

IN THE TRIBAL COUNCIL FOR THE CONFEDERATED TRIBES OF THE GRAND
RONDE COMMUNITY OF OREGON

ANDREW JENNESS,

Plaintiff.

v.

REYNOLD LENO,

Defendant.

SWORN ETHICS COMPLAINT

This document is a formal sworn ethics complaint against the Confederated Tribes of Grand Ronde Tribal Council Vice Chairman, Reynold Leno (Defendant). Defendant failed to disclose and avoid both actual and potential conflicts of interest between his private self-interest and the public interest.

Background

In February 2011, I (Andrew Jenness) filed a sworn ethics complaint against Vice Chairman Reyn Leno containing several *Tribal Ethical Standards Ordinance* (TESO) violations (Jenness v. Leno). The charges included failure to declare a conflict of interest, misuse of Tribal resources, violating his oath of office, and other charges. As of the filing of this Sworn Ethics Complaint (early November, 2011) the February ethics complaint against Mr. Leno has not been resolved and is still active.

In early 2011 the Tribal Council began working on a new staff position to serve the Tribal Council. The position, which eventually was created, was the Tribal Council Executive Coordinator. Recruitment to fill this position began in late summer (August 2011) with a closing date to apply of September 12, 2011.

On September 12, 2011 I applied for this position. On or about September 21, 2011 I received a phone call from Connie Holmes, CTGR Human Resources representative, inviting me to interview for the position. The interviews for the

candidates were scheduled for October 13 and my interview was at 3:30pm in Tribal Council Chambers.

The interview panel included CTGR Tribal Council Chairwoman Cheryl Kennedy, Vice Chairman Reynold Leno (Defendant), Secretary Jack Giffen Jr., Chris Mercier, Toby McClary, Steve Bobb, June Sherer, Kathleen Tom, and HR representative Connie Holmes. Ms. Holmes asked a majority of the questions, however, Chris Mercier, Toby McClary, Reyn Leno also asked questions. Mr Leno also openly questioned my character and ability to hold information in confidence.

On Sunday, October 16 I emailed a writing sample to Ms. Holmes. Over the next seven to ten days the interview panel scored the interviews and writing samples. Mr. Leno participated in the scoring and decision making process. Furthermore, he scored another candidate higher than myself effectively voting against me. On or about the week of October 24th 2011 an employment offer was presented to Mr. Brent Merrill who accepted the position.

Alleged Unethical Behavior

Claim 1

Defendant violated TESO, Tribal Code § 275

(e) Conflicts of Interest

(2) Disclosure and Disqualification of Tribal Council Members. Whenever the performance of official duties shall require any Tribal Council member to deliberate and vote on any matter involving his or her financial or personal interest, the Tribal Council member shall publicly disclose on the record at a Tribal Council meeting the nature and extent of such interest and be disqualified from participating in deliberation as well in the voting.

A conflict of interest is defined this way:

"We can define a conflict of interest as a situation in which a person has a private or personal interest sufficient to appear to influence the objective exercise of his or her official duties as, say, a public official, an employee, or a professional."

(Source: Chris MacDonald, Michael McDonald, and Wayne Norman, "Charitable Conflicts of Interest," *Journal of Business Ethics* 39:1-2, 67-74, Aug. 2002. p.68)

“It is worth noting how broad the concept is. Conflict of interest is not just about money. It is about the presence of factors — any factors — that a reasonable person might think is likely to bias a decision-maker’s judgment.”

(Source: <http://chrismacdonald.ca/resources/conflict-of-interest-a-basic-coi-toolkit/>)

Mr. Leno’s participation in the interviews where one of the applicants has an unresolved ethics complaint is a factor that a reasonable person might think is likely to bias his judgment. TESO requires any public official to declare the conflict of interest and recuse him/her self from the decision making process. Mr. Leno’s failure to do as required by TESO is unethical and thus is an ethics violation under TESO.

Claim 2

Defendant violated TESO, Tribal Code § 275

- (d) Standards of Conduct. Each Official shall:
(17) Not engage in improper conduct nor grossly neglect one’s duty as described in the Election Ordinance if applicable.

The Election Ordinance defines gross neglect of duty as follows:

Election Ordinance, Tribal Code § 280

- (p) Recall
(2) Basis for Recall. . . “gross neglect of duty” shall consist of failure to perform the duties as set forth in the Constitution and laws of the Confederated Tribes of the Grand Ronde Community of Oregon

The Tribal Council Ordinance, Tribal Code § 220 creates a duty for Tribal Council members to declare when a conflict of interest exists.

Tribal Council Ordinance, Tribal Code § 220

- (d) TAKING OFFICE
(l) Beginning of Terms: ...The oath of office shall be as follows:
“I do solemnly swear that I will uphold the Constitution and laws of the Confederated Tribes of the Grand Ronde Community of Oregon that I will serve the Tribe to the best of my ability that I will work for the entire

membership of the Tribe that I will responsibly represent the Tribe that I will carry out the directions of the Tribal Council that ***I will declare when a conflict of interest could affect the performance of my duties on behalf of the Tribe*** and that I will perform all duties required of me by the Constitution and laws of the Tribe.” (Italics added)

Furthermore, Mr. Leno acknowledged and agreed to this duty to declare a conflict of interest when he took his oath of office at the time of his swearing in. His most recent swearing is was shortly after September 10, 2011.

Mr. Leno’s failure to declare the conflict of interest between his personal interest (the open ethics complaint, Jenness v. Leno) and the public interest (objectivity in carrying out his duties) is a gross neglect of duty as defined by the election ordinance and is thus a TESO ethics violation.

Conclusion

Complainant prays for an independent investigation and judgment against Defendant with appropriate disciplinary action as described and explained in TESO.

I declare and swear under the laws of the Confederated Tribes of the Grand Ronde community of Oregon that the foregoing is true and correct.

Dated this October 9, 2011

Andrew M. Jenness
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