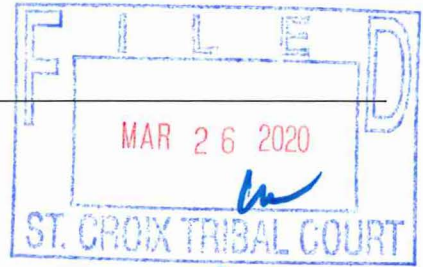


ST. CROIX TRIBAL COURT



St. Croix Chippewa Indians  
of Wisconsin,

Plaintiff,

v.

Lewis Taylor,

Defendant.

Court File No. 20-CV-209

**Complaint**

Plaintiff the St. Croix Chippewa Indians of Wisconsin (the Tribe), by and through its counsel, state and allege as follows:

**Introduction**

1. The Tribe brings this civil action to recover compensatory damages and a declaration of wrongdoing in response to the above-named Defendant's receipt of thousands of dollars of unlawful disbursements of moneys intended for the benefit of the Tribe as a whole.

2. While the Defendant served two terms on the Tribal Council, from approximately 2015-2019, he pocketed thousands of dollars in unapproved and excess travel moneys, in addition to thousands of dollars in unsupported, fraudulent project payments.

3. As an elected leader of the Tribe—one of five Tribal Council members responsible for the welfare and decision-making of the Tribe and its enterprises—he held a position of immense trust, responsibility, and privilege. Instead of respecting this duty, he used his position of power for personal gain.

4. The Defendant's actions violated Tribal resolutions, Tribal ordinances, the Indian Gaming Regulatory Act and its implementing regulations, and the fiduciary duty and duty of loyalty that elected officers owe to the Tribe.

### Parties

5. Plaintiff is the St. Croix Chippewa Indians of Wisconsin, tribally headquartered at 24663 Angeline Ave., Webster, Wisconsin, 54893. The Tribe is a federally recognized Indian tribe, organized under Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 5123, as amended, and established pursuant to the Constitution and By-Laws adopted by the Tribe on August 29, 1942 and approved on November 12, 1942, as recognized in 84 Fed. Reg. 1200, 1203 (Feb. 1, 2019).

6. The United States holds land in trust for the Tribe in Barron, Burnett, and Polk Counties, Wisconsin.

7. Defendant Lewis Taylor is an enrolled member of the Plaintiff Tribe, and a former Tribal Chairman for the Plaintiff Tribe. His address is [REDACTED], Webster, Wisconsin, 54893.

### Jurisdiction

8. The St. Croix Tribal Court has subject-matter jurisdiction over this action under the St. Croix Tribal Court Code, Section 102, which states in relevant part:

102. Jurisdiction of the St. Croix Tribal Court. The Tribal Court shall have jurisdiction over:

- A. All matters arising under the Constitution and laws of the St. Croix Chippewa Indians of Wisconsin.
- B. All actions brought under the provisions of this Code.
- C. All other civil actions in which the locus of any element of any claim is on the reservation or other trust lands of the tribe, or which is based on any contract made on or providing for the delivery of goods or services on the reservation or other trust lands of the tribe.

9. Counts 1-10 of this matter arise under the Constitution and laws of the St. Croix Chippewa Indians of Wisconsin, are brought under the provisions of the St. Croix Tribal Court Code, and are civil actions where the locus of the claim is on the reservation or other trust lands of the Tribe.

10. The Court has personal jurisdiction over the enrolled Tribal member Defendant because the Court and the Tribe have retained their inherent sovereign authority over Tribal members, in accordance with Article V, Section 1(g) of the Constitution of the St. Croix Chippewa Indians of Wisconsin.

11. Venue is proper in this Court because the unlawful disbursements were issued from the Tribe's trust lands, in and around Turtle Lake and Webster, Wisconsin, and the Tribe has only one trial-level tribal court.

### **Legal Background Applicable to All Counts**

12. The Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq. ("IGRA") provides a statutory basis for tribal gaming operations to promote tribal economic development, strong tribal governments, and ensure that the tribes themselves remain the primary beneficiary of net gaming revenue.

13. IGRA defines the term "net revenues" to mean "gross revenues of an Indian gaming activity less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees." 25 U.S.C. § 2703(9).

14. The National Indian Gaming Commission ("NIGC") likewise defines the term "net revenues" to mean "gross gaming revenues of an Indian gaming operation less— (a) amounts paid out as, or paid for, prizes; and (b) total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees." 25 C.F.R. § 502.16.

15. 25 U.S.C. §§ 2710(b)(2)(B) and 2710(d)(1)(A)(ii) allow lawful Class III gaming operations under IGRA only where the net revenues from the gaming operations are used for the following purposes:

- (i) to fund tribal government operations or programs;
- (ii) to provide for the general welfare of the Indian tribe and its members;
- (iii) to promote tribal economic development;
- (iv) to donate to charitable organizations; or
- (v) to help fund operations of local government agencies[.]

16. In addition to the above limitations on net revenues, IGRA allows an Indian tribe to provide per capita payments to its members from its net revenues only if the tribe has prepared a revenue allocation plan to allocate the net revenues in accordance with 25 U.S.C. § 2710(b)(2)(B), among other restrictions. 25 U.S.C. § 2710(b)(3).

17. IGRA's implementing regulations also require the gaming operation to "keep permanent books of account or records, including inventory records of gaming supplies, sufficient to establish the amount of gross and net income, deductions and expenses, receipts and disbursements, and other information required in any financial statement, report, or other accounting prepared pursuant to the [IGRA.]" 25 C.F.R. § 571.7(a).

18. As one of several restrictions placed on Class III gaming operations, any contracts "for supplies, services, or concessions . . . in excess of \$25,000 annually (except contracts for professional legal or accounting services) relating to such gaming shall be subject to such independent audits." 25 U.S.C. § 2710(b)(2)(D).

19. Among other requirements, IGRA also requires that the Indian tribe operating the gaming establishment adopt a gaming ordinance or resolution. 25 U.S.C. § 2710(b)(1)(B).

20. The Tribe received approval from the NIGC Chairman for its Gaming Ordinance in 1995, with an approved amendment in 2006.

21. The Tribe's Gaming Ordinance "authorize[s] and set[s] the terms for Class II and Class III gaming operations on Tribal lands."

22. Section 3 of the Tribe's Gaming Ordinance requires "that all proceeds of such gaming are used for the benefit of the Tribe as required by the Indian Gaming Regulatory Act and tribal law."

23. Section 4(c) of the Tribe's Gaming Ordinance finds that "[i]t is essential that the Tribe, through its Tribal Council / Gaming Commission regulate gaming in a manner commensurate with applicable federal and Tribal law and policy[.]"

24. Sections 5(d), (g), of the Tribe's Gaming Ordinance explain two of the purposes of the ordinance are to "[e]nsure that tribally regulated gaming is conducted fairly and

honestly . . . and that it remains free from corrupt, incompetent, unconscionable and dishonest persons and practices” and to “[e]nsure that the tribal gaming laws are strictly and fairly enforced against all persons involved in gaming activities within the jurisdiction of the Tribe.”

25. Section 6 of the Tribe’s Gaming Ordinance defines *Fraud* as “intentional deception resulting in an injury to another” including “those crimes and misdemeanors involving bad check writing, embezzlement, insurance fraud and welfare fraud.”

26. Section 6 of the Tribe’s Gaming Ordinance defines *Net Revenues* as “gross gaming revenues of an Indian gaming operation less: (a) Amounts paid out as, or paid for, prizes; and (b) Total gaming operating expenses, excluding management fees.”

27. Section 9 of the Tribe’s Gaming Ordinance governs the Tribe’s use of gaming revenue, and states:

(a) Net revenues from Class II Gaming shall be used only for the following purposes:

- (1) To fund Tribal government operations and programs;
- (2) To provide for the general welfare of the Tribe and its members;
- (3) To promote Tribal economic development;
- (4) To donate to charitable organizations;
- (5) To help fund operations of local government agencies

28. IGRA, 25 U.S.C. § 2710(d)(1)(A)(ii), requires that net revenues derived from Class III gaming shall only be used by the Tribe for the same purposes that control the use of net revenues derived from Class II gaming.

29. Section 11(g) of the Tribe’s Gaming Ordinance states that “[t]he Tribal Council shall establish the use of gaming revenues transferred from the gaming enterprises in accordance with this Ordinance and applicable laws for use of such revenues according to tribal needs and requirements for continued growth.”

30. Section 12 of the Tribe’s Gaming Ordinance establishes the St. Croix Gaming Commission, but details that the Tribe reserves oversight over the Commission, and creates an enforcement mechanism for the violation of the Gaming Ordinance.

31. Section 14(b) of the Tribe's Gaming Ordinance requires that "[a]ll gaming related contracts that result in the purchase of supplies, services, or concessions in excess of . . . \$25,000.00 annually . . . shall be included with the scope" of an annual, independent, audit conducted by a certified public accountant.

32. In 2010, the Tribe adopted an updated Revenue Allocation Plan ("RAP"), pursuant to IGRA to "allocate and manage the Tribe's economic resources derived from the Gaming Operations." Tribe's RAP, §§ 1.1, 1.2(b). The Tribe's RAP was approved by the Assistant Secretary of Indian Affairs on January 14, 2011, and is still in effect.

33. Section 1.2 of the RAP states that it "is becoming increasingly important to carefully allocate and manage the tribe's economic resources derived from the Gaming Operations."

34. Section 3.2 of the RAP allocates not less than 45% of net gaming revenues to fund tribal government operations or programs; not less than 5% of net gaming revenues to promote tribal economic development; and not more than 50% of net gaming revenues for per capita payments, charitable organization donations, and to fund local government agencies.

35. Section 5.1 of the RAP states that "Net Gaming Revenues allocated for Per Capita Payments with respect to any Per Capita Payment Period shall be distributed . . . in equal shares to Eligible Adults . . . [and] in equal shares to Eligible Minors of the same number of whole years of age . . . ."

36. On March 3, 2014, the Tribal Council adopted Resolution No. 3-3-14-1, which implemented restrictions on travel by employees and Tribal Council members because of economic challenges.

37. The restrictions included an elimination of a \$250 daily per diem allowance for Tribal Council members, reduction of Tribal Council member monthly travel budget, and a 30% reduction in pay for Tribal Council members.

38. On April 14, 2014, the Tribal Council adopted Resolution No. 4-16-14-1, which implemented "the immediate suspension and cessation of all Tribally funded (i.e., non-grant funded) travel until further notice."

39. On June 6, 2016, the Tribal Council sent a memorandum to the St. Croix Travel, and St. Croix Interstate departments. The memorandum was signed by all five members of the Tribal Council and stated that “[f]rom here forward all individuals using St. Croix Travel and Interstate Funding for expenses while traveling will receive the uniform government rate for mileage (when applicable) and per diem.”

40. On July 12, 2016, the Tribal Council adopted Resolution No. 16-07-12-01, which rescinded Resolution No. 4-16-14-1, which immediately suspended tribal travel, but made no mention of Resolution No. 3-3-14-1, which eliminated per diem payments.

41. On May 22, 2017, the Tribal Council adopted Resolution No. 17-05-22-01, which adopted a policy for travel and credit card usage for tribal business conducted at the St. Croix Casinos. The policy requires multiple layers of approval for any travel advances, receipts and expense reconciliation, prohibits both reimbursement and per diem for meals, prohibits family members or friends traveling at the Tribe’s expense without specific approval, and details multiple non-reimbursable charges, including personal entertainment.

42. The Tribe also has a “Travel Policies and Procedures” document that requires the travel department to calculate the allowable mileage or airfare, and per diem before it is sent to the accounting department for payment. The policy sets a limit of 15 days to return receipts from the trip to the travel department.

43. The Tribe’s Constitution establishes that the Tribe’s governing body is the St. Croix Tribal Council, “which shall be composed of five members elected biennially by popular vote.” Const. of the St. Croix Chippewa Indians of Wisconsin, art. IV, Section 1.

44. When elected, Tribal Council members must sign an oath of office, wherein the elected official avers to “support and defend the Constitution and Laws of the St. Croix Chippewa Indians of Wisconsin and of the Constitution of the United States and [to] faithfully and impartially discharge the duties of said office to the best of [his or her] ability.”

45. As an Ojibwe nation, the Tribe centers itself and its laws within traditional cultural practices, including teachings of nibwaakawin (wisdom), minwaadendamowin (respect), and debwewin (truthfulness), and expects that its elected leaders embody those principals.

46. 18 U.S.C. § 1163 makes it a federal crime to “embezzle[], steal[], knowingly convert[] to his own use or the use of another, willfully misappl[y], or willfully permit[] to be misapplied, any of the moneys, funds, credits, goods, assets, or other property belonging to any Indian tribal organization or intrusted to the custody or care of any officer, employee, or agent of an Indian tribal organization[.]”

47. The Tribe has a common law and customary law expectation that its elected leaders will not engage in financial wrongdoing, including the misapplication of tribal moneys, the personal use of moneys intended to benefit the Tribe as a whole, and the careless and wasteful spending of money.

48. The St. Croix Chippewa Indians of Wisconsin Tribal Court Rules of Civil Procedure states that “Any action that may be brought under federal law or the law of the State of Wisconsin may be brought in tribal court.” § 306A.

49. Wisconsin Statute 943.20(1)(b) prohibits an individual, “[b]y virtue of his or her office . . . having possession or custody of money . . . of another, intentionally uses, transfers, conceals, or retains possession of such money . . . without the owner’s consent, contrary to his or her authority, and with intent to convert to his or her own use.”

50. Section 895.446 of the Wisconsin statutes create a private cause of action against an individual that has violated § 943.20(1)(b).

### **Factual Background Applicable to All Counts**

51. The Tribe operates Class II and Class III gaming at casinos located near Turtle Lake, Danbury, and Hertel, Wisconsin.

52. These casinos are operated in accordance with IGRA and a gaming compact with the State of Wisconsin.

53. All revenues from the operation of the tribal casinos remains in the accounts of the St. Croix Casinos, before disbursements are made to the Tribe, tribal programs, or tribal members.



54. On July 7th, 2015, the Defendant Lewis Taylor was sworn in as the Chairman of the Tribal Council and signed an Oath of Office. He was reelected in 2017, and served until approximately June 2019.

55. Effective July 1, 2013, the Defendant's Personnel Action Form indicated he would be paid \$71.32 per hour, forty hours per week, in his position as Tribal Chairman. This increased to \$73.46 per hour, effective October 1, 2016, and decreased to \$58.77 on April 15, 2019.

56. Effective June 18, 2019, the Defendant's Personnel Action Form indicated that his "Position ended" because of an involuntary termination.

57. In September 2017, the NIGC began an investigation into the Tribe's use of gaming revenue from its Turtle Lake and Hertel casinos. The investigation included site visits, requests for documents, and written questions and responses.

58. On April 11, 2019, the NIGC issued a 527-count Notice of Violation to the Tribe for violations of the IGRA, NIGC regulations, and the Tribe's Gaming Ordinance because of misuse of net gaming revenues, reflecting the severity of wrong-doing uncovered within certain members of the Tribe's leadership.

59. The Notice of Violation included \$169,173.67 in improper disbursements to the Defendant in this case.

60. On May 9, 2019, the NIGC levied a \$5.5 million dollar fine against the Tribe for the violations. This fine included a "\$1 million fine assessed for payments to Tribal Chairman Lewis Taylor, Tribal Council Member Crystal Peterson, and former Tribal Council Members Carmen Bugg and Stuart Bearhart [*sic*]" and "a total of \$500,000 is assessed for all other violations of misuse of revenue and failure to audit contracts greater than \$25,000."

#### **Defendant's Receipt of Travel Disbursements**

61. The Defendant received numerous undocumented or excessive disbursements from the St. Croix Casino for purported travel purposes:

Check #	Check Date	Amount	Reason Offered for Disbursement	Account Debited
169824	12/12/2014	5,772.00	"Travel to Las Vegas 12/27 – 1/5, 2014"	A/R Tribal
169837	12/17/2014	5,000.00	"Travel to Denver Co, Cannabis Business Summit 12/19 – 12/23"	Donations Payable
169883	12/18/2014	1,500.00	"Flat rate travel to Duluth MN on 12/18 – 12/20"	Donations Payable
170125	01/15/2015	1,111.43	"Travel to River Falls WI 1/16 – 1/18, 2015"	A/R Tribal
170185	01/20/2015	2,500.00	"Travel to LV for HR Conference 1/24 – 1/28, 2015"	Donations Payable
170365	01/31/2015	1,670.90	"Travel to Denver CO – Meeting [with' Consultants 2/4 – 2/5"	Donations Payable
170491	02/13/2015	1,356.50	"Travel to Lac du Flambeau – 2/13 – 2/16, 2015"	A/R Tribal
170499	02/18/2015	600.00	"Mole Lake – Federation Mtg 2/18 – 2/20"	A/R Tribal
170629	02/23/2015	617.80	"Travel to Keshena WI on 2/24 – 2/25, 2015"	A/R Tribal
170631	02/24/2015	1,000.00	"Travel to Beloit on 2/24 – 2/25" "and then to WA"	A/R Tribal
170634	02/24/2015	600.00	"Per diem for Tulaplip WA for Lewis & Lisa" "– on 2/27/15 KRI"	A/R Tribal
170708	02/28/2015	5,563.58	"Travel to National Res – 2015 in Las Vegas 3/7 – 3/11" "Extra travel – consultants making trip to Res 2015 per Chairman"	A/R Tribal
170719	03/05/2015	490.60	"Car Rental – Alamo – LV 3/8 – 3/13, 2015"	A/R Tribal
170854	03/12/2015	1,374.12	"Travel to Madison 3/16 – 3/17 State Mtg"	A/R Tribal
170899	03/16/2015	2,500.00	"Travel to Washington DC for Mtg on 3/17 – 3/19"	Donations Payable
170911	03/18/2015	1,500.00	"Traveling to Madison – 3/20 – 3/22"	Donations Payable

170916	03/19/2015	1,031.77	"Travel to Keshena 3/26 – 3/28, 2015"	Donations Payable
171039	03/25/2015	3,000.00	"Travel expense for San Diego & Las Vegas Niga & Business Mtg 3/29 – 4/4, 2015"	Donations Payable
171042	03/26/2015	1,500.00	"Travel expense to Keshena WI 3/26 – 3/28"	Donations Payable
171380	04/16/2015	1,500.00	"Travel to Wausau WI, 4/16 – 4/19"	A/R Tribal
171667	04/21/2015	1,515.12	"Travel to Bad River 4/22 – 4/23 Federation Mtg" "Travel to Madison 4/26 – 4/28 Lobbyist"	A/R Tribal
171870	05/01/2015	2,000.00	"Travel to Mille Lacs 5/1 – 5/3"	A/R Tribal
171874	05/04/2015	2,500.00	"Travel to Green Bay WI May 13 – 15, 2015"	Donations Payable
171878	05/04/2015	2,000.00	"Travel to GIPGA, Mystic Lake MN 5/17 – 5/20"	A/R Tribal
172120	05/19/2015	2,000.00	"Travel to Mille Lacs 5/25 – 5/27"	Donations Payable
172254	05/21/2015	2,500.00	"Travel to Madison 5/21 – 5/24"	A/R Tribal
172264	05/27/2015	2,500.00	"Travel to Green Bay on June 2 – 5, 2015"	A/R Tribal
172643	06/17/2015	2,500.00	"Travel to Baraboo WI BIA Conference 6/22 – 6/25"	Donations Payable
172751	06/25/2015	2,500.00	"St. Paul River Center GLIFWC Mtg [retiring] colors 6/28 – 7/1, 2015"	A/R Tribal
172905	06/30/2015	3,000.00	"Travel to Las Vegas NV. 7/1 – 7/5 Tribal Business Mtg"	A/R Tribal
173003	07/08/2015	1,000.00	"Travel to Odanah – GLIFWC July 9 & 10"	A/R Tribal
173195	07/14/2015	1,500.00	"Travel to Cloquet MN July 15 & 16, 2015"	A/R Tribal
173323	07/20/2015	1,000.00	"Travel to Madison 7/20 – 7/21"	Donations Payable
173513	07/22/2015	1,500.00	"Travel to Flandreau SD 7/23 – 25 f MMJ Tribal Mtg"	Donations Payable
173581	07/24/2015	1,000.00	"Travel to Blackbear on July 27-28"	A/R Tribal

173889	08/20/2015	4,500.00	"Travel to Denver CO. 8/22 – 8/25"	A/R Tribal
174114	08/27/2015	1,000.00	"Travel to Ho Chunk 8/27 – 8/28"	A/R Tribal
174146	09/03/2015	2,500.00	"Travel pay for Valley Center CA 9/8 – 9/11 Tribal Council to MMJ Conference	A/R Tribal
174313	09/14/2015	3,000.00	"Travel to G2E, Las Vegas 9/29 – 10/4"	A/R Tribal
174322	09/15/2015	701.43	"Travel to Madison WI, State Mtg, 9/16 – 9/17"	A/R Tribal
174469	09/23/2015	5,029.03	"Travel to G2E 9/27 – 10/3"	A/R Tribal
174471	09/23/2015	1,010.50	"Travel to Red Cliff Legendary Waters 9/23 & 9/24"	A/R Tribal
174652	10/01/2015	2,500.00	"Travel for Lewis Taylor for 10/2 – 10/4"	A/R Tribal
174816	10/15/2015	1,500.00	"Travel to Mille Lacs 10/16 – 10/18"	A/R Tribal
175111	10/29/2015	2,000.00	"Travel to NIGA Hollywood Fl 10/31 – 11/4, 2015"	A/R Tribal
175329	11/11/2015	700.00	"Travel to Menominee 11/11 – 11/13 Keshena"	A/R Tribal
175517	11/20/2015	3,000.00	"Travel to L.V. 11/20 – 11/23 business Mtg Seneca"	A/R Tribal
175615	12/03/2015	1,000.00	"Travel to Treasure Island, Finance Mtg 12/9 – 12/11"	A/R Tribal
175767	12/14/2015	5,000.00	"Tribal Council Travel to Or 12/14 – 12/18"	Donations Payable
176493	01/22/2016	1,500.00	"Travel to Depere WI 1/24 – 1/26"	A/R Tribal
176801	02/11/2016	1,000.00	"Travel to Madison 2/16 – 2/17"	A/R Tribal
176841	02/16/2016	2,500.00	"Travel to Las Vegas 2/19 – 2/24"	A/R Tribal
177249	03/09/2016	3,911.59	"Travel to NIGA Phenoix AZ 3/11 – 3/16"	A/R Tribal
177250	03/09/2016	4,198.03	"Travel to Res – 2016 3/18 – 3/26 in Las Vegas"	A/R Tribal
178464	05/04/2016	7,000.00	"Travel to CA May 5, May 15, 2016"	Donations Payable

179220	06/20/2016	2,664.24	"Travel to Denver 6/21 – 6/26"	A/R Tribal
179627	07/18/2016	3,000.00	"Travel to New Buffalo MI"	A/R Tribal
180503	08/22/2016	1,500.00	"Travel to Mole Lake"	A/R Tribal
180594	08/25/2016	2,000.00	"Travel for Lewis Taylor WI Dells 8/26 – 8/29"	A/R Tribal
180809	09/09/2016	2,500.00	"Travel to New York 9/11 – 9/15"	A/R Tribal
180976	09/20/2016	5,000.00	"Travel to G2E 9/22 – 9/30"	A/R Tribal
181197	10/05/2016	3,000.00	"Travel to Phoenix AZ 10/9 – 10/14"	A/R Tribal
181881	11/08/2016	1,500.00	"Travel to Stockbridge Munsey 11/8 – 11/11"	A/R Tribal
182067	11/17/2016	2,500.00	"Travel to Lac du Flambeau 11/20 – 11/22"	A/R Tribal
182308	12/02/2016	3,000.00	"Travel to L.V. 12/3 – 12/8"	A/R Tribal
182312	12/02/2016	10,000	"Travel AZ legal symposium 12/9 – 12/14"	A/R Tribal
182741	01/10/2017	1,500.00	"Travel to Lac du Flambeau 1/10 – 1/12"	A/R Tribal
183085	01/20/2017	3,500.00	"Travel to L.V. for taxation seminar Jan 24 – 29"	A/R Tribal
183359	02/09/2017	1,500.00	"Travel to Duluth 2/10 – 2/12"	A/R Tribal
183532	02/21/2017	1,000.00	"Travel to Madison 2/23 – 2/24"	A/R Tribal
183711	03/03/2017	3,500.00	"Per diem Las Vegas Res 2017 3/9 – 3/19"	A/R Tribal
184222	03/30/2017	1,000.00	"Per diem – Madison 4/3 – 4/5"	A/R Tribal
184281	04/06/2017	2,500.00	"Travel per diem to Sand Diego CA 4/9 – 4/16"	A/R Tribal
185156	05/12/2017	1,000.00	"per diem – travel – MN 5/12 – 5/14"	A/R Tribal
185184	05/17/2017	2,500.00	"per diem travel to Las Vegas Title 31 Mtg 5/17 – 5/21"	A/R Tribal
185417	05/25/2017	2,000.00	"per diem travel to Red Cliff"	A/R Tribal
185712	06/12/2017	3,000.00	"Travel to MI 6/13 – 6/17"	A/R Tribal
185952	06/26/2017	3,500.00	"per diem travel LV 7/3 – 7/9"	A/R Tribal
185958	06/27/2017	5,000.00	"Travel assistance"	A/R Tribal
186752	07/31/2017	2,500.00	"Travel – per diem Traverse City MI"	A/R Tribal

187360	09/05/2017	2,500.00	"per diem Travel to Milwaukee WI 9/5 – 9/9"	A/R Tribal
187644	09/21/2017	4,000.00	"Travel to L.V. G2E 10/1 – 10/6"	A/R Tribal
187678	09/26/2017	1,500.00	"Travel to LDF on 9/25 – 9/27"	A/R Tribal

62. The checks listed in paragraph 61 were either supported by only a Request for Disbursement form or supported by only partial documentation.

63. Many of the checks listed in paragraph 62 were issued with payments from Tribal Governmental Programs for the same travel purposes:

Check #	Check Date	Amount	Reason Offered for Disbursement	Tribal Program
251809	04/16/2015	459.13	"Whittenburg 4/16/15 – 4/18/15"	Interstate
500015	10/06/2016	2802.00	"Phoenix, AZ 10/9/16 – 10/13/16" "Travel Stipend"	Interstate
500018	10/06/2016	400.09	"Reimb, Car Rental, 9/15/16"	Interstate
500099	10/27/2016	2,287.06	"Reimb/Car Invoices"; "Car repair also Travel to AZ"	Interstate
500129	11/07/2016	1,544.94	"Travel Stipend" "Bowler, WI 11/8/16 – 11/10/16"	Interstate
500172	11/17/2016	1,451.74	"Lac du Flambeau 11/20/16 – 11/22/16" "Travel Stipend"	Interstate
500235	12/01/2016	3,092.30	"Las Vegas 12/3/16 – 12/8/16"	Interstate
243	01/10/2017	1,049.57	"Travel Stipend" "Lac du Flambeau 1/11/17"	Interstate
500408	01/19/2017	1,999.06	"Travel Stipend – Las Vegas 1/25/17" "Las Vegas 1/25/17 – 1/29/17"	Interstate
500432	01/23/2017	223.90	"Las Vegas 1/25/17 Rental Van"	Interstate
500516	02/09/2017	2,029.56	"Travel Stipend" "Duluth, MN 2/10/17 – 2/12/17"	Interstate
500718	03/06/2017	3,759.04	"Las Vegas 3/10/17 – 3/19/17"	Interstate
500887	03/30/2017	2,015.47	"Madison 4/2/17 – 4/6/17" "Council Travel Stipend"	Interstate
500903	04/06/2017	1,000.00	"Council Stipend – San Diego 4/9/17"	Interstate

500905	04/06/2017	1,862.89	"San Diego 4/9/17 – 4/16/17"	Interstate
500917	04/06/2017	1,000.00	"Ext. Travel Stipend – San Diego 4/9/17"	Interstate
501252	05/16/2017	1,004.90	"Las Vegas 5/17/17"	Interstate
501471	06/12/2017	2,204.43	"Michigan 6/14/17" "Travel Stipend"	Interstate
501485	06/12/2017	1,563.75	"Baraboo 6/13/17" "Travel Stipend"	Interstate
501596	06/23/2017	2,211.46	"Las Vegas 7/3/17 – 7/9/17"	Interstate
501611	06/26/2017	1,000.00	"Las Vegas 7/3/17 – 7/9/17"	Interstate
502132	09/05/2017	2,284.32	"Milwaukee 9/6/17" "Travel Stipend"	Interstate
502363	09/26/2017	1,000.00	"Travel Stipend, 9/26/17, Lac du Flambeau"	Interstate
502368	09/26/2017	1,000.00	"Travel Stipend – G2E 10/7/2017"	Interstate
502374	09/27/2017	1,626.80	"Las Vegas, Nv 9/30/2017 – 10/7/2017"	Interstate
502427	09/29/2017	1,500.00	"Las Vegas 9/30/2017"	Interstate

### **Defendant's Receipt of Miscellaneous Disbursements**

64. The Defendant received numerous undocumented and unsupported disbursements, for various reasons:

Check #	Check Date	Amount	Reason Offered for Disbursement	Account Debited
175813	12/21/2015	1,500.00	"To pay for traditional service for a Medicine Man"	A/R Tribal
177531	03/22/2016	1,500.00	"Additional emergency funds for LV."	A/R Tribal
178303	04/21/2016	1,000.00	"For Medicine Man services"	Donations Payable
185513	06/07/2017	1,500.00	"Medicine Man for 6/9 – 6/10"	A/R Tribal
185503	06/07/2017	3,500.00	"For Hertel/Siren projects"	A/R Tribal
186885	08/08/2017	1,000.00	"For Medicine Man"	A/R Tribal

65. The checks listed in paragraph 64 were supported only by a Request for Disbursement form, without any receipts, contracts, or other supporting documentation to identify the need and purpose for the disbursement.

## Counts

### **Count 1—Violation of Tribal Gaming Ordinance (Travel Disbursements)**

66. The Tribe realleges and incorporates by reference the preceding paragraphs as if fully set forth here.

67. There are no Tribal Council resolutions authorizing the specific travel disbursements as detailed in the table in paragraph 61 (collectively the “Travel Disbursements”).

68. The Requests for Disbursements for the Travel Disbursements do not include any additional documentation regarding the travel’s purpose or any verification that the travel occurred.

69. The Travel Disbursements were not issued pursuant to the Tribe’s RAP or any established tribal government program.

70. Many of the Travel Disbursements were issued simultaneously with payments, stipends, or reimbursements for the same travel from another Tribal account, as detailed in the table in paragraph 63.

71. Undocumented travel is not an operating expense for the Tribe’s gaming operations, and the Travel Disbursements should have been considered net gaming revenue.

72. Using net gaming revenue for undocumented travel for an individual, including undocumented travel advances, is not an approved use of net gaming revenue under IGRA, NIGC regulations, or the Tribe’s Gaming Ordinance.

73. Defendant’s actions in keeping the money disbursed to him from any of the Travel Disbursements individually is a violation of § 9 of the Tribe’s Gaming Ordinance, which restricts the use of net gaming revenues to one of five purposes.



74. As a direct and proximate result of the Defendant's violation of the Tribe's Gaming Ordinance, the Tribe has suffered monetary damages relating to Count 1 in an amount to be proven at trial.

**Count 2—Violation of Tribal Gaming Ordinance (Miscellaneous Disbursements)**

75. The Tribe realleges and incorporates by reference the preceding paragraphs as if fully set forth here.

76. There is not a Tribal Council resolution authorizing the specific disbursements as detailed in the table in paragraph 64 (collectively the "Miscellaneous Disbursements").

77. The Requests for Disbursement for the Miscellaneous Disbursements do not include any additional documentation regarding the purpose of the disbursements, such as a contract, invoice, receipt, or description of goods and services provided by the Defendant in support of these payments.

78. The Miscellaneous Disbursements were not issued pursuant to the Tribe's RAP or any established tribal government programs.

79. Undocumented payments are not an operating expense for the Tribe's gaming operations, and the amounts should have been considered net gaming revenue.

80. Using net gaming revenue for an undocumented payment to individuals is not an approved use of net gaming revenue under IGRA, NIGC regulations, or the Tribe's Gaming Ordinance.

81. Defendant's actions in keeping the money disbursed to him from the Miscellaneous Disbursements individually and/or collectively is a violation of § 9 of the Tribe's Gaming Ordinance, which restricts the use of net gaming revenues to one of five purposes.

82. As a direct and proximate result of the Defendant's violation of the Tribe's Gaming Ordinance, the Tribe has suffered monetary damages relating to Count 2 in an amount to be proven at trial.

### **Count 3—Violation of Wisc. Stat. 943.20(1)(b) (Travel Disbursements)**

83. The Tribe realleges and incorporates by reference the preceding paragraphs as if fully set forth here.

84. By virtue of his office as an elected official, the Defendant received possession of the Tribe's money, in the form of the Travel Disbursements, as further described in Count 1, with the intent to convert the money to his own use.

85. Many of the Travel Disbursements was issued simultaneously with a payment, stipend, or reimbursement for the same travel from another Tribal account.

86. Without the consent of the Tribe, the Defendant intentionally retained possession of the money for a prohibited purpose under tribal law.

87. As an elected official of the Tribe, the Defendant did not have the authority to use the Travel Disbursements for a purpose that violated tribal law.

88. The Tribal Court Code, § 307A, allows the incorporation of Wisconsin state law charges in Tribal Court.

89. As a direct and proximate result of the Defendant's violation of Wisc. Stat. 943.20(1)(b), through the procurement and retention of any of the Travel Disbursements individually and/or collectively, the Tribe has suffered damages in an amount to be proven at trial.

### **Count 4—Violation of Wisc. Stat. 943.20(1)(b) (Miscellaneous Disbursements)**

90. The Tribe realleges and incorporates by reference the preceding paragraphs as if fully set forth here.

91. By virtue of his office as an elected official, the Defendant received possession of the Tribe's money, in the form of the Miscellaneous Disbursements, as further described in Count 2, with the intent to convert the money to his own use.

92. Without the consent of the Tribe, the Defendant intentionally retained possession of the money for a prohibited purpose under tribal law.

93. As an elected official of the Tribe, the Defendant did not have the authority to use the Miscellaneous Disbursements for a purpose that violated tribal law.

94. The Tribal Court Code, § 307A, allows the incorporation of Wisconsin state law charges in Tribal Court.

95. As a direct and proximate result of the Defendant's violation of Wisc. Stat. 943.20(1)(b), through the procurement and retention of the Miscellaneous Disbursements individually and/or collectively, the Tribe has suffered damages in an amount to be proven at trial.

#### **Count 5—Misapplication of Funds (Travel Disbursements)**

96. The Tribe realleges and incorporates by reference the preceding paragraphs as if fully set forth here.

97. As an elected official of the Tribe, the Defendant was entrusted as a fiduciary with the Tribe's monetary resources.

98. The Defendant knowingly and willfully kept the money disbursed to him individually and/or collectively in the Travel Disbursements in a manner contrary to the requirements of the Tribe's Gaming Ordinance (see Count 1) and his Oath of Office (see Count 8), and in some cases the Tribe's Travel Ban and Travel Restriction Resolutions, and thus misapplied the Tribe's money for prohibited uses, including his own benefit.

99. As a direct and proximate result of the Defendant's misapplication of funds, the Tribe has suffered monetary damages in an amount to be proven at trial.

#### **Count 6—Misapplication of Funds (Miscellaneous Disbursements)**

100. The Tribe realleges and incorporates by reference the preceding paragraphs as if fully set forth here.

101. As an elected official of the Tribe, the Defendant was entrusted as a fiduciary with the Tribe's monetary resources.

102. The Defendant knowingly and willfully kept the money disbursed to him in the Miscellaneous Disbursements individually and/or collectively in a manner contrary to the requirements of the Tribe's Gaming Ordinance (see Count 2) and his Oath of Office (see Count 9), and thus misapplied the Tribe's money for prohibited uses, including his own benefit.

103. As a direct and proximate result of the Defendant's misapplication of funds, the Tribe has suffered monetary damages in an amount to be proven at trial.

#### **Count 7—Misappropriation of Funds**

104. The Tribe realleges and incorporates by reference the preceding paragraphs as if fully set forth here.

105. By virtue of his position, the Defendant received authority over the Tribe's money, in the form of an ability to access the Tribe's Gaming Enterprises' bank accounts and check books, and the authority to order those with direct access to the accounts to make disbursements in his name.

106. Without the consent of the Tribe, the Defendant intentionally requested hundreds of disbursements for purposes prohibited under federal and tribal law, allowing the misappropriation of the Tribe's money.

107. As a direct and proximate result of the Defendant's misappropriation, the Tribe has suffered damages in an amount to be proven at trial.

#### **Count 8—Violation of Oath of Office (Travel Disbursements)**

108. The Tribe realleges and incorporates by reference the preceding paragraphs as if fully set forth here.

109. In signing his Oath of Office, Defendant adopted a sworn covenant to "faithfully and impartially discharge the duties" of his office, and to "support and defend the Constitution and Laws of the St. Croix Chippewa Indians of Wisconsin"

which created a duty of loyalty between him and the Tribe.

110. Defendant's actions in depositing and keeping any or all of the Travel Disbursements, as detailed above, violated his Oath of Office because he took monetary compensation above and beyond that required for his official duties, contrary to the Tribe's law and resolutions, and he took money that was intended to benefit the Tribe as a whole.

111. As a direct and proximate result of the Defendant's violation of his Oath of Office, the Tribe has suffered monetary damages in an amount to be proven at trial.

#### **Count 9—Violation of Oath of Office (Miscellaneous Disbursements)**

112. The Tribe realleges and incorporates by reference the preceding paragraphs as if fully set forth here.

113. In signing his Oath of Office, Defendant adopted a sworn covenant to "faithfully and impartially discharge the duties" of his office, and to "support and defend the Constitution and Laws of the St. Croix Chippewa Indians of Wisconsin" which created a duty of loyalty between him and the Tribe.

114. Defendant's actions in depositing and keeping the Miscellaneous Disbursements, as detailed above, violated his Oath of Office because he took monetary compensation above and beyond that required for his official duties, contrary to the Tribe's law and resolutions, and he took money that was intended to benefit the Tribe as a whole.

115. As a direct and proximate result of the Defendant's violation of his Oath of Office, the Tribe has suffered monetary damages in an amount to be proven at trial.

#### **Count 10—Declaratory Judgment**

116. The Tribe realleges and incorporates by reference the preceding paragraphs as if fully set forth here.

117. Article VIII, Section 2 of the Tribe's Election Ordinance provides that an individual is not to be considered a qualified candidate if:

The nominee has been found, by the St. Croix Tribal Court in a civil and/or criminal action, to have misappropriated, embezzled, stole, misapplied, converted, or willfully permitted the misapplication, any of the moneys, funds, credits, goods, assets, or other property belonging to the Tribe or intrusted to the custody or care of any officer, employee, or agent of the Tribe.

118. The allegations made in any or all parts of Counts 1 to 9 satisfy the requirements of this section.

119. If this Court finds the defendant liable for any of the actions asserted in Counts 1 to 9, the Tribe is entitled to a declaration that the Defendant has been found to have committed actions that prohibit him from being deemed a qualified candidate pursuant to the requirements of the Tribe's Election Ordinance.

#### **Prayer for Relief**

**WHEREFORE**, the Plaintiff Tribe requests this Court to enter judgment in its favor on Counts 1-10 against the Defendant, and to:

- I. Order the Defendant to pay restitution to the Tribe in an amount to be determined at trial;
- II. Award the Tribe damages in an amount to be determined at trial;
- III. Enter a declaration that the Defendant has:
  - a. violated the Tribe's Gaming Ordinance;
  - b. violated Wisc. Stat. 943.20(1)(b) in committing acts of embezzlement;
  - c. misapplied the Tribe's money for prohibited uses;
  - d. misappropriated the Tribe's money for prohibited uses;
  - e. violated his Oaths of Office; and
  - f. been found to have committed actions making him ineligible to be considered a qualified candidate under the Tribe's Election Ordinance; and
- IV. Grant such further relief as this Court may deem just and proper.

Respectfully submitted on this 24th day of March 2020.



Ashley S. Duffy

General Counsel

St. Croix Chippewa Indians of Wisconsin

24663 Angeline Ave.

Webster, Wisconsin 54893

Ph: 715-349-2195

Email: [aduffy@stcroixojibwe-nsn.gov](mailto:aduffy@stcroixojibwe-nsn.gov)

Andrew Adams III

Leah K. Jurss

Hogen Adams PLLC

1935 County Road B2 West, Ste. 460

Saint Paul, Minnesota 55113

Ph: 651-842-9100

Email: [aadams@hogenadams.com](mailto:aadams@hogenadams.com)

[ljurss@hogenadams.com](mailto:ljurss@hogenadams.com)