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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

UINTA VALLEY SHOSHONE TRIBE;
DORA Van; RAMONA Harris; LEO
LEBARON & OTHERS WHO ARE IN
ACTIVE CONCERT WITH THE
FOREGOING;

Defendants.

Case No. 2:17CV1140TC

COMPLAINT

Honorable Tena Campbell

The United States of America, through the undersigned Assistant United States Attorney, complains against Defendants as follows:

1. The United States brings this action under 18 U.S.C. § 1345(a) to enjoin Defendants from selling fraudulent hunting and fishing licenses for use on the trust lands of the Ute Tribe of the Uintah and Ouray Reservation (“the Ute Tribe”).

JURISDICTION AND VENUE

2. This Court has jurisdiction under 18 U.S.C. § 1345(a)(1).

3. Venue is proper in the District of Utah, Central Division under 28 U.S.C. § 1391(b)(2).

THE DEFENDANTS

4. Defendant Uinta Valley Shoshone Tribe (“UVST”) is a group that is not recognized as an Indian Tribe under federal law. Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs, 82 Fed. Reg. 4915 (Jan. 17, 2017).

5. Defendant Dora Van is the chairwoman of the UVST.

6. Defendant Ramona Harris the director of the UVST.

7. Defendant Leo LeBaron is the wildlife director of the UVST.

8. Many others are working in active concert with Defendants to issue and use hunting and fishing licenses on Ute Tribe land over which the UVST has no jurisdiction.

FACTUAL BACKGROUND

9. In 1861, President Abraham Lincoln authorized the creation of the Uintah Valley Reservation in the Uintah Basin. *Hackford v. Babbit*, 14 F.3d 1457, 1459 (10th Cir. 1994).

10. In 1882, President Chester A. Arthur authorized the creation of the Uncompahgre Reservation. *Id.* at 1459. Eventually, these reservations became the Uintah and Ouray Reservation. *Id.*

11. Under the Indian Reorganization Act of 1934, the Uintah, White River, and Uncompahgre Bands of the Ute Tribe reorganized as the “Ute Tribe of the Uintah and Ouray Reservation.” *Id.* at 1461.

12. Within the Ute Tribe were two groups known as: (1) Full-Bloods and (2) Mixed-Bloods.¹

13. In 1954, Congress enacted the Ute Partition and Termination Act (“UPTA”), in which it established a procedure to divide tribal assets between the Full-Bloods and the Mixed-Bloods. Pub. L. No. 83-671, § 1; 68 Stat. 868.

14. Under the UPTA, after the divisible assets were allocated between the two groups, the Secretary of the Interior would issue a proclamation terminating the Mixed-Bloods’ status as “Indians” under federal law. *Hackford*, 14 F.3d at 1462.

15. The Secretary issued that proclamation in 1961, “which declared, ‘[a]ll statutes of the United States which affect Indians shall no longer be applicable [to the mixed-bloods].’” *Id.* at 1463 (quoting 26 Fed. Reg. 8,042 (Aug. 24, 1961)).

16. As to those tribal assets that were not divisible, Congress provided that they “were to remain in government trust and be jointly managed by [the Ute] Tribal Business Committee and the Mixed-Bloods’ representative.” *Id.* at 1462 (quoting *Ute Distrib. Corp. v. United States*, 938 F.2d 1157, 1159 (10th Cir. 1991)).

17. Hunting and fishing rights are among those assets that were not divisible. *United States v. Felter*, 752 F.2d 1505, 1509 (10th Cir. 1985).

18. As the only recognized tribal authority over the Uintah and Ouray Reservation, the Ute Tribe established a Constitution, which extends the Ute Tribe’s jurisdiction “to the

¹ The United States recognizes that the term “Mixed-Bloods” may be offensive in the modern vernacular. However, because the Ute Partition and Termination Act, 68 Stat. 868, uses this term, this motion will also use it to avoid confusion.

territory within the original confines of the Uintah and Ouray Reservation.” *VonMurdock*, 132 F.3d at 541 (quoting Article I of the Ute Tribe’s Constitution).

19. “The Constitution thus makes clear that the Bands ceased to exist separately outside the Ute Tribe, [and] that jurisdiction over what was formerly the territory of the Uintah Band was to be exercised by the Ute Tribe” *Id.*

20. As the exclusive, legally-recognized tribal authority over the Uintah and Ouray Reservation, the Ute Tribal Business Committee along with the duly authorized Mixed-Blood Representative have enacted by-laws that govern hunting and fishing on the Uintah and Ouray Reservation. Ute Tribal Code § § 8-1-1 to 8-1-24.

21. The Ute Tribal Code vests authority over hunting and fishing in the Ute Tribal Business Committee, the “Ute Indian Fish and Wildlife Department,” and officers working within that Department. *Id.* § 8-1-14.

22. The Ute Tribe has not delegated any of its authority over fish and wildlife to Defendants.

23. In late September, 2016, Ute Fish and Wildlife officers and Utah Division of Wildlife Resources officers began receiving information regarding the UVST selling hunting and fishing licenses for their purported members’ use in taking wildlife from Ute Tribal Trust Lands of the Uintah and Ouray Reservation.

24. UVST sells these licenses for \$25.00.

25. On the license application form, Defendants list a website and an email address for the UVST, and falsely state that the UVST is “a Federal Corporation d/b/a the ‘Ute Indian Tribe’ of the Uinta & Ouray Reservations, Utah.”

26. Ute wildlife officers contacted several UVST group members unlawfully hunting or fishing on the reservation and informed them that their UVST licenses are not legal.

27. Defendants Van and Harris received notice from licensees, among others, that the Ute Tribe's objected to the issuance and use of UVST licenses on Ute Tribal Trust Lands.

28. In 2016, Defendants established a "wildlife department" for the UVST and sold approximately sixty-eight licenses to kill deer and elk on Ute Tribal Trust Lands.

29. In 2016 and 2017, Defendants have also been issuing fishing licenses for use on Ute Tribal Trust Lands.

30. Hunting and fishing licenses are now being produced, issued, and sold at the UVST office located at 5750 East 1000 North in Ft. Duchesne, Utah.

31. Defendants Harris and Van have been responsible for issuing UVST's hunting and fishing licenses.

32. Defendant LeBaron has been accessing Ute Tribal Trust Lands without the Ute Tribe's authorization to assist those who have purchased a UVST hunting and fishing licenses to use them without interference and to monitor compliance with the UVST's rules.

33. Defendant Harris has been using a UVST Facebook page to advertise the sale of UVST fishing and hunting licenses.

34. The UVST Facebook group to which Defendant Harris had been advertising has over 100 members several of whom reside outside of Utah.

35. Facebook posts and comments made on the UVST Facebook page appear on the "News Feed" of the purported members of the UVST Facebook page.

36. Defendant Van has been using email communications hosted by Yahoo to

communicate with UVST's wildlife department identifying those who the UVST has purportedly authorized to assist UVST hunters on Ute Tribal Trust Lands.

37. The Terms of Service for Yahoo, which provides email communications services, contains the following statement:

When you register with Yahoo, you acknowledge that in using the Yahoo Services to send electronic communications (including but not limited to email, search queries, sending messages to Yahoo Chat or Yahoo Groups, uploading photos and files to Flickr, and other Internet activities), you will be causing communications to be sent through Yahoo's computer networks, portions of which are located in California, Texas, Virginia, and other locations in the United States and portions of which are located abroad. As a result, and also as a result of Yahoo's network architecture and business practices and the nature of electronic communications, even communications that seem to be intrastate in nature can result in the transmission of interstate communications regardless of where you are physically located at the time of transmission. Accordingly, by agreeing to this TOS, you acknowledge that use of the service results in interstate data transmissions.

38. Some of those who have obtained hunting and fishing licenses from the UVST have used them to take deer, elk, and fish from the Ute Tribal Trust Lands.

39. Defendants have caused "No Trespass" signs to be erected on Ute Tribal Trust Lands purportedly informing the public that the Ute Tribal Trust Lands belong to the UVST.

40. Defendants Van and Harris inform buyers of UVST hunting and fishing licenses that Ute Tribal Trust Lands actually belong to the UVST, and, therefore, no entity can prevent licensees from hunting or fishing on those lands.

41. Defendants have also produced a hunting proclamation informing licensees of their purported rights to hunt on "all Tribal trust lands." The proclamation also provides that deer may be hunted between August and November and that elk may be hunted between August and the end of October.

42. Based on information and belief, holders of UVST hunting and fishing licenses are using them now to hunt for deer and elk and to fish on Ute Tribal Trust Lands.

**FIRST CAUSE OF ACTION
WIRE FRAUD
(18 U.S.C. § 1343)**

43. The United States incorporates herein the allegations in paragraphs 1-42.

44. Defendants have no legal authority to issue hunting and fishing licenses for use on any land, much less for use on Ute Tribal Trust Lands.

45. Defendants' issuance of hunting and fishing licenses for use on Ute Tribal Trust Lands is a scheme to obtain money or property by false or fraudulent pretenses, representations, and promises.

46. Defendants and others in active concert with them have intentionally used false and fraudulent pretenses, representations, and promises about the UVST owning Ute Tribal Trust Lands to induce others to buy UVST hunting and fishing permits, which are invalid on the land of the Ute Tribe, the State of Utah, and the United States. Defendants have also made false representations that they are a Federal Corporation doing business as the "Ute Indian Tribe of the Uinta & Ouray Reservations, Utah."

47. Defendants have used interstate wire communication facilities to carry out their scheme by advertising the sale of their licenses and communicating with others to perpetuate the long-term success of their scheme.

48. The fraudulent and false pretenses, representations, and promises are material because they are capable of influencing and have influenced others to purchase UVST hunting or fishing licenses even though such licenses are invalid.

PRAYER FOR RELIEF

Therefore, the United States requests that this Court:

- A. Declare that Defendants have engaged in wire fraud by selling UVST hunting and fishing licenses;
- B. Preliminarily and permanently enjoin Defendants from selling and/or issuing UVST hunting and fishing licenses;
- C. Declare that the UVST hunting and fishing licenses that have been issued are null and void *ab initio*;
- D. Preliminarily and permanently enjoin the use of the UVST hunting and fishing licenses that have been issued; and
- E. Award any other relief that this Court deems just and appropriate.

Dated this 18th day of October 2017.

JOHN W. HUBER
United States Attorney

/s/ Jared C. Bennett
JARED C. BENNETT
Assistant United States Attorney