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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
AT EUREKA

John Sr., Adrian; Morinda, Barbara; Brown,
Batsulwin; Sloan, Bonnie; Sloan, Carrie;
Brown, Cecil; Mota Jr., Cliff; Brown, David;
Brown, Elvina; Sloan, Ermadina; Johnson,
Geraldine; Brown III, James P.; Wright, James;
Brown, Jessica; Brown, Kiuya; John, Ko-E-Ya;
Morinda, Martha; Brown, Marvin; Brown,
Michael; Sloan, Natasha; Appricio, Nickle;
Brown, Rose; Brown, Sharon; Brown, Piyaco;
Brown Jr., Ray; Geary, Robert; Morinda,
Roxann; Mota, Verdeana; Mota, Wah-Lia,

Petitioners,

v.

Brown, Stephanie; Garcia, Agustin; Garcia
Brown, Sarah; John, Leora; and Brown II,
Nathan, in their official capacities as the
purported members of the Executive Committee
of the Elem Indian Colony of Pomo Indians,

Respondents.

NO. 1:16-cv-2368

PETITION FOR WRIT OF HABEAS
CORPUS

Indian Civil Rights Act, 25 U.S.C. §
1303

I. INTRODUCTION

1
2 1. Petitioners hereby petition the Court for a Writ of Habeas Corpus pursuant to
3 the Indian Civil Rights Act (“ICRA”). 25 U.S.C. §§ 1301-1303.

4 2. Respondents are unlawfully restraining Petitioners by permanently convicting
5 Petitioners of crimes, including “treason,” without due process or equal protection of law.

6 3. Respondents are being punished and deprived of liberty for a litany of
7 fantastical crimes. The punishment Respondents are imposing is detention, as contemplated by
8 ICRA.
9

10 4. Petitioners lack any other meaningful forum to challenge Respondents’ illegal
11 actions. Respondents’ claimed administrative remedies are futile.

II. PARTIES

12
13 5. Petitioners (Adrian John Sr., Barbara Morinda, Batsulwin Brown, Bonnie Sloan,
14 Carrie Sloan, Cecil Brown, Cliff Mota Jr., David Brown, Elvina Brown, Ermadina Sloan,
15 Geraldine Johnson, James P. Brown III, James Wright, Jessica Brown, Kiuya Brown, Ko-E-Ya
16 John, Martha Morinda, Marvin Brown, Michael Brown, Natasha Sloan, Nickle Appricio,
17 Sharon Brown, Piyaco Brown, Ray Brown Jr., Robert Geary, Rose Brown, Roxann Morinda,
18 Verdeana Mota, Wah-Lia Mota) and Respondents (Agustin Garcia, Sarah Brown Garcia,
19 Stephanie Brown, Leora John and Nathan Brown II) are all members of the Elem Indian
20 Colony of Pomo Indians (“Tribe”), a federally recognized Indian Tribe headquartered in Lower
21 Lake, California.
22

23
24 6. Respondents purport to be the elected Executive Committee of the Tribe.
25

III. JURISDICTION

7. The District Court has jurisdiction over this action pursuant to federal law, including 25 U.S.C. § 1303, which dictates that the “privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.”

8. The Court has jurisdiction because the Petitioners are being unlawfully restrained based on criminal allegations. *See Quair v. Sisco*, 359 F.Supp.2d 948 (E.D.Cal. 2004).

9. Venue is proper in this district as all the events giving rise to this action occurred in Lake County, California.

10. Petitioners have not applied for this Writ pursuant to ICRA in any other Court.

IV. INTRADISTRICT ASSIGNMENT

11. The basis for assignment to the Eureka Division is that this civil action arises in Lake County, California. Civil L.R. 3-2(f).

V. FACTS

A. Detention of Petitioners

12. The Elem Indian Colony of Pomo Indians consists of approximately 52 acres of federal Indian trust land (“Colony”). Respondents and their nuclear and extended families constitute one hundred percent (100%) of the residents of the Colony.

13. Several of Petitioners own the homes they live in on the Colony. More specifically, they own the permanent improvements to federal Indian trust land.

1 14. On March 30, 2016, Petitioners learned that the Respondents are attempting to
2 permanently “disenroll” and “banish” Petitioners, along with many other Tribal members, who
3 Respondents see as political threats.

4 15. “Disenrollment” is defined as “[t]he penalty by which a member of Elem is
5 permanently removed from the membership roll of Elem for all purposes,” in the “Tribal
6 Sanctions Of Disenfranchisement, Banishment, Revenue Forfeiture, and Disenrollment And
7 the Process for Imposing Them Ordinance No. GCORD08412” (“Ordinance”) of May 9, 2015.
8 *See* Ordinance § 1.d.
9

10 16. Critically, the penalty of “Disenrollment” is defined in the Ordinance as
11 including “Banishment.”

12 17. “Disenrollment may only be imposed by the General Council pursuant to this
13 Ordinance and only if the member [i]s expressly found by the General Council to warrant
14 Banishment pursuant to this Ordinance, but the General Council specifically finds that
15 Banishment is inadequate to protect the members, resources, or sovereignty of Elem from the
16 behavior of the accused Tribal member under the specific circumstances of that person’s case.
17 Disenrollment of an individual for these reasons shall only be used as a last resort.” Ordinance
18 § 1.d(3).
19

20 18. In other words, “Banishment” is a lesser-included punishment of disenrollment.
21 Disenrollment also includes permanent banishment.

22 19. Respondents served an “Order of Disenrollment,” i.e., an “order of an Indian
23 tribe” per 25 U.S.C. § 1303 (“Order”), which accuses Petitioners of violating “the laws of
24 Elem” and states that: “[i]f you are found guilty by the General Council of these offenses
25

1 against the Tribe, you may be punished by: a. DISENROLLMENT – loss of membership,”
2 which, again, includes permanent “Banishment.”

3 20. The Order includes six pages of outlandish criminal allegations under the
4 heading “Exhibit A Order to Disenroll.” None of the allegations are true.

5 21. The allegations are each defined as a “Forfeiture Offense,” which is “[a]ny
6 violation of the criminal laws of Elem, California or the United States, and any other violation
7 of the laws of Elem that is intended to or has the result of interfering with the ability of the
8 Tribe, its elected officials, or the General Council to freely, fully, and honestly exercise the
9 sovereignty of the Tribe in the best interest of the Tribe and its membership or to protect the
10 members, resources, or sovereignty of Elem.” *See* Ordinance § 1.e.

12 22. The Order does not comply with the requirements for a “Forfeiture Complaint.”
13 Ordinance § 1.f. The Order is not signed by the Tribal Chair, was not approved by a motion
14 duly made and passed at a properly noticed and called General Council meeting, does not give
15 specific accusations for each person but instead has boilerplate accusations for every person,
16 does not identify any specific laws that were violated, does not provide any information about
17 the right to a hearing, and does not state that if the accused person does not request a hearing
18 the opportunity will be waived.

20 23. Respondents are relying solely upon the Ordinance to accomplish the
21 disenrollments *qua* banishments.

22 24. Tribal members were not on notice that the Ordinance existed until it was
23 distributed with the Order. The Ordinance was amended secretly on May 15, 2015. It was not
24 distributed to Tribal members. As of April 26, 2016, an older version of the tribal law, one
25

1 without disenrollment as a penalty, is available on the Tribe's website. The Ordinance is not
2 legal and cannot be relied upon to authorize any governmental activity.

3 25. The Tribe's "Constitution and Bylaws" states at Article II, Section 4 that any
4 rules or regulations established regarding membership, including the "loss of membership,"
5 must be approved by the Secretary of the U.S. Department of the Interior, by and through the
6 Bureau of Indian Affairs ("BIA") and its Superintendent in Sacramento, California.

7 26. The Ordinance establishes regulations addressing the loss of membership, but it
8 was not submitted to the BIA Superintendent for approval.

9 27. On April 4, 2016, the BIA Superintendent, Troy Burdick, acknowledged in
10 writing that the BIA has not approved the Ordinance.

11 28. Despite the lack of approval, Respondents are attempting to use the Ordinance
12 to prosecute and forever banish the Petitioners.

13 29. If Respondents are successful, several Petitioners will be banished from the
14 lands upon which their homes sit—dwellings to which they hold title.

15 30. If Respondents are successful, one hundred percent (100%) of the residents of
16 the Colony will be permanently exiled from their homelands—an unprecedented act in United
17 States history. The United States will literally be holding a vacant reservation, in trust.

18 **B. Lack of Due Process and Meaningful Administrative Remedies.**

19 31. The Order, styled by Respondents as an "Order to Disenroll," is effectively
20 final.

21 32. The Order does not provide any right to demand an opportunity to be heard—
22 the hallmark of due process. It contemplates simply a written answer in response.
23
24
25

33. The only administrative remedies available are in the complete control of the Respondents. The remedies are futile and lack any semblance of due process.

34. The Ordinance, which is—again—invalid, provides, “[t]he Tribal Chair *may* notice a special General Council meeting for the purpose of conducting a hearing in which the General Council will determine whether or not the person or person accused of Forfeiture Offenses is guilty, and if so, what the punishment shall be. In the alternative, the Tribal Chair *may* add such hearing to the agenda of a regularly scheduled General Council meeting.” Ordinance § 6 (emphasis added). The holding of a hearing is purely discretionary by the Tribal Chair. (The Tribal Chair appears to have elected not to offer any hearings because the Order does not offer a right to a hearing.)

35. The Tribe’s General Council meets only quarterly. On April 13, 2016, Tribal members received a letter stating that the purported Executive Committee intended to cancel the May and August General Council meetings in order to prevent the Petitioners from attending the meetings to protest the disenrollment actions. The one venue, the General Membership meeting, contemplated by the Ordinance as a place for challenging the “Forfeiture Offenses” is being taken away by action of the purported government.

VI. CAUSES OF ACTION

A. First Cause of Action: Unlawful Restraint on Personal Liberty in Violation of ICRA Due Process

36. Petitioners hereby incorporate and reallege the foregoing Paragraphs.

37. ICRA provides the “privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.”

1 38. ICRA provides that “[n]o Indian tribe exercising the powers of self-government
2 shall . . . deprive any person of liberty or property without due process of law.” 25 U.S.C. §
3 1302(8).

4 39. The Tribe’s Constitution and Bylaws adopts and applies ICRA.

5 40. Respondents have denied petitioners due process of law.

6 41. Petitioners received no meaningful notice. The six pages of boilerplate
7 allegations have nothing to do with Petitioners and provide no means to understand what
8 Respondents are talking about or to whom the allegations could even apply.
9

10 42. Respondents have offered no legal or factual justification for banishment.

11 43. Disenrollment *qua* banishment constitutes restraint for purposes of ICRA
12 habeas “detention.”

13 44. As applied, Petitioners have received no opportunity to be heard.

14 45. There is no Tribal Court forum or other means to contest the criminal charges or
15 to protest the Order. The opportunity to use the General Membership meeting as a place to be
16 heard is being taken away.
17

18 46. Respondents’ banishment of Petitioners is a criminal punishment and violates
19 Petitioners’ right to be free from arbitrary restraints on liberty as guaranteed by ICRA and the
20 Tribe’s Constitution.
21
22
23
24
25

B. Second Cause of Action: Unlawful Restraint on Personal Liberty in Violation of Federal ICRA Equal Protection

47. Petitioners hereby incorporate and reallege the foregoing Paragraphs.

48. ICRA provides that “[n]o Indian tribe exercising the powers of self-government shall . . . deny any person within its jurisdiction the equal protection of its laws” 25 U.S.C. § 1302(8).

49. The Tribe’s Constitution adopts and applies ICRA.

50. Respondents have discriminatorily applied purported Tribal laws against Petitioners and therefore denied Petitioners equal protection.

51. The purported Executive Committee specifically targeted a class of persons, all Tribal members who live on the Colony and practice traditional Elem ways and culture.

52. The purported Executive Committee specially targeted a class of persons, the Tribal members who voted against them in the November 2014 election.

53. There is no compelling interest that would justify treating the Petitioners differently than the other Tribal members.

V. RELIEF

WHEREFORE, Petitioners pray that the Court:

A. Issue the Writ of Habeas Corpus or an order to show cause why a Writ of Habeas Corpus should not be entered.

B. Declare that Respondents’ Order is a criminal punishment for which a Writ of Habeas Corpus is available.

C. Declare that Respondents’ Order is a sufficiently severe potential or actual restraint on liberty to warrant habeas review.

1 D. Declare that Respondents have violated and are violating ICRA.

2 E. Order Respondents to discharge Petitioners from the restraints on Petitioners'
3 personal liberty.

4 F. Issue an Order vacating Petitioners' proposed disenrollment and banishment.

5 G. Award Petitioners reasonable attorneys' fees and costs.

6 H. Grant Petitioners such other and further relief as the Court deems just and
7 proper.
8

9 Petitioners reserve the right to amend this Complaint to plead new parties, claims
10 and/or allegations.

11 EXHIBITS - Appendix A attached hereto.

12 DATED this 30th day of April, 2016.

13
14 /s/ Little Fawn Boland

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NO. 1:16-cv-2368

APPENDIX A TO PETITION FOR
WRIT OF HABEAS CORPUS

Indian Civil Rights Act, 25 U.S.C. §
1303

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Elem Indian Colony
General Council

Ordinance Establishing the Tribal Sanctions Of
Disenfranchisement, Banishment, Revenue Forfeiture, and
Disenrollment
And the Process for Imposing Them

No. GCORD08412 (AMENDED 05092015)

Pursuant to its inherent sovereign authority and the powers recognized in the Constitution and Bylaws of the Elem Indian Colony of Pomo Indians ("Elem"), including but not limited to Article VII, Section 1(g) of the Elem Constitution, the General Council of Elem Indian Colony hereby enacts this Ordinance governing the imposition of the penalties of: 1) disenfranchisement; 2) revenue forfeiture; 3) banishment; and 4) disenrollment upon tribal members who are found by the General Council pursuant to the process set forth in this Ordinance to have committed crimes or to have committed offenses against Elem in violation of the laws of the Tribe, the State of California, or the United States. The penalties authorized by this Ordinance may be imposed in addition to any other penalties authorized by any other law of Elem, the State of California, or the United States.

1. Definitions:

a. Banishment. The penalty by which a member of Elem is banished from Elem, after which the banished person may no longer obtain any of the benefits of membership in Elem, attend Elem meetings, or enter, possess, or use for any purpose any property held in trust by the United States for Elem or otherwise belonging to or occupied by Elem. Banishment shall only be imposed pursuant to this Ordinance if the General Council specifically finds that the offenses committed and the injuries caused to Elem and its members are of the worst nature, and that the subject person cannot be rehabilitated. Banishment of a member shall have no effect upon the membership of any other person, including the lineal descendents of the banished member.

b. Disenfranchisement. The penalty by which a member of Elem is deprived for a specified period of time of his or her right to vote in Elem tribal elections and to make motions or vote at Elem tribal meetings of any kind, and to participate in any way in any Elem governmental process requiring a vote or a signature. Disenfranchisement may be imposed for any period of time.

c. Revenue Forfeiture. The penalty by which a member of Elem is deprived for a specified period of time of his or her right to receive any revenue distributions that are granted to members of Elem solely based upon their tribal membership, for example *per capita* payments of

Elem's Revenue Sharing Trust Fund allocations. Revenue forfeiture may be imposed for any period of time.

d. Disenrollment. The penalty by which a member of Elem is permanently removed from the membership roll of Elem for all purposes. Disenrollment of a member shall have no effect upon the membership of any other person, including the lineal descendants of the disenrolled member. Disenrollment may only be imposed by the General Council pursuant to this Ordinance, and only if the member:

- 1) Was erroneously enrolled in that he/she does not meet the Constitutional membership criteria. This "erroneous enrollment" may have resulted from fraudulent or erroneous submissions, mistakes in blood degree computations or inadequate research; or
- 2) Is found by the Enrollment Committee to be currently enrolled with another Indian tribe and does not relinquish the membership in the other tribe within thirty (30) days of the sending by the Enrollment Committee to that member of a certified letter addressed to the member's last known address as shown on Elem's membership roll warning of disenrollment if the member fails to timely relinquish membership in the other tribe; or
- 3) Is expressly found by the General Council to warrant Banishment pursuant to this Ordinance, but the General Council specifically finds that Banishment is inadequate to protect the members, resources, or sovereignty of Elem from the behavior of the accused Tribal member under the specific circumstances of that person's case. Disenrollment of an individual for these reasons shall only be used as a last resort.

e. Forfeiture Offense. Any violation of the criminal laws of Elem, California or the United States, and any other violation of the laws of Elem that is intended to or has the result of interfering with the ability of the Tribe, its elected officials, or the General Council to freely, fully, and honestly exercise the sovereignty of the Tribe in the best interest of the Tribe and its membership or to protect the members, resources, or sovereignty of Elem.

f. Forfeiture Complaint. A written document signed by the Tribal Chair as authorized and directed by a motion duly made and passed at a properly noticed and called General Council meeting which:

- 1) Provides notice of specific factual accusations against a member of the Tribe which, if true, justify banishment, disenfranchisement, revenue forfeiture, or disenrollment.
- 2) Identifies the laws the member is accused of violating;
- 3) Describes all potential punishments for being found guilty of the Complaint's accusations, and the General Council's recommendations for the specific punishments to be imposed based upon the member's alleged offenses, if the General Council has made any such recommendations;

- 4) Informs the person accused that he or she has a right to provide a written response, (an "Answer") and that the answer must be either physically received by the Secretary-Treasurer within 30 days after the accused person has been served with the Complaint or mailed to the Secretary-Treasurer at the address provided in the Complaint and postmarked within 30 days after the accused person has been served with the Complaint, and that failure to deny the allegations of the Complaint by providing an Answer within that time will be an admission that they are true;
- 5) Informs the person of the right to have a hearing before the General Council at a duly noticed General Council meeting and at that hearing to present evidence and witnesses, to question witnesses presented against him or her, and to make factual and legal arguments regarding his or her guilt or innocence and the appropriateness of any punishment to be imposed; and
- 6) Informs the person that a request for a hearing before the General Council must be timely made in writing as part of the Answer he or she provides to the Secretary-Treasurer and failure to make that request will waive the person's right to a hearing before the General Council, which may then make a decision on the Complaint without the accused's participation.

g. Pre-hearing Sanctions. Sanctions imposed by the General Council pursuant to this Ordinance before a written Complaint can be served or a hearing can be convened based upon exigent circumstances that require immediate action in order to prevent irreparable injury to the Tribe or its members.

h. Served. A person has been served with a document pursuant to this Ordinance either when it has been physically delivered to that person, or, if mailed, five days after the Secretary-Treasurer caused it to be mailed, first class, postage paid, to the last address provided by the person to the Secretary-Treasurer for the official records of the Tribe, whichever comes first.

2. Due Process. All persons accused of offenses that could subject them to sanctions pursuant to this Ordinance shall be afforded due process and fundamental fairness pursuant to the Indian Civil Rights Act of 1968 ("ICRA") and this Ordinance shall be interpreted in a manner that is consistent with the ICRA.

3. Complaint Process. Any eligible voting member of Elem may, at any duly noticed meeting of the General Council at which a quorum is present, make a motion to direct the Tribal Chair to prepare, sign, and have served upon one or more members of Elem a Complaint alleging specific violations of this Ordinance and seeking the sanctions authorized by this Ordinance. If the motion is passed by a majority vote of the General Council, the Chair shall cause a Forfeiture Complaint to be prepared and served as soon as possible upon the person or persons the General Council has accused ("Defendants") of Forfeiture Offenses.

4. Prehearing Sanction Process.

a. Any eligible voting member of Elem may, at any duly noticed meeting of the General Council at which a quorum is present, make a motion to immediately impose Prehearing Sanctions upon any tribal member or members upon the grounds that such member or members have committed Forfeiture Offenses against the Tribe if, upon that motion, the General Council preliminarily finds based upon evidence offered by the member making the motion or by others supporting it that either: 1) the accused member(s) are engaged in a continuing course of conduct that places the Tribe or its members at immediate risk unless such sanctions are immediately imposed; or 2) that the immediate imposition of such sanctions is necessary to restore to the Tribe resources that are necessary to the effective functioning of the Tribal government.

b. Upon the passage of any such motion by the General Council, the sanctions ordered by the General Council shall be effective immediately. The Tribal Chair shall promptly prepare, sign, and deliver a Complaint to the Secretary-Treasurer who shall, within 30 days after the imposition of prehearing sanctions by the General Council, cause it to be served (as defined above) upon the person sanctioned. A Complaint shall allege specific violations of this Ordinance and seek the affirmation by the General Council after formal hearing of the sanctions provided by this Ordinance. Upon service of such a Complaint upon the sanctioned member, the procedures set forth below shall apply. Upon hearing the matter after such procedures have been followed, the General Council may, based upon the law and the evidence, either reverse the Sanctions imposed prior to the hearing or ratify and continue them for a specified period.

5. **Answer.** Each person who has been served ("Defendant") with a Forfeiture Complaint shall, within 30 days of Defendant's receipt of the Complaint if personally delivered to the Defendant, or within 35 days of the Secretary's mailing of the Complaint to that person's last known address, whichever comes first, cause the Secretary to physically receive a written "Answer" that responds separately to each allegation by admitting it, denying it, or stating that the person accused does not have sufficient information to determine whether the allegation is true or not. The Answer must be signed by each person who is using it to respond to the Complaint. The Treasurer shall provide copies of the Answer to each member of the Executive Committee and to each eligible voter of the Tribe who has requested one in writing. If a Defendant accused by the General Council of a Forfeiture Offense in a Complaint fails to file an Answer within 30 days of being served, he or she shall be deemed to have admitted the allegations in the Complaint. If a Defendant fails to request a General Council hearing in the Answer, that Defendant will be deemed to have waived his or her right to a hearing before the General Council, which may then make a decision on the Complaint without the accused's participation.

6. **General Council Hearing.** The Tribal Chair may notice a special General Council meeting for the purpose of conducting a hearing in which the General Council will determine whether or not the person or person accused of Forfeiture Offenses is guilty, and if so, what the punishment shall be. In the alternative, the Tribal Chair may add such hearing to the agenda of a regularly scheduled General Council meeting. The hearing shall occur within 90 days after the date on which the accused filed his/her/their Answer, or if no Answer is filed, within 90 days after the date upon which the accused was served with the Complaint.

7. General Council Trial Process. The Tribal Chair shall preside over the General Council hearing, which shall consist of the following steps:

a. The Tribal Chair or such other person as the Chair may designate shall read the Complaint to the General Council and summarize the evidence that he or she intends to present to the General Council.

b. Each Defendant shall then have reasonable opportunity to tell the General Council his or her basic responses to the allegations of the Complaint and to summarize the evidence that her or she intends to present to the General Council.

c. Next, the Tribal Chair or such other person as the Chair may designate shall, through the calling of witnesses and the presentation of documents and other evidence, present to the General Council all proof of the violations of this Ordinance upon which the Complaint is based (the "Tribe's Evidence").

d. After each witness supplying the Tribe's Evidence is done testifying, each Defendant shall have a reasonable opportunity to ask questions of that witness, ("cross-examine" them).

e. After the Tribe's evidence has all been presented, and Defendants have completed their questioning of the Tribe's witnesses, Defendants shall each have a reasonable opportunity to present their own witnesses and other evidence. Defendants' witnesses may then be cross-examined by the Tribal Chair or such other person as the Chair may designate.

f. When all questioning of witnesses is completed, the Tribal Chair or such other person as the Chair may designate shall summarize the Tribe's Evidence to the General Council and may argue to the General Council the evidentiary bases alleged to support the Complaint and the penalty under this Ordinance that the Tribe is seeking ("Closing Argument").

g. When the Tribe's Closing Argument is completed, each Defendant shall have the opportunity to present Closing Argument by summarizing the evidence they have presented to the General Council and may argue that the evidence alleged to support the Complaint does not justify the sanctions provided by this Ordinance.

h. When both the Tribe and Defendants have concluded their Closing Arguments, the General Council shall deliberate upon and discuss the evidence until a member of the General Council makes a motion proposing a decision of the General Council regarding: (1) the guilt or innocence of the Defendants; and (2) the penalty to be imposed if guilt is found.

i. After a reasonable period for discussion of any motion proposing a decision, the Chair shall call for a vote on the motion. The General Council shall then decide the motion by majority vote. If the motion fails, members of the General Council may make additional motions for different results. This process shall continue until either a motion is passed by majority vote

or a motion is passed to adjourn the meeting or to continue it to a specified date and time for further General Council action.

8. Determination and Imposition of Sanctions by General Council Upon Finding of Guilt. The following factors, among any others determined by the General Council to be warranted, shall be considered by the General Council in its determination of the sanctions to be imposed:

a. Whether the offense cost the Tribe or its members money, the amount of money it cost the Tribe or its members or both, and the specific effects of that loss upon Tribal governance, tribal programs, and individual tribal members.

b. Whether the offense interfered with the Tribe's ability to fairly and lawfully govern itself and its people and property, the nature of that interference and its effects upon Tribal governance and individual tribal members.

c. Whether the offense adversely affected the Tribe's reputation or the reputation of its elected officials, the nature of that adverse affect, and the effects of the offense upon Tribal governance and individual tribal members including the length of time the harm can reasonably be expected to last.

d. Whether the offense placed members of the Tribe, especially children, or Tribal property in physical danger or actually caused physical harm.

e. The likely effectiveness of each potential sanction in ensuring that the subject member will never again injure Elem or its members.

9. Rights to Appeal – Request for New Hearing.

a. Any Defendant found guilty by the General Council of any offense under this Ordinance may, despite the sanctions imposed by the General Council, request at the next General Council meeting that the General Council grant a new hearing to have the matter reconsidered by the General Council, but no disenrolled, disenfranchised or banished person may vote on such a request or participate in any other way in any General Council meeting.

b. If such a request is not made by Defendant at the next General Council meeting after he or she is found guilty, or if Defendant requests reconsideration but the General Council does not grant it, the original decision of the General Council shall be final.

c. If the General Council agrees to grant a new hearing, the Defendant who has requested a new hearing shall have a new hearing before the General Council, which hearing shall be conducted pursuant to the procedures of this Ordinance as though the first hearing had not occurred. The result of any such appeal hearing shall be final and no further appeals will be considered.

10. Right to Reconsideration of Banishment, Disenfranchisement, or of Length of Forfeiture During Term of Forfeiture. Any person found guilty by the General Council of any offense under this Ordinance may, despite being banished or disenfranchised, make a motion at any General Council meeting (but not more than once per calendar year) for an opportunity to have the punishment imposed by the General Council reduced by the General Council but no disenfranchised or banished person may vote on such a request or participate in any other way in any General Council meeting. If such motion is passed by the General Council, the Defendant who has asked that the punishment be reversed or reduced shall have a new hearing before the General Council, which hearing shall be conducted pursuant to the procedures of this Ordinance, but the only matters to be addressed are the factors used to determine the punishment previously imposed by the General Council and any additional mitigating evidence the convicted person wants the General Council to consider in connection with reducing the penalty originally determined by the General Council. The right to seek reconsideration pursuant to this provision shall not apply to members who have been disenrolled.

11. Interpretation. Unless otherwise provided, this Ordinance shall be interpreted and applied by the Elem General Council based upon the written laws of the Tribe and upon Tribal custom and tradition as determined by the General Council. To the extent no law, custom, or tradition of the Tribe governs in a particular situation, the General Council may apply any applicable laws of the State of California or the United States.

12. Enforcement. The provisions of this Ordinance shall be enforced by the Elem General Council and Elem Executive Committee.

13. Severability. If any portion of this Ordinance shall be found unconstitutional or otherwise invalid by a court of proper jurisdiction, all remaining provisions shall remain in effect and shall not be affected by the ruling on the invalid section.

14. Effective Date. This Ordinance shall become effective and enforceable on the date of approval and adoption by the Elem General Council.

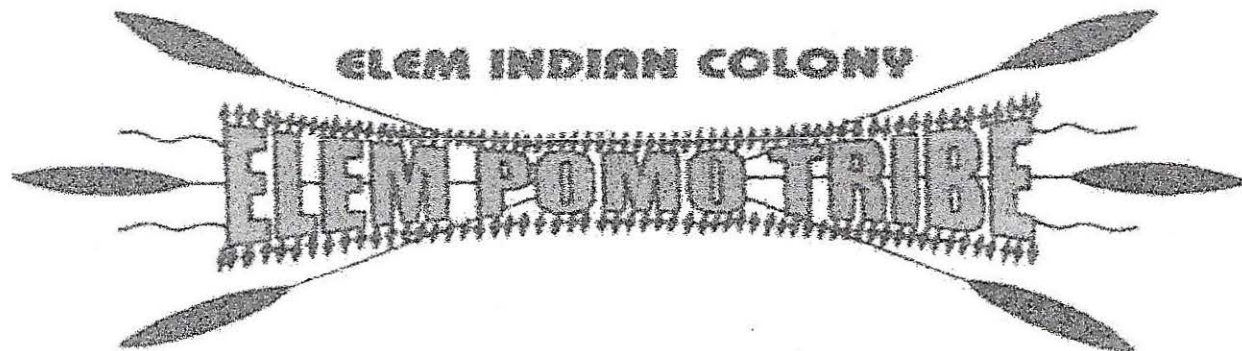
**BE IT ORDAINED BY THE GOVERNING BODY OF ELEM
INDIAN COLONY**

Ordinance Number GCORD08412 (AMENDED 05092015) passed at duly called and conducted Elem General Council meeting held May 9, 2015, at which a quorum was present (61) voting members constitute a quorum) (61) voting members participated) and passed this ordinance by a vote of: (55) in favor; (0) opposed; (5) abstaining (1) not voting.


Sarah Garcia, Secretary/Treasurer

Attest:


Agustin Garcia, Chairman



ELEM INDIAN COLONY
GENERAL COUNCIL RESOLUTION #GC80412

Delegation of Full General Council Power and Authority to the Elem Executive Committee

WHEREAS: Article III, Section 1 of the Tribe's Constitution provides that "the governing body of the Elem Indian Colony of Pomo Indians shall be the general council, which shall be composed of all qualified voters of the band;" and

WHEREAS: Article VII, Section I of the Tribe's Constitution states; "The general council of the Elem Indian Colony of Pomo shall exercise the following powers, subject to any limitations imposed by the statutes and Constitution of the United States;" and

WHEREAS; Article VII, Section 1 (h) of the Tribe's Constitution states; "To establish its own rules of procedure for the conduct of its affairs, and to delegate to the executive committee, or other representatives, any of the foregoing powers;" and

WHEREAS: Article VII, Section 1 (i) of the Tribe's Constitution states; "To take such actions as are necessary to carry into effect any of the foregoing powers;" and

WHEREAS: The Elem General Council recognizes that because it cannot act except at duly noticed meetings at which a quorum is present, and because such meetings are relatively infrequent, the General Council cannot effectively conduct tribal affairs, either internal or external; and

WHEREAS: The General Council understands that the Tribe faces numerous challenges and opportunities, and that dealing with those challenges and opportunities effectively often requires quick, decisive action that the General Council cannot, as a practical matter, carefully consider, decide and act upon,

THEREFORE BE IT RESOLVED BY THE ELEM GENERAL COUNCIL THAT:

1. The Elem General Council hereby delegates to the Executive Committee all of the General Council's powers set forth in Article VII, Section 1 of the Elem Constitution, except during any duly noticed General Council meeting at which a quorum is present; and

Resolution #GC80412

2. This Resolution shall remain in full effect until such time as it is rescinded by motion or resolution passed at a duly noticed General Council meeting at which a quorum is present.

Certification

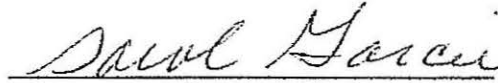
The foregoing was duly enacted by the Elem Indian Colony General Council at a meeting held on the 4th day of August, 2012 by the vote of 35 for and 16 against and 5 abstaining.



Nathan Brown, Chair
Elem Pomo Executive Committee

8/4/2012

Date



Sarah Garcia
Secretary/Treasurer

8/4/2012

Date

CERTIFIED MAIL NO. 7014 1820 0000 7175 0731
RETURN RECEIPT REQUESTED

Elem Indian Colony
Order of Disenrollment
Answer Required

Elem Indian Colony v. Ko-E-Ya John
Date: March 28, 2016

Pursuant to the Elem Indian Colony Disenfranchisement, Banishment, and Disenrollment Ordinance, a copy of which is provided with this Complaint, and to the powers delegated to the Elem Executive Committee by the General Council by Elem General Council Resolution #GC80412, you are hereby notified that:

1. Accusations: You are hereby accused of violating the laws of Elem in ways that were intended to or had the result of interfering with the ability of the Tribe, its elected officials, or the General Council to freely, fully, and honestly exercise the sovereignty of the Tribe in the best interest of the Tribe and its membership. Specifically, you are accused of the unlawful actions or failures to act listed in Exhibit A attached to this Complaint

2. Laws violated: Those actions violated the Constitution and Bylaws of the Tribe, the customs and traditions of Elem Indian Colony, and the laws of the State of California as set forth in Exhibit A.

3. Potential punishments: If you are found guilty by the General Council of these offenses against the Tribe, you may be punished by:

a. DISENROLLMENT - loss of membership

4. Right to Answer: You have a right to provide a timely written response (an "Answer") to this Complaint. That answer must admit or deny each accusation against you. Failure to deny an allegation against you will be treated as an admission that the allegation is correct. Your Answer must be either physically received by the Secretary-Treasurer within 35 days after the Secretary-Treasurer mailed the Complaint to you as indicated by the postmark on the letter you received, or mailed to the Secretary-Treasurer at the address provided below and postmarked within 35 days after the Secretary-Treasurer mailed the Complaint to you as indicated by the postmark on the letter you received.

Elem Secretary-Treasurer Sarah Garcia
Post Office Box 757
Lower Lake, CA 95457

5. Failure to Answer-Deemed Admission: If you do not deny the allegations of the Complaint by providing an Answer within the time frame described above, your failure to do so will be considered an admission that all of the allegations of the Complaint are true.

p. 1 of 6

Exhibit A Order To Disenroll
Against Ko-E-Ya John

NOTE: each of the offenses listed below includes the offense of conspiring with others to commit the specified offense.

You are charged with each of the offenses against Elem Indian Colony indicated below:

1. Failed to uphold the Constitution and Bylaws of Elem Indian Colony ("the Constitution") and tribal custom and tradition as required by your duties as an elected official of the Tribe;
2. Violated the Elem Constitution and Bylaws and tribal custom and tradition and the federal Indian Civil Rights Act by, among other things, depriving members of due process by punishing them for alleged insubordination and taking away their voting rights, allotments & federal program eligibility without valid General Council approval or any other authority under tribal law to do so;
3. Violated the Elem Constitution and Bylaws and tribal custom and tradition and the federal Indian Civil Rights Act by purportedly disenrolling tribal members without due process and for no legally recognized reason;
4. Violated the Elem Constitution and Bylaws and the federal Indian Civil Rights Act by withholding Revenue Sharing Trust Fund distributions from tribal members without due process and for no legal reason recognized under Tribal law;
5. Violated the Elem Constitution and Bylaws and tribal custom and tradition and the federal Indian Civil Rights Act by claiming that gatherings of tribal members were

Exhibit A Order to Disenroll

p. 2 of 6

valid tribal meetings despite failure to provide required notice or agenda, and despite lack of a quorum;

6. Violated the Elem Constitution and Bylaws and tribal custom and tradition, the federal Indian Civil Rights Act, and California and federal laws prohibiting fraud, theft and conversion by failing and refusing to turn over Elem Tribal property to the duly elected officers of the Tribe, resulting in financial loss to the Tribe and impairment of the Tribe's ability to conduct necessary self-governance business and inter-governmental affairs, including complying with federal grant requirements;
7. Violated the Elem Constitution and Bylaws and tribal custom and tradition, the federal Indian Civil Rights Act, and California and federal laws against fraud, bribery and corruption by, among other things, paying tribal members for their votes, or their attendance and participation at illegally called and conducted meetings, and for their acceptance of unlawful conduct in connection with tribal governance;
8. Violated the Elem Constitution and Bylaws and tribal custom and tradition by paying and giving unlawful authority to persons purporting to be tribal staff without required GC approval;
9. Violated the Elem Constitution and Bylaws and tribal custom and tradition and federal grant funding laws, regulations, and grant terms by failing and refusing to respond to grant compliance inquiries from HUD's Southwest Office of Native American Programs, costing the Tribe large amounts of money, other sanctions, and attorney's fees and costs;
10. Violated the Elem Constitution and Bylaws and tribal custom and tradition and

p. 3 of 6

committed fraud under federal and California law state and federal laws by falsely informing agencies that purportedly disenrolled tribal members and others received Revenue Sharing Trust Fund ("RSTF") distributions, which resulted in the unjustified punishment of those members or denial of payments or other benefits to which they were entitled;

11. Violated the Elem Constitution and Bylaws and tribal custom and tradition by spending Revenue Sharing Trust Fund money without General Council approval;
12. Violated the Elem Constitution and Bylaws and tribal custom and tradition and state and federal laws, including but not limited to some or all of sections 403 - 420.1 of the California Penal Code, rioting, by allowing and encouraging tribal members and non-tribal members to block roads on the Elem Rancheria, harass tribal members and others who had a right to be present on the Rancheria, and prevent access to the tribal community center;
13. Violated the Elem Constitution and Bylaws and tribal custom and tradition by harassing and terminating staff members for no reason;
14. Violated the Elem Constitution and Bylaws and tribal custom and tradition and state and federal laws by refusing to pay unemployment benefits to tribal members;
15. Violated the Elem Constitution and Bylaws and tribal custom and tradition and federal grant funding laws, regulations, and grant terms by failing and refusing to respond to grant compliance inquiries from the Bureau of Indian Affairs, delaying or otherwise harming PL 638 programs;
16. Violated the Elem Constitution and Bylaws and tribal custom and tradition and

p. 4 of 6

committed fraud under federal and California law by attempting to conceal and deprive legitimate tribal officials of access to tribal funds by depositing them to a third party bank account out of the control of the Tribal Secretary-Treasurer, thereby requiring litigation and the payment of attorney's fees and court costs to recover those funds;

17. Violated the Elem Constitution and Bylaws and tribal custom and tradition and committed fraud under federal and California law by receiving and keeping stipends which were not authorized by the General Council;

18. Violated the Elem Constitution and Bylaws and tribal custom and tradition and committed fraud under federal and California law by informing third parties that they had approved contracts with the Tribe despite lack of required approval by the General Council;

19. Violated the Elem Constitution and Bylaws and tribal custom and tradition and California criminal laws by allowing a person or persons who were neither the Tribal Chair nor the Tribal Secretary-Treasurer to sign checks spending tribal funds;

20. Violated the Elem Constitution and Bylaws and tribal custom and tradition, and the federal Indian Civil Rights Act, and committed fraud under federal and California law by unlawfully conducting a purported tribal election and representing to others, including but not limited to the United States, that the results of that unlawful election were valid and binding upon the Tribe and that the persons purportedly elected were officials of the Tribe;

21. Violated the Elem Constitution and Bylaws and tribal custom and tradition, and the

p. 5 of 6

federal Indian Civil Rights Act, and committed fraud under federal and California law by obligating the Tribe to large expenses, including; but not limited to IRS, unemployment tax, and utilities costs, and by doing so in the Tribe's name without General Council authority;

22. Violated the Elem Constitution and Bylaws and tribal custom and tradition, and the federal Indian Civil Rights Act by failing and refusing to follow the direction of General Council resolutions;
23. Violated the Elem Constitution and Bylaws and tribal custom and tradition by unlawfully causing the Tribe to incur court and attorney costs in order to help the Tribe recover from the unlawful actions described herein;
24. Violated the Elem Constitution and Bylaws and tribal custom and tradition by committing treason against the Tribe, consisting of the acts described herein, in that those acts betrayed the trust of the people of Elem and violated the duty of elected officials to maintain allegiance to, and act in the best interest of, the Tribe at all times;
25. Violated the Elem Constitution and Bylaws and tribal custom and tradition, the federal Indian Civil Rights Act, and California and federal laws against fraud and corruption by falsely claiming to be an officer, employee, or official of the Tribe;
26. Violated the Elem Constitution and Bylaws and tribal custom and tradition and California criminal laws by intentionally obstructing the Tribe's investigation and the investigation of California law enforcement officials into stolen office equipment and tribal records;

p. 6 of 6

27. Violated the Elem Constitution and Bylaws and tribal custom and tradition and California criminal laws by making false statements under oath regarding the disenrollment of members;
28. Violated the Elem Constitution and Bylaws and tribal custom and tradition and California criminal laws by false reporting to health and human service programs, resulting in unwarranted agency investigations of politically opposed tribal members;
29. Violated the Elem Constitution and Bylaws and tribal custom and tradition and California criminal laws by assault and harassment of members and their minor children living on the Rancheria, including but not limited to flattening tires, breaking windshields, yelling all night, beeping horns, playing loud music, speeding and driving recklessly on residential roads;
30. Violated the Elem Constitution and Bylaws and tribal custom and tradition and California criminal laws by purporting to authorize illegal dumping by non-members on the Rancheria and by collecting dumping fees from non-members and resident members without General Council authorization;
31. Violated the Elem Constitution and Bylaws and tribal custom and tradition and California criminal laws by committing fraud in that he/she used the Tribe's credit card for unauthorized purchases by forging the signature of the Elem Indian Colony official who was authorized to use that credit card;
32. Violated the Elem Constitution and Bylaws and tribal custom and tradition and California criminal laws by divulging without authorization the confidential personal information of tribal members to employers, creditors and service agencies with the malicious intent to harm those tribal members.

CONSTITUTION AND BYLAWS
FOR THE
ELEM INDIAN COLONY
of Pomo Indians
CLEARLAKE OAKS, CALIFORNIA

PREAMBLE

We, the Elem Indian Colony of Pomo Indians, to secure greater autonomy, and to promote our common welfare, do hereby adopt the following constitution and bylaws for the Elem Indian Colony of Pomo Indians of Clearlake Oaks, California

ARTICLE I - TERRITORY

The jurisdiction of the Elem Indian Colony of Pomo Indians shall extend to the territory within the present confines of the Elem Indian Colony and to such other lands as may hereafter be added thereto.

ARTICLE II - MEMBERSHIP

The membership of the Elem Indian Colony of Pomo Indians shall consist of:

Section 1. Persons listed on the basic membership roll established pursuant to the enrollment ordinance adopted by the general council on January 29, 1972.

Section 2. Descendants of persons on the basic membership roll, provided such descendants possess at least 1/8 degree Indian blood, and have at least one parent who is an enrolled member of the colony.

Section 3. Persons who otherwise meet the requirements for membership as established by the above mentioned enrollment ordinance shall be ineligible for membership if they:

- (a) are enrolled as members of another tribe or band;
- (b) have received an allotment or formal assignment of land with another tribe or band;
- (c) appear on a distribution plan of another tribe or band, prepared pursuant to the Amended Rancheria Act.
- (d) have relinquished, in writing, their membership in the Elem Indian Colony of Pomo Indians.

Section 4. The council shall have power to prescribe rules and regulations. Subject to the approval of the Secretary of the Interior, covering future membership including adoption and loss of membership.

ARTICLE III - GOVERNING BODY

Section 1. The governing body of the Elem Indian Colony of Pomo Indians shall be the general council, which shall be composed of all qualified voters of the band.

Section 2. All members of the Elem Indian Colony of Pomo Indians who are 18 years of age or older are qualified voters.

Section 3. The general council shall elect from its members by secret ballot an executive committee consisting of a chairman, vice-chairman, secretary-treasurer, and two committee members, who shall hold office for two years, or until their successors are duly elected, as well as such other committees as may be deemed necessary. Duties of the two committee members will be as assigned by the general council and the chairman.

ARTICLE IV - MEETINGS

Section 1. The general council shall regularly convene at times and places as are prescribed by the executive committee.

Section 2. The executive committee shall call special meetings promptly upon receipt of petitions signed by at least thirty percent (30%) of the qualified voters requesting such meetings. ~~Forty-five percent (45%)~~ of the qualified voters of the band constitutes a quorum at meetings of the general council. Notices of all general council meetings shall be given in writing at least fifteen (15) days in advance of the meetings.

Section 3. Special meetings of the executive committee may be called by the chairman or the secretary-treasurer when deemed necessary. Three members of the executive committee shall constitute a quorum for the conduct of its business.

ARTICLE V - ELECTIONS

Section 1. First Election: Within 60 days following the effective date of this constitution and bylaws, the chairman of the general council shall call and hold a meeting of the general council for the purpose of electing the following officers who shall constitute the executive committee: chairman, vice-chairman, secretary-treasurer, and two committee members.

Section 2. Regular Elections: Beginning in 1974, the election of officers shall be conducted during November of each even numbered year and all officers shall be elected for two (2) year terms, or until their successors are duly elected and installed.

Section 3. Nominations of candidates shall occur at the November meeting of the general council as provided in Section 2, Article V. Nominations shall be from the floor. Any member, who is at least 18 years of age or older, may be a candidate for office.

ARTICLE VI - VACANCIES, REMOVAL AND RECALL

Section 1. Vacancies. If any elective official shall die, resign, or shall be found guilty while in office of a felony in any State, or Federal court, the executive committee shall declare the position vacant and call a special election to fill such vacancy. The candidate receiving the highest number of votes shall be elected and shall serve out the unexpired term.

Section 2. Recall. Upon receipt by the executive committee of a valid petition, signed by at least thirty percent (30%) of the qualified voters calling for the recall of an elected officer, the executive committee shall call and conduct within thirty (30) days a recall election. A majority of those who participate in such election must favor recall in order for it to become effective, provided those who vote constitute at least fifty-one percent (51%) of the qualified voters.

Should the recall be successful, the vacancy shall be filled as provided in Section 1 of this article. Further details needed to carry out the intent of this article may be set forth in the band's election ordinance.

ARTICLE VII - POWERS OF THE GOVERNING BODY

Section 1. The general council of the Elem Indian Colony of Pomo shall exercise the following powers, subject to any limitations imposed by the statutes and Constitution of the United States:

- (a) To negotiate with Federal , state and local governments.
- (b) To retain legal counsel, the choice of a fee-charging attorney being subject to approval of the Secretary of the Interior or his authorized representative.
- (c) To veto any proposed sale, disposition, lease or encumbrance of tribal lands, interest in lands, or other tribal assets of the band.
- (d) To advise the Secretary of the Interior with regard to all appropriation estimates for federal projects for the benefit of the Elem Indian Colony of Pomo Indians prior to the submission of such estimates to the Bureau of the Budget and to Congress.

(e) To manage, lease, contract, or otherwise deal with tribally owned assets.

(f) To establish fees, receive funds, and expend any such funds which may come into the exclusive control of the Elem Indian Colony of Pomo Indians for the payment of its expenses or to finance any project which is for the benefit of the band as a whole.

(g) To promulgate and enforce ordinances, consistent with this constitution and bylaws and federal law, governing initial and future enrollment for membership, loss of membership, adoption of members; the use of tribal land and assets; the conduct of elections; the manner of making, holding and revoking assignments of tribal land or interests therein; the licensing of non-members coming on the rancheria for purposes of hunting, fishing, trading or other business; and all other necessary ordinances.

(h) To establish its own rules of procedure for the conduct of its affairs, and to delegate to the executive committee, or other representatives, any of the foregoing powers.

(i) To take such actions as are necessary to carry into effect any of the foregoing powers.

(j) To establish such housing and other authorities as are necessary to promote the welfare of the band.

Section 2. The executive committee shall have the following powers, but shall not commit the Elem Indian Colony to any contract, lease, or other transaction unless it is so authorized in advance by a duly enacted ordinance or resolution of the general council.

(a) Carry out all ordinances, resolutions, or other enactments of the general council

(b) Represent the Elem Indian Colony in all negotiations with federal, state and local governments, their agencies and officers, and advise the general council of the results of all such negotiations.

Section 3. Any rights or powers heretofore vested in the Elem Indian Colony of Pomo Indians, but not expressly referred to in this constitution, shall not be abridged by this article.

ARTICLE VIII - BILL OF RIGHTS

The protections guaranteed to persons by Title II of the Civil Rights Act of 1968 (82 Stat. 77), against actions of a tribe in exercising its powers of self-government, shall apply to the Elem Indian Colony of Pomo Indians.

ARTICLE IX - AMENDMENTS

Section 1. This constitution and bylaws may be amended by a majority vote of the qualified voters who are eighteen (18) years of age or over at an election authorized for that purpose by the Secretary of the Interior, provided at least thirty percent (30%) of those entitled to vote shall vote in such election, but no amendment shall become effective until it shall have been approved by the Secretary of the Interior.

Section 2. Amendments may be proposed by the executive committee or by a petition signed by at least thirty percent (30%) of the qualified voters of the Elem Indian Colony of Pomo Indians. An amendment will be submitted to the Secretary of the Interior, who shall thereupon call an election upon the proposed language, only after the amendment has been discussed and approved at a meeting of the general council.

BYLAWS FOR THE ELEM INDIAN COLONY OF POMO INDIANS
CLEARLAKE OAKS, CALIFORNIA

ARTICLE I - DUTIES OF THE CHAIRMAN

It shall be the duty of the chairman to preside at all meetings of the general council and the executive committee; to execute on behalf of the Elem Indian Colony all contracts, leases, or other documents when authorized to do so by the general council, and to certify the enactment of all written resolutions and ordinances. He shall have the general supervision of all other officers, committees, and employees, and shall see that their duties are properly performed. When neither the general council nor the executive committee are in session, he shall be the official representative of the Elem Indian Colony. The chairman may vote in elections for officers and elections called by the Secretary of the Interior, but he shall not vote when presiding at meetings, except to break a tie vote.

ARTICLE II - DUTIES OF THE VICE-CHAIRMAN

It shall be the duty of the vice-chairman to assist the chairman in the performance of his duties and in the absence of the chairman to perform the duties of the chairman.

ARTICLE III - DUTIES OF THE SECRETARY-TREASURER

It shall be the duty of the secretary-treasurer to keep the minutes of the general council meetings and a record of the executive committee meetings; to attest to the enactment of all written resolutions and ordinances; to send out all required notices; and to receive on behalf of the executive committee all petitions. The secretary-treasurer shall have the care and custody of all the funds, liquid assets or other valuables of the Elem Indian Colony; shall deposit all funds in a depository which has been approved by the general council; shall disburse funds only as authorized by resolution of the general council by checks which are co-signed by the chairman; and shall maintain financial accounts, receipts and records. The financial records of the Elem Indian Colony shall be subject to inspection or audit at the direction of the general council or the Bureau of Indian Affairs. The secretary-treasurer shall report all receipts and disbursements at each regular meeting of the general council. Whenever the general council deems it necessary, the secretary-treasurer shall be bonded to the Elem Indian Colony, with bond premiums payable from the tribal funds. The secretary-treasurer will send copies of all minutes of meetings, ordinances and written resolutions to the Superintendent, Central California Agency, Bureau of Indian Affairs, after approval by the general council.

ARTICLE IV - EFFECTIVE DATE

This constitution and bylaws, when adopted by a majority vote of the qualified voters, voting at an election authorized for that purpose by the Secretary of the Interior, provided that at least thirty percent (30%) of those entitled to vote shall vote in such election, shall be submitted to the Secretary of the Interior for approval, and, if approved, shall be effective from the date of such approval.

APPROVAL

(sgd) William L. Rogers

Deputy Assistant

I, _____, _____ Secretary of the

Interior of the United States of America, by virtue of the
authority granted to me by the Act of June 18, 1934 (48 Stat. 984),
as amended, do hereby approve the attached Constitution and Bylaws
for the Elem Indian Colony of Pomo Indians of Clearlake Oaks,
California.

Approval Recommended:

(sgd) Raymond V. Butler

Acting Director, Office of
Community Services

(sgd) William L. Rogers

Deputy Assistant

Secretary of the Interior

Washington, D. C.

Date: APR - 2 1973



UNITED STATES
DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS
Sacramento Area Office
2800 Cottage Way
Sacramento, California 95825

REPLY REFER TO:

al Operations
2 Elem Indian Colony

MAY 18 1977

Mr. Richard H. Burcell

Superintendent, Central California Agency

Dear Mr. Burcell:

We have received the results of the election held on April 16, 1977, by the registered voters of the Elem Indian Colony. The election was called in accordance with an order approved on February 11, 1977, which permitted the registered voters of the band to adopt or reject a proposed amendment to their Constitution and Bylaws.

As evidenced by the Certification of Results of Election, signed by the members of the Election Board, the proposed amendment was duly adopted by the voters.

Amendment I to the Constitution and Bylaws for the Elem Indian Colony of Pomo Indians of California is hereby approved and returned for delivery to the colony.

Sincerely yours,

William E. Fernald
Area Director

Enclosure

CERTIFICATE OF RESULTS OF ELECTION

Pursuant to an election authorized by the Area Director, Sacramento Area Office on February 11, 1977, the attachment Amendment I to the Constitution and Bylaws for the Elem Indian Colony of Pomo Indians, Clearlake Oaks, California was submitted to the qualified voters of the general council and was on April 16, 1977, duly adopted/~~rejected~~ by a vote of 17 "for", and 3 "against", in an election in which at least thirty percent (30%) of the 24 number entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 738).

Paul L. Haggerty, Jr.
Chairman, Election Board

Robert D. Thomas
Election Board Member

Raymond Brown
Election Board Member

AMENDMENT
CONSTITUTION AND BYLAWS
OF THE
ELEM INDIAN COLONY OF POMO INDIANS
CLEARLAKE OAKS, CALIFORNIA

AMENDMENT I

Line 2, Section 2, Article IV - MEETINGS - shall be amended to
read as follows:

Forty-five percent (45%) of the qualified voters
of the band constitutes a quorum at meetings of
the general council.

Monday, April 4, 2016 at 11:04:46 AM Central Daylight Time

Subject: Re: Disenrollment Yesterday

Date: Monday, April 4, 2016 at 10:51:47 AM Central Daylight Time

From: Burdick, Troy

To: Little Fawn Boland

CC: Carol Rogers-Davis, Harley Long

Ms. Boland,

In response to your question regarding Bureau approval of this ordinance; we have no evidence that it has been submitted to this office for review and approval.

On Fri, Apr 1, 2016 at 4:37 PM, Little Fawn Boland <littlefawn@ceibalegal.com> wrote:

Dear Superintendent and Harley:

Thank you for each speaking with me today.

As I mentioned, yesterday the Elem Executive Committee sent out disenrollment notices to a significant amount of members of the Tribe.

The attached "disenrollment ordinance" is the basis of the notice. Was the attached ordinance approved by either of your offices?

I ask because the Elem Constitution at Article II, Section 4 states that any rules established regarding membership must be approved by the Secretary of the Interior including rules related to the "loss of membership."

Thank you so much for taking the time to take a look at this.

Thank you,

Little Fawn Boland, Partner
Ceiba Legal, LLP
Office: (415) 684-7670 x101
Mobile: (415) 939-7797
Facsimile: (415) 684-7273

CONFIDENTIAL COMMUNICATION: THIS MESSAGE IS A CONFIDENTIAL ATTORNEY COMMUNICATION ONLY FOR USE BY THE INTENDED RECIPIENT. ANY INADVERTENT RECEIPT SHALL NOT CONSTITUTE A WAIVER OF ATTORNEY-CLIENT OR WORK PRODUCT PROTECTION. IF RECEIVED IN ERROR, PLEASE NOTIFY SENDER IMMEDIATELY AND DELETE THIS MESSAGE. THANK YOU FOR YOUR COOPERATION.

--

Troy Burdick
Superintendent, Central California Agency
Bureau of Indian Affairs
U. S. Department of the Interior
650 Capitol Mall, Suite 8-500
Sacramento, CA 95814

Voice: (916) 930-3774

Fax: (918) 930-3780

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The White House

Office of the Press Secretary

For Immediate Release

October 30, 2015

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Presidential Proclamation -- National Native American Heritage Month, 2015

NATIONAL NATIVE AMERICAN HERITAGE MONTH, 2015

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

American Indians and Alaska Natives enrich every aspect of our country. As the first to live on this land, Native Americans and their traditions and values inspired -- and continue to inspire -- the ideals of self-governance and determination that are the framework of our Nation. This month, we recognize the contributions made by Native Americans since long before our founding, and we resolve to continue the work of strengthening government-to-government ties with tribal nations and expanding possibility for all.

Native Americans have helped make America what it is today. As we

Purchased Referred Care Program Updates

posted Jul 12, 2015, 10:59 AM by Elem Pomo [updated Dec 2, 2015, 9:29 AM by Receptionist Elem]

As of December 3, 2015 we are changing the policy on how drugs will be approved and charged to the tribal account of Elem. All prescriptions (in particular drugs) must be approved by the Purchased Referred Care Program before being filled at Moran's Pharmacy. We now have a stamp to approve each Rx pre: to the PRC; we believe this will streamline thus improve the delivery of approved pharmacy drugs to our citizens while keeping costs within budget limits.

Should you have any questions, please contact myself at (707) 994-3400 Ext. 1006 or my assistant Phaedra Phelps Ext. 1005
Sarah B. Garcia, PRC Officer

Elem Pomo Nation Dancers Cultural Schedule 2015

posted Jun 9, 2015, 12:55 PM by Elem Pomo [updated Dec 16, 2015, 10:54 AM]

See a detailed list of up coming events/dances [here](#)

Note:

Amended Disenfranchisement Ordinance

posted Feb 10, 2015, 11:07 AM by Elem Pomo [updated Feb 10, 2015, 11:09 AM]

Please note date.

Amended Disenfranchisement Ordinance now available to view.
Any questions, please contact Council.

Attachments: [Dis Ordinance.pdf](#)

Assistance applications available online

posted Jun 10, 2014, 10:47 AM by Elem Pomo [updated Mar 13, 2015, 1:54 PM]



April 13, 2016

Dear Member,

Due to the recent mailing of notices to disenfranchise/disenroll specific members, there has been a considerable amount of hostility via social media, the local news, and radio. The disgruntled members are planning to attend the General Council meetings in a protest against the recent actions. Therefore, the Executive Committee recommends canceling both the May and the August GC meetings for safety concerns to prevent violence. However, we would like your feedback regarding these meetings. Please mark yes or no on the enclosed, pre-stamped card to indicate if you think we should cancel the May and August GC meetings, and return to the Tribal Office before May 1, 2016.

Respectfully,

The Executive Committee

May & August

Please check one and return

Yes ☐ No ☐

(Please print name)

The seal of the Blackfoot Indian Tribe is located in the top right corner of the card. It features a central circular emblem with a sunburst design, surrounded by a ring of feathers. The text "Blackfoot Indian Tribe" is written in a circular path around the central emblem, and the year "1872" is inscribed in the center of the sunburst.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Brown, Rose; John Sr., Adrian; Morinda, Barbara; Brown, Batsulwin; Sloan, Bonnie; Sloan, Carrie; Brown, Cecil; Mota Jr., Cliff; Brown, David; Brown, Elvina; Sloan, Ermadina; Johnson, Geraldine; Brown III, James P

(b) County of Residence of First Listed Plaintiff Lake County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Little Fawn Boland, Ceiba Legal, LLP, 35 Madrone Park Circle, Mill Valley, CA 94941, 415-684-7670 x101

DEFENDANTS

Brown, Stephanie, Garcia, Agustin, Garcia, Sarah, John, Leora and Brown II, Nathan M.

County of Residence of First Listed Defendant Lake County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Les Marston, Rapport & Marston, 405 W Perkins St, Ukiah, CA 95482 (707) 972-5310 and Jack Duran, Duran Law Office, 4010 Foothills Blvd, Roseville, CA 95747 (916) 779-3316

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
25 U.S.C. § 1303

Brief description of cause:

Petitioners hereby petition the Court for a Writ of Habeas Corpus pursuant to the Indian Civil Rights Act.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

04/29/2016

Little Fawn Boland

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only)

☐ SAN FRANCISCO/OAKLAND ☐ SAN JOSE ☒ EUREKA