

THE NAVAJO NATION,)	
)	
)	Nos. WR-CR-758-13
Plaintiff,)	
v.)	PETITION FOR LENIENCY
)	
JOHNNY NAIZE,)	
)	
Defendant.)	
)	
)	

COMES NOW, Defendant, Johnny Naize, by and through his undersigned counsel, respectfully submits to the Court this Petition for Leniency to be considered at the sentencing hearing to take place on August 24, 2016.

In his Statement, Mr. Naize chronicles his journey from growing up herding sheep in Black Mountain – rooted in *Diné* culture, values and beliefs in a traditional household – to boarding school and college, his early career, and raising a family. After entering public service at the chapter level, Mr. Naize served for 16 years as an elected Delegate of the Navajo Nation Council, culminating with his fellow Delegates selecting him as its Speaker. As Speaker, Mr. Naize ended the Council’s longstanding practice of systematically abusing the Discretionary Fund (“Fund”). Yet as Mr. Naize told the Court when pleading guilty nearly two years ago, this

was after he and many other Delegates had contrived to steer a portion of the Fund toward their own immediate relatives, instead of allocating monies from the Fund on a non-discriminatory basis to *Diné* individuals and families.

Most of Mr. Naize's Statement is devoted to his life since September 2014, when he entered his plea and resigned from the Council: "The trust that I had gained from my people over the many years that I served them had suddenly turned to ash overnight. I saw my dignity lost forever." (Statement, p. 3).

From his Sentencing Hearing onward, Mr. Naize has consistently acknowledged that his actions have damaged proper kinship relations with the People (*K'é*), and that *hóch'xq* lingers, including in the form of public mistrust of the Council. As a private citizen, shunned and avoided by others and struggling financially, Mr. Naize is constantly reminded of the traditional teaching, emphasized by the Navajo Supreme Court, that "[i]f a *naa'táá'nii* lost the trust of his people, the people simply ceased to follow him or even listen to his words. The *naa'táá'nii* indeed was expected to be honest, faithful and truthful in dealing with his people." *In re Certified Questions II, Navajo Nation v. MacDonald, Sr.*, 6 Nav. Rptr. 105, 117 (Nav. Sup. Ct. 1989).

The *MacDonald* cases recognize a bedrock principle of *Diné* Fundamental Law that the authority of a *naa'táá'nii* comes only from the trust the People have placed in him or her. Historically, leaders were selected by consensus and served only as long as they held the People's confidence. Out of respect for this principle and this Court, Mr. Naize left public life entirely and, while assisting the Special Prosecutor in its continuing investigation, started

working to regain the trust of his family, clan relations, and the community. He began volunteering at the Chapter level and with the grazing committees, as he did as a much younger man.

Mr. Naize's focus today, as his Statement concludes, is not just to model traditional values, but live them. Mr. Naize has come to sincerely believe and understand, through great personal and financial hardship, that as *Diné* the only appropriate way forward for him and his family is to trust in the Holy People and beg their leave, *Baa' Ni'jookqah*. See *Judy v. White*, 8 Nav. Rptr. 510, 541-42 (Nav. Sup. Ct. 2004) (noting the critical importance of humility through service in effective leadership as a *naa'táá'ni*).

Undersigned counsel, who has been privileged to represent Mr. Naize on his walk for well over two years on a *pro bono* basis, respectfully submits that Mr. Naize poses no danger whatsoever to himself or the community. He has cooperated fully with the investigation whenever asked, as has his wife, Barbara. Mr. Naize pled guilty, accepted responsibility before the Court, and resigned from public life. He has maintained public silence until now. His financial and emotional distress has been keen, and taken a toll on his immediate family. Mr. Naize has visibly aged in the nearly two years since his plea hearing. Yet as he explains in his Statement, this entire process has also unexpectedly sparked hope and a sense of perspective in the former Speaker. It has given him time to reflect on what it really means to be a *naa'táá'ni*, and he is living accordingly – humbly and reverently, animated by his great love of the Navajo people he served for decades, and his faith in the Holy People.

While not himself *Diné*, it is the conclusion of undersigned counsel, a former Federal prosecutor who has prosecuted hundreds of criminal defendants, and who regularly participates in traditional *Diné* ceremonies, that *k'óódóó hózhq' dóóleel*. Leniency is warranted for Mr. Naize, a man who has given much and who still has much more he can and will contribute to his family, community and the Navajo people.

WHEREFORE, Defendant respectfully prays for leniency from this Court as follows:

1. **No Incarceration:** The Office of the Special Prosecutor (“Special Prosecutor”) has confirmed, by email dated and received by undersigned counsel today, that the Special Prosecutor plans to recommend that Defendant receive probation in light of Defendant’s substantial assistance to its investigation. This is consistent with the terms and conditions of the Order Accepting Plea and Disposition Agreement, dated September 30, 2014 (“Agreement”), at pp 5-6, attached hereto as **EXHIBIT B**. Incarceration is not warranted, and would be manifestly unjust, in light of the Agreement, the terms and conditions of which Defendant has fully honored.

2. **Restitution:** Pursuant to the Agreement, “At sentencing, the Navajo Nation may request restitution be paid to the Navajo Nation, as a condition of probation, depending on the substantial assistance provided by Defendant Naize, and Defendant Naize’s ability to pay.” Agreement, p. 6. The parties to the Agreement have not yet agreed on the amount of restitution, but the Special Prosecutor has indicated that its recommendation is forthcoming and will be discussed with Defendant. Defendant is compiling financial information relating to his

ability to pay in preparation for his scheduled interview on Aug. 2, 2016 with the Window Rock District Court's Probation Office.

In determining the appropriate amount of restitution, Defendant respectfully requests that the Court consider the substantial financial hardship he and his immediate family have already experienced in the nearly two years since he and the Special Prosecutor signed the Agreement. As detailed in his Statement of Personal Responsibility, the passage of so much time since entering his plea has adversely affected Defendant's ability to pay. In part because of this delay, Defendant has had no choice but to draw down on his retirement and personal savings while awaiting sentencing. We ask the Court to take this into account in determining how much restitution is proper, along with Defendant's substantial assistance to the investigation and the public service Defendant has already voluntarily undertaken in his community.

RESPECTFULLY SUBMITTED this 28th day of July, 2016.

By: 

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was emailed this 28th day of July, 2016
to:

*Special Prosecutor
For the Navajo Nation*

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Gina Spruitenburg, Legal Secretary

EXHIBIT A

Statement of Personal Responsibility

By Johnny Naize

July 13, 2016

HISTORY:

I was born in Ganado, Arizona in 1954 and raised in Black Mountain, Arizona by my paternal grandmother. My clans are *Tł'ááshchí'í* (Red Bottom people), born for *Tsé Njíkini* (Cliff Dwelling people), my maternal grandfather's clan is *Kinyaa'áanii* (Towering House people) and my paternal grandfather's clan is *Tódich'íi'nii* (Bitter Water people). My father was the late Reid F. Naize. He was a well-known Medicine man. My mother was the late Elizabeth Naize. We are the only family with the name Naize. It is clearly recognizable in the community. I was raised in a traditional family setting. I was taught to rise at dawn and meet the Holy People. I was taught to speak with them and prepare for the day throughout the months of cold and hot seasons. This was an important part of growing up as a *Diné*. I did my share of chores and herding sheep.

EDUCATION:

I attended Chinle BIA Boarding School because my parents could not afford to feed us. We ate well and slept in a real bed at the school dormitory. When I reached high school, I was placed in a Catholic School in Santa Fe, NM. I found it to be a strict and a disciplined setting. I returned to Chinle, Arizona after my family experienced a need for my help to sustain the family. After I graduated from Chinle High School in 1973, I went on to Northern Arizona University for two years. My interest was Civil Engineering and did well in my classes. I did not complete my degree but I managed to take additional courses as I worked for Peabody Coal Company.

CAREER:

I was the Crew Chief on the survey team for eleven years until I was laid off due to a huge reduction in force. I was fortunate to gain employment again with the Navajo Land Department in 1986. I managed the Chinle Land Office Administration for five years where I worked with the local Grazing Officials in processing Home Site Leases. During that time, I was elected into office as a Chapter Secretary/Treasurer for Cottonwood Chapter and later became the Vice President and held that office for ten years. While in that position, I was employed with the Division of Community Development as the Director for Federal grants program. Through that position, we built homes for low income families and built homes in the previously known area as JUA, Joint Use Area. During my second marriage, my wife asked for a divorce. I went through a difficult time without my son. I missed my son terribly and time never made up for the days he was absent from my life. I had to keep going forward. The Federal grants program ended and I was unemployed again after six years with the Navajo Nation. My father passed on and my clan father Billy Nez encouraged me to run for a delegate position with the Navajo Nation Council.

NAVAJO NATION COUNCIL:

We won the election in 1998 and I began my 16 years with the council. During my first term in 1999, I learned of the Discretionary Fund. At that time, I felt that only the elders were to be assisted and I provided the request forms to the Senior Centers of Nazlini Chapter and Cottonwood Chapter. They filled in the request form and I delivered them to the Office of the Speaker for processing. It was not until 2005/2006 that I learned about the Navajo Nation Council members exchanging funds for their relatives and children. I became involved and the Council continued funding the discretionary account time after time. When the previous President, Joe Shirley, was accused of awarding a contract without the proper required processing, the council hired an investigation firm to look into the matter. The council received and heard the investigation report and immediately put President Joe Shirley on leave.

At that time, the Navajo Times wrote an article about the discretionary misuse. In response, the Attorney General Louis Denetsosie added his request to have the Council investigated for alleged misuse of discretionary funds. The investigation began and the initial list of names of Council Delegates was released and then a second list of names was released later. It was not until the release of the third list that I was named to have collaborated with Raymond Joe. At which time, I was serving as the Speaker of the 22nd Navajo Nation Council. Thereafter, the Council initiated the first legislation for my removal from office. The attempt failed because it needed 2/3 votes or 16 votes out of 24. After I was indicted, the second legislation was initiated for my removal as Speaker. It failed again, but the council amended the legislation to place me on leave. The legislation did not require a 2/3 votes, but unfortunately, there was no language in Title II addressing the placement of the speaker on leave. It only applied to the President. I pleaded "not guilty" to the charges and, finally in October 2014, I changed my plea to "guilty" to the charges and accepted the agreement with the Special Prosecutors. My guilty plea immediately placed the council in dilemma as more names of former delegates appeared in the media as abusers of the discretionary funds. The people of the Navajo Nation responded to the Council in disarray. The public immediately began criticizing and down grading the Council. With each daily paper, we were in the headlines as the abusers of public office, the self-indulgent leaders, and greedy delegates and so on. We even made the national headlines as putting the Navajo Nation in disgrace. I resigned from the position of Speaker of the Navajo Nation Council in September 2014.

AFTER MY RESIGNATION:

With the name "Naize," it was very recognizable because people knew me, people knew us, and people knew my family and my children. Almost every one of my brothers, my sisters, my nieces, my nephews, and my clan relatives were immediately chastised and subjected to endless criticism. We all became thieves in their eyes, in their conversations, and in their judgments. We were thieves who stole from the elderly, from the homeless, from the children, and from the people who needed food, housing,

water and electricity. The trust that I had gained from my people over the many years that I served them had suddenly turned to ash overnight. I saw my dignity lost forever. My distress was worsened due to the loss of respect and trust from the communities and the officials of all the 110 chapters. In addition to that, I lost the respect of the State Representatives and the Senators, the Congressional Officials, the County Officials and the Federal representatives. These honorable individuals who have shown their respect for me and have become personal friends with me and my wife and our children were now distant from us. To this day, I haven't decided how I will face them again.

REFUGE:

We returned to Rock Springs, New Mexico. We re-established our home life. We were once again paying utility bills, gas bills, car payments and house payments. We drained our account within a few months. My last payroll check was placed on hold and my business related reimbursement check was misplaced and eventually applied to ominous deductions through a rushed audit. We never received one cent from it. My deferred compensation was placed on hold. We needed to earn an income somehow but with the headlines still looming over our head; there was no possibility of re-employment with the Nation or anywhere else. Putting the name "Naize" on a job application couldn't possibly garner employment for us. We relied on our friends who never gave up on us and our relatives who gave without asking for re-payment. This kind of charity does not last forever. We became a burden to some of them until they avoided us altogether. My eldest sister and her daughter, my niece, shared their monthly stipend from SSI. They helped us by sharing their commodity food and a little bit of money.

SEPARATION:

My wife left for Flagstaff, Arizona in November 2014 to seek employment, a place where Naize was an anonymous name. It was her way to escape the ridicule back home. I stayed behind in Rock Springs to take care of the house. We separated for seven months. She lived with her son and his

family and slept on their couch and rode the bus to work. Even though she has a college degree, her part time stocking job earned her a meager \$200 every two weeks. That was just enough to contribute for food, bus money and support for our daughter whom we had placed in a boarding school. Our daughter was also dealing with the effects of the loss of an income and the re-adjustment to a "normal" life at the age of 14. During these times, I learned to live in disguise. Nothing seemed normal about our lives. Even my wife hesitated to use my last name. Each of us suffered silently. During most of my quiet times, I was burdened with the thought of what penalties would be imposed on me.

I made it through the cold winter months with electric heaters, a cat, two dogs and a huge utility bill. We pawned most of our silver and turquoise jewelry to pay the minimum amount of outstanding bills and a little bit of food. We missed vehicle payments. Our daughter was homesick at an unfamiliar school far away. We were all separated from each other. I am certain that our daughter was ashamed of our circumstance. She didn't do very well in school during her first semester. She made low grades and we were later informed that she was in trouble at school. She was caught sharing prohibited drugs at school. My wife and I were in contact less and less as our daughter was slipping away. We tried to believe that this would soon pass and things would get better and that we would be a family living together again but things remained the same, difficult. We had to convince her that this would pass. Our daughter hung on by a delicate thread as she served her probation. One day, I decided to request for some money from my deferred compensation. I thought surely they can spare us some of "our" money. We finally received \$7,000 dollars (after taxes) from my deferred comp in the spring of 2015. We paid over \$2,500 dollars for accumulated fees on our pawns. Some of them were seriously overdue. I have never been so thankful to my Attorneys and the Special Prosecutors before this day for their willingness and understanding to work with us. They assisted us in the processing of our request and submitting it to the court for approval. My wife came home in May and our daughter finished the school year satisfactorily. But life still presented different challenges. My wife was again searching for

a job close to home, our daughter was stabilizing and I was trying to recompose myself but I was happy to have my family back with me. My time alone had presented some time for some serious spiritual meditation and reflection, something I hadn't done over the years in office.

RETIREMENT:

I decided to officially retire from the Navajo Nation in July 2015 and little did I know I was already considered retired when I resigned from the Nation in September 2014. It was a blessing to be informed of a retroactive payment of 10 months; we received retroactive payment of \$21,000. I began receiving my monthly retirement check on August 2015.

COMMUNITY SERVICES:

I was beginning to feel better and able to help others. Little by little, I was back in touch with my people from home. I started receiving invitations to traditional weddings, traditional healing ceremonies, *Nidáá'* ceremonies, and youth-related events. I reached out to my former Chapters: Tselani/Cottonwood, Blue Gap and Nazlini in assisting with their SAS processing of Chapter material, legislation processes, budgets, funding, and to review various resolutions for them. I continued my visits to the chapters and reconnected with other chapter officials. I also received calls from delegates regarding issues on the following:

*Ft. Wingate Land Division with Zuni Tribe; we were attempting to reclaim our original land when the Military took the land from us.

*Water Rights in AZ, NM and Utah; It was the Nation that lost its opportunity when the council rejected the negotiated water rights when members listened more to certain environmental groups.

*Leases for NGS and Four Corner Plant; the power plants were now subject to new policy on emission of sulfuric acid.

After a year of waiting for my sentencing hearing, my Attorney filed for me an unopposed motion to the court to amend the agreement and condition of Release. I also requested for another withdrawal from my deferred comp and to begin community service. The motion was approved by Judge Perry. I began my regular participation in the development of Rock Springs Chapter's comprehensive Land Use Plan and started my attendance to their regular monthly Community Land Use Planning Committee meetings. I have been assisting in the planning stages of their Chapter Conservation Plan to be submitted to the Bureau of Indian Affairs, Eastern Navajo Agency. These plans are ongoing and I will continue to assist Rock Springs Chapter and my former chapters back in Arizona. I also assisted in the Summer Students' Appreciation event at which I addressed the students about endless opportunities they have and to continue their education. The Rock Springs Chapter had a community cleanup day in April 2016 and I was happy to join the volunteers for three days.

I continue to address the crowd with wellness living and teach the importance of retaining our traditions and holding on to our language. In addition to attending these gatherings, I also participate in purification and protection ceremonies sponsored by my family for my benefit. Through these activities, I realized the magnitude of my wrongs, and I have seriously sought forgiveness from the Holy People. My thoughts were made clearer as I forgave others who have judged me wrong and I'm learning not to judge others. Those things that I cannot change, I leave those to the Holy People. The new changes in my life have allowed me to focus on the needs of others and there are many who are in great need.

HEALING AND REFLECTIONS:

Often times, I am reminded of my grandmother's teaching, always check on the elderly people, who are by themselves, see if they need something. My father also believed in doing, at least, one good deed each day. He also taught us to respect our mother earth and our father sun because they know

each of us by our unique hair spiral on top of our heads and our individual foot prints upon the earth. We are all unique and special to them.

I realized that my fall from grace as the Nation's highest ranking official to the bottomless pit of darkness and hopelessness was not only because of the charges of misdeeds but it was also spiritually necessary. I still have the experience and knowledge of that path that leads to success and greatness but I am learning that the path to greatness has to be coupled with humbleness, dignity and faith in our God. It's a delicate but an important balance. Even though my life was shattered and scattered for a time, I am still learning that it is only temporary, that bad times do pass and goodness can be restored. I recall the times when people have consoled me and how others have provided encouragement during my difficult times. The slanderous remarks such as, "money thieves," "where did you hide the money," and "hope you pay for your crimes" still resonate through my mind but I am also learning to delete those from within my soul. They don't belong there.

Through the months of waiting to be sentenced, I have accepted my wrongs for committing serious crimes. I have committed a felony. I may be considered a felon but I find comfort knowing that throughout my teenage and most of my adult life, I have never been in serious trouble or accused of committing a serious crime until recently. I have never seen the inside of a jail cell, neither have I sat in the back of a police unit with metal handcuffs on my wrists. The most serious offenses I have made are four speeding tickets and one citation for fishing without a license.

REMORSE:

There will be certain governmental services which I may not be entitled to acquire in the future. Today I submit myself with a tender heart and willing to accept my punishment. I am on a personal journey of rehabilitation in the many areas of my life. As I'm retired, I have the time to reconstruct my

life and to live a better life. I know I have wronged my people and I am extremely remorseful for my wrongs. I ask the court to be merciful with me and accept my leniency statement.

At one purification and guidance prayer, I understood the meaning of “*Hózhǫ́*” and “Walking in Beauty”. I remembered my grandmother and my father say that “*Hózhǫ́*” means getting up in the morning and thanking the Holy People for another day, for my life, for my wife, for my children, for my house, and all the goodness I enjoy. I thank the almighty God for a night’s rest and waking up in the morning without worrying about the government’s issue/problems, no deadline to contend with and no more troubling politics. Feeling free is a blessing I cherish and want to hold on to. I am able to walk among my loved ones and practicing kinship (*K’é*). It reminds me of days when we grazed sheep on our land. We would remove all of the contents out of our Hogan and sweep the dirt floors and move all of our stuff back in. We would then light a fire again and smoke would rise to tell our neighbors we have returned with our sheep. The next day we would receive visitors welcoming us back again. So it begins, the “*hózhǫ́*,” I have my family. We always end our prayers, “let beauty be with us, around us, above us, behind us, and lead us to harmony again”. *Hózhǫ́ nahasdlíi, Hózhǫ́ nahasdlíi, Hózhǫ́ nahasdlíi and Hózhǫ́ nahasdlíi. A’hoo!*

EXHIBIT B

IN THE DISTRICT COURT OF THE NAVAJO NATION
JUDICIAL DISTRICT OF WINDOW ROCK, ARIZONA

THE NAVAJO NATION,

Plaintiff,

v.

JOHNNY NAIZE,

Defendant.

CENSUS # 120441

ADDRESS: P.O. Box 245
Window Rock, Arizona 86515

No. WR-CR-758-13

**ORDER ACCEPTING
PLEA AND DISPOSITION
AGREEMENT**

The Navajo Nation and the Defendant Johnny Naize hereby agree to the following disposition of this case:

PLEA

Defendant Naize agrees to plead guilty to the following offense: Conspiracy to commit bribery in official and political matters as charged in WR-CR-758-13.

This agreement is made subject to the following conditions:

Maximum Penalties: 17 N.N.C. § 302(F)(1) provides that a person convicted of a crime of conspiracy to commit bribery may be sentenced to imprisonment for a term not to exceed 365 days, or be ordered to pay a fine not to exceed Five Thousand Dollars (\$5,000), or both.

DEFENDANT NAIZE'S ADMISSION OF FACTS

1. By my signature on this plea agreement, I am acknowledging that I am pleading guilty of the offense to which I am pleading guilty. I recognize and accept responsibility for my criminal conduct. Moreover, in pleading guilty, I acknowledge that if I chose to go to trial instead of entering this plea, the Navajo Nation could prove facts sufficient to establish my guilt of the offense to which I am pleading guilty beyond a reasonable doubt. I specifically admit the

following facts related to the charges against me, and declare under penalty of perjury that all of the facts are true and correct:

- a. From 2006 to 2009, I entered into agreements with other Navajo Nation officials, specifically George Arthur, Raymond Joe, Orlanda Smith-Hodge, Elmer Milford, Andy Ayze, David Tom, Leonard Teller, and Lawrence T. Morgan, whereby we exchanged benefits to each other in order to influence and control our exercise of discretion in causing the disbursements of financial assistance funds to each other for our families.
- b. I knew that a Council Delegate could not lawfully authorize Financial Assistance directly to his or her children or family members and so I agreed with other delegates to provide each other's children and family members with Financial Assistance money as described in the complaint.
- c. Under this agreement I would authorize a certain sum of money to a family member of a Council Delegate with the understanding that the Delegate would, in return, authorize a similar sum of money to one of my family members. At the time I did this, I knew this agreement to try to circumvent Tribal law was wrong.
- d. From July, 2006 to November, 2009, I exercised my discretion and authorized payments of \$12,500 in Financial Assistance for Council Delegate George Arthur's family.
- e. In return for exercising my discretion directing Financial Assistance funds to be paid to Council Delegate George Arthur and his family, I knew, based on prior conversations with him, that Council Delegate George Arthur would use his discretion as an elected Navajo Nation Official to provide Financial Assistance money directly my family.
- f. The specific exchanges between George Arthur and me are described in the criminal complaint outlining my conspiracy charge in case number WR-CR-758-13.
- g. Similarly, from October, 2007 to January, 2009, pursuant to our agreement, I authorized payments of \$11,400 in Financial Assistance funds for Council Delegate Raymond Joe's family.

- h. In return for exercising my discretion directing Financial Assistance funds to be paid to Council Delegate Raymond Joe's family, I knew, based on prior conversations with him, that Council Delegate Raymond Joe would use his discretion as an elected Navajo Nation Official to provide Financial Assistance money directly to my family.
- i. The specific exchanges between Raymond Joe and me are described in the criminal complaint outlining my conspiracy charge in case number WR-CR-758-13.
- j. Similarly, from October, 2008 to October, 2009, pursuant to our agreement, I authorized payments of \$3,100 in Financial Assistance funds for Council Delegate Elmer Milford's family.
- k. In return for exercising my discretion directing Financial Assistance funds to be paid to Council Delegate Elmer Milford's family, I knew, based on prior conversations with him, that Council Delegate Elmer Milford would use his discretion as an elected Navajo Nation Official to provide Financial Assistance money directly to my family.
- l. The specific exchanges between Elmer Milford and me are described in the criminal complaint outlining my conspiracy charge in case number WR-CR-758-13.
- m. Similarly, from October, 2006 to February, 2008, pursuant to our agreement, I authorized payment of \$2,800 in Financial Assistance funds for Council Delegate Orlanda Smith-Hodge's family.
- n. In return for exercising my discretion directing Financial Assistance funds to be paid to Council Delegate Orlanda Smith-Hodge's family, I knew, based on prior conversations with her, that Council Delegate Orlanda Smith-Hodge would use her discretion as an elected Navajo Nation Official to provide Financial Assistance money directly to my family.
- o. The specific exchanges between Council Delegate Orlanda Smith-Hodge and me are described in the criminal complaint outlining my conspiracy charge in case number WR-CR-758-13.

- p. Similarly, from July, 2006 to December, 2007, pursuant to our agreement, I authorized payments of \$2,400 in Financial Assistance funds for Council Delegate Andy Ayze's family.
- q. In return for exercising my discretion directing Financial Assistance funds to be paid to Council Delegate Andy Ayze's family, I knew, based on prior conversations with him, that Council Delegate Andy Ayze would use his discretion as an elected Navajo Nation Official to provide Financial Assistance money directly to my family.
- r. The specific exchanges between Andy Ayze and me are described in the criminal complaint outlining my conspiracy charge in case number WR-CR-758-13.
- s. Similarly, from January, 2006 to August, 2008, pursuant to our agreement, I authorized payments of \$2,400 in Financial Assistance funds for Council Delegate David Tom's family.
- t. In return for exercising my discretion directing Financial Assistance funds to be paid to Council Delegate David Tom's family, I knew, based on prior conversations with him, that Council Delegate David Tom would use his discretion as an elected Navajo Nation Official to provide Financial Assistance money directly to my family.
- u. The specific exchanges between David Tom and me are described in the criminal complaint outlining my conspiracy charge in case number WR-CR-758-13.
- v. Similarly, from December, 2007 to January, 2008, pursuant to our agreement, I authorized payments of \$1,300 in Financial Assistance funds for Council Delegate Leonard Teller's family.
- w. In return for exercising my discretion directing Financial Assistance funds to be paid to Council Delegate Leonard Teller's family, I knew, based on prior conversations with him, that Council Delegate Leonard Teller would use his discretion as an elected Navajo Nation Official to provide Financial Assistance money directly to my family.

- x. The specific exchanges between Leonard Teller and me are described in the criminal complaint outlining my conspiracy charge in case number WR-CR-758-13.
- y. Similarly, in January, 2009, pursuant to our agreement, I authorized payments of \$1,000 in Financial Assistance funds for Council Delegate Lawrence Morgan's family.
- z. In return for exercising my discretion directing Financial Assistance funds to be paid to Council Delegate Lawrence Morgan's family, I knew, based on prior conversations with him, that Council Delegate Lawrence Morgan would use his discretion as an elected Navajo Nation Official to provide Financial Assistance money directly to my family.
- aa. The specific exchanges between Lawrence Morgan and me are described in the criminal complaint outlining my conspiracy charge in case number WR-CR-758-13.

2. By signing this agreement, I, Defendant Naize, admit all of the foregoing facts and admit that there is a factual basis for each element of each crime to which I am pleading guilty. I, Defendant Naize, also recognize and accept responsibility for my criminal conduct. I, Defendant Naize, agree that the Court may rely on any of these facts to determine whether this plea agreement should be accepted.

Sentencing Agreements: The Navajo Nation and Defendant Naize stipulate to the following disposition:

- [X] After the related trials are resolved, the Court will schedule a Sentencing Hearing and send notice of that hearing to all parties.
- [X] Defendant Naize will continue with conditions of release until his Sentencing Hearing.
- [X] Probation/Parole Services submits Pre-sentence Report and provide copies to the parties Prior to the Sentencing Hearing.

1. Defendant Naize will be sentenced to a period of 0 – 90 days incarceration, the length of incarceration to be determined by the Court, a period of probation, the length of which will be determined by the Court, and community service, the manner and amount of which will be determined by the Court; this agreed sentence will be imposed, if, at sentencing, the Navajo Nation Special Prosecutor advises the Court that Defendant Naize has continued to provide

substantial assistance to the Navajo Nation by providing cooperation and truthful testimony, if necessary, in other prosecutions. In the event Naize's testimony is not necessary, as determined by the Navajo Nation Special Prosecutor, the sentence as described above will be imposed. If the Court does not impose a sentence of incarceration, Defendant Naize will be subject to a period of probation to be determined by the Court which will last, at a minimum, until all of the conditions of this plea are satisfied, including until his restitution is paid in full.

2. At sentencing, the Navajo Nation may request restitution to be paid to the Navajo Nation, as a condition of probation, depending on the substantial assistance provided by Defendant Naize, and Defendant Naize's ability to pay. The amount of restitution shall not exceed the amount of financial assistance Defendant Naize misused as established by the Navajo Nation. The Navajo Nation agrees that any money reimbursed by Barbara O'Keeffe to the Ethics Office that involved misuse of Financial Assistance funds by Defendant Naize will not be included in the amount of restitution owed to the Navajo Nation by Defendant Naize. If the parties cannot agree on a restitution amount, the amount shall be determined by the Court. Naize's deferred compensation shall be held by the Retirement Office until the parties reach an agreement on restitution and the Court issues an order permitting the release of those funds.

Effect on Charging Document: This agreement, unless rejected or withdrawn, serves to amend the complaint to which Defendant Naize pleads without the filing of any additional pleading. If the plea is rejected or withdrawn, the original charges are automatically reinstated.

Waiver of Defenses and Appeal: Unless this plea is rejected or withdrawn, Defendant Naize gives up any and all motions, defenses, objections or requests which Defendant Naize has made or raised, or could assert hereafter, to the Court's entry of judgment and imposition of a sentence consistent with this agreement. Defendant Naize waives the right to appeal the conviction that results from the entry of this plea agreement.

Withdrawal Permitted if Agreement Rejected: If after reviewing this agreement and any pre-sentence report, the Court concludes that any of its provisions are unacceptable, the Court will allow the withdrawal of the plea, and this agreement will be void. If the plea is withdrawn, neither the plea nor any statements arising out of the plea agreement shall be admissible as evidence against Defendant Naize in any criminal proceedings.

Perjury and Other False Statements: Nothing in this agreement shall be construed to protect Defendant Naize in any way from the prosecution for perjury, false declaration or false statement, or any other offense committed by Defendant Naize after the date of this agreement. Any information, statements, documents or evidence provided to the Navajo Nation pursuant to this agreement may be used against Defendant Naize in succeeding proceedings against Defendant Naize for perjury or related charges.

Agreement to Dismiss: The Navajo Nation agrees to dismiss with prejudice the following charges pursuant to Rule 32(a), Nav.R.Cr.P. (1990): WR-CR-759-13 (Bribery #1); WR-CR-760-13 (Bribery #2); WR-CR-761-13 (Bribery #3); WR-CR-762-13 (Bribery #4); WR-CR-763-13 (Bribery #5); WR-CR-764-13 (Bribery #6); WR-CR-765-13 (Bribery #7); WR-CR-766-13 (Bribery #8); WR-CR-767-13 (Bribery #9); WR-CR-768-13 (Bribery #10); and WR-CR-093-14 (Bribery #11) after acceptance of the plea and final sentencing.

DEFENDANT NAIZE'S APPROVAL AND ACCEPTANCE

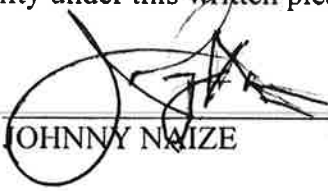
I understand the charges set forth in the criminal complaint. I understand the range of possible sentences for the offenses charged. I understand the following constitutional rights afforded to me by the Indian Civil Rights Act and the Navajo Nation Bill of Rights which I give up by pleading guilty: the right to a trial by jury, if any; the right to the assistance of an attorney at trial, and to an appointed attorney, to be furnished free of charge, if the defendant cannot afford one; the right to confront the witnesses against me and to cross-examine them as to the truthfulness of their testimony; the right to present evidence on my own behalf, and to have the Navajo Nation compel witnesses of my choosing, to appear and testify; the right to remain silent and to be presumed innocent until proven guilty beyond a reasonable doubt.

I wish to give up these rights to which I have been advised. I agree that there is a basis in fact for believing that I am guilty of the offenses charged and that an independent record for such factual basis could be made by proof beyond a reasonable doubt. The prosecutor and I have entered into this plea agreement and I understand and consent to its terms. My plea is voluntary and not the result of force, threats, or promises other than those contained in this plea agreement.

I am not now taking any drug, medication, liquor or other intoxicant or depressant, nor do I suffer from any mental disability that would keep me from understanding what I am doing when I change my plea from not guilty to guilty under this written plea agreement.

09/30/14

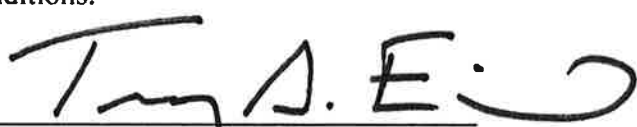
Date


JOHNNY NAIZE

I have discussed this case with my client in detail and have advised the defendant of defendant's constitutional rights and all possible defenses. I believe that the plea and disposition set forth herein are appropriate under the facts of this case. I agree with the plea outlined in this agreement and its terms and conditions.

September 30, 2014.

Date



TROY A. EID

COUNSEL FOR DEFENDANT NAIZE

PROSECUTOR REVIEW

I have reviewed and approve this plea and disposition agreement and find that it is appropriate and consistent with the best interests of justice.

9-30-14

Date



MARK H. DONATELLI

SPECIAL PROSECUTOR

DISTRICT COURT JUDGE OF THE NAVAJO NATION

I have reviewed this plea and disposition agreement in full and I explained the consequences of a guilty plea to the defendant. I find that the defendant made a knowing, voluntary waiver of his rights and has knowingly and voluntarily entered into this plea and disposition agreement.

THEREFORE, this plea and disposition agreement is accepted and adopted as an Order of this Court.

Date

CAROL K. PERRY
District Court Judge, Navajo Nation