1 majority of the CPB members or Duwahoyeoma. Some of the money was moved into a
2 Fidelity investment account.

3 119. It was understood that the CPB members would continue taking salaries
4 until such time as the funds at Bank of America were depleted, at which point no
5 additional salaries would be taken.

6 120. CPB intended to safeguard the Village's "Old Money," which was moved
7 to a Fidelity investment account and valued at about \$1 million, until the various factions
8 wishing to lead the Village reconciled and could be trusted by CPB to spend it on projects
9 that benefited the Village.

10 121. The Village "Old Money" that Koruh received in lieu of a salary from
11 January 2011, to May 2015, was always in the form of checks and Koruh always
12 deposited those checks into his own personal checking account in-person through an
13 ATM. He used the account to pay for living expenses.

14 122. The investigator showed Koruh a binder which displayed approximately
15 \$174,000 in check copies payable to Koruh between January 13, 2011, and May 2015. As
16 the checks were reviewed by Koruh, he nodded when seeing many of them with the
17 amount of \$1,500, and usually indicated that it was a typical salary amount. Some of the
18 checks Koruh did not recall. At no time did Koruh indicate that his signature had been
19 forged on the checks or show any doubt about having received all the checks displayed in
20 the binder.

21 123. When asked by the investigator if Koruh recalled receiving a \$15,000 check
22 on January 18, 2011 (check #228084), or that four other CPB members had received
23 \$15,000 checks at that time as well, Koruh said he did not, but surmised that if they each
24 had received such checks, it would have been so the five of them could each pay \$10,000
25 into their attorney's retainer.

26 124. When asked about other specific payments and amounts he had received
27 and what their purposes were, Koruh described the following:
28

- a. Sometimes he requested and obtained checks in amounts that gave him cash so he could pay bills at the post office, the Cultural Center, and other meeting sites;
- b. After he sustained disabling injuries, he received a check for \$5,000 so his family could travel to the Flagstaff Medical Center to be with him; and
- c. In January 2014, \$1,042 from his checking account likely paid the bail money for his son who had been charged with a DUI.

125. Koruh stated that he deserved the money he took because of all the bad things (i.e., black magic, injuries, etc...) people had inflicted upon him.

126. When the investigator asked if Koruh's neighbors and community members would approve of Koruh receiving and spending at least \$174, 000 of the Village's "Old Money," Koruh responded, "They wouldn't be mad about it. They know what I've been through – my injuries and everything."

XVI. Statements by Vernice Koruh

127. Vernice Koruh, wife of Leon Koruh, was present during the interview of Leon on October 6, 2015. When the investigator showed Leon a binder with copies of checks, Vernice looked at the binder as well, and, although no questions were being posed to her, spontaneously stated several times, "They steal too!"

XVII. Inconsistencies and Admissions in CPB Interviews

128. Investigators noticed several inconsistencies, as well as admissions of unauthorized activities, by CPB members in their interviews.

129. Duwahoyeoma on the one hand claimed that CPB had not been in control of the Village for 10 or 11 years, and that he had not been a member of, or received payment from it, since that time. However, on the other hand, he admitted that he as Village leader often met with CPB members and had received checks totaling \$30,000-\$32,000 per year from them over a five-year period (2011-2015). Curiously, he also said

1 he did not know what these payments were for, but continued to deposit them into his
2 personal bank account just the same.

3 130. In contrast, Mahkewa and Koruh said that Duwahoyeoma was the current
4 Village leader, part of CPB, and had informed them when he needed funds, as well as
5 how the Village funds should be used (or not used) by CPB. Mahkewa even appeared
6 surprised and perplexed as to why Duwahoyeoma would state otherwise.

7 131. Both Mahkewa and Koruh said that they did not agree with or respect the
8 Hopi Tribal Council's decision to remove CPB from power in 2011 (or any other
9 authority that agreed with this decision, for that matter). Koruh said that CPB intended to
10 preserve all the "Old Money" until CPB was either back in power or had reconciled with
11 those who were. Only then would they use the "Old Money" to benefit the Village.
12 Although Koruh, Sieweyumtewa, and Duwahoyeoma may have been consistent in
13 claiming this, in practice their execution of preserving the "Old Money" was not carried
14 through.

15 132. First, their decision to continue functioning and receiving salaries after the
16 2011 Control Shift as a rogue Village governing body was contradictory to preserving
17 Village funds. According to Koruh, Sieweyumtewa originally stated the receipt of
18 salaries would continue to go on for just 2011 and 2012, but when 2012 concluded,
19 Duwahoyeoma (who had now replaced the deceased Sieweyumtewa) stated that the
20 salaries would continue for a few more years. Koruh stated, however, that the CPB
21 members later decided they would keep taking their salaries indefinitely until the money
22 in their Bank of America account was depleted. He said their goal was to leave about
23 \$1,000,000 of the "Old Money" in the Fidelity account for the benefit of the Village.
24 Records show that for this to have occurred, CPB would have had to spend
25 approximately \$1,200,000 of the original \$2,200,000 first.

26 133. Secondly, their spending, while unauthorized by the Village, the Hopi
27 Tribal Council, the Hopi Tribal Court, and the Hopi Appellate Court, and inconsistent
28 with their own self-proclaimed decision to save money for later Village use, was clearly

1 for their own benefit and not the Village's. This is a fact that CPB members openly
2 acknowledged.

3 134. Duwahoyeoma admitted that he had received large sums of money, but said
4 he did not know why, and did not mention that he used it for the benefit of the Village in
5 any way. Koruh, more bluntly, stated that the \$174,000 he received was more than
6 justified because of all the bad things that he had been through, such as his health
7 problems (the same health problems he claimed were caused by other members of the
8 Village) as well as his "illegal" removal from the Hopi Tribal Council (which he blamed
9 on the Hopi Tribal Chairman). Other than a few rare exceptions, he did not claim that any
10 of the \$174,000 he'd received or spent after CPB's removal in 2011 benefited the
11 Village.

12 135. Investigation and forensic accountants confirmed this fact as none of the
13 approximately \$1.4 million CPB spent after April 7, 2011 benefited the Village.

14 136. Both Mahkewa and Koruh also stated that they removed their funds from
15 Scottrade because the margin calls were too high. By contrast, the forensic investigation
16 concluded that the primary motivation for CPB's constant movement of funds was to
17 avoid investigator inquiries, court decisions, and the Board, and appeared to have no
18 legitimate investment purpose.

19 137. Koruh admitted as much in his interview, saying openly that the reason
20 they moved the "Old Money" so frequently was to keep it away from the Board.

21 **FIRST CLAIM FOR RELIEF**

22 138. Based on the aforementioned facts and circumstances, the defendant
23 property is property involved in a transaction or attempted transaction in violation of 18
24 U.S.C. §§ 1956 and 1957, and is therefore subject to forfeiture to the United States
25 pursuant to 18 U.S.C. § 981(a)(1)(A).

26 **SECOND CLAIM FOR RELIEF**

27 139. Based on the aforementioned facts and circumstances, the defendant
28 property is property which constitutes or is derived from proceeds traceable to a violation

1 of a specified unlawful activity as defined in 18 U.S.C. §§ 1956(c)(7) and 1961(1),
2 including 18 U.S.C. § 1343, Wire Fraud, and is therefore subject to forfeiture to the
3 United States pursuant to 18 U.S.C. § 981(a)(1)(C).

4 WHEREFORE, the United States of America prays that a warrant *in rem* for the
5 arrest of the defendant property be issued; that due notice be given to all parties to appear
6 and show cause why the forfeiture should not be decreed; that judgment be entered
7 declaring the defendant property be forfeited to the United States of America for
8 disposition according to law; and that the United States of America be granted such other
9 and further relief as this Court may deem just and proper, together with the costs and
10 disbursements of this action.

11 Respectfully submitted this 4th day of March, 2016.

12 JOHN S. LEONARDO
13 United States Attorney
14 District of Arizona

15 S/Mark J. Wenker
16 MARK J. WENKER
17 Assistant United States Attorney
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