

18

**SPIRIT LAKE TRIBE
RESOLUTION NO. A05-07-054**

CLASS ACTION COMPLAINT AND PETITION
BY
CONCERNED CITIZENS OF THE SPIRIT LAKE NATION

JANUARY 14, 2007

MR. JAMES ABBOTT
EXECUTIVE DIRECTOR
NORTH DAKOTA STATE BOARD OF ACCOUNTANCY
GRAND FORKS, NORTH DAKOTA 58202-8104

DEAR MR. ABBOTT:

WE THE CITIZENS OF THE SPIRIT LAKE NATION, AS CONCERNED TRIBAL MEMBERS, ARE HEREBY FILING WITH YOUR OFFICE A CLASS-ACTION INVESTIGATION PETITION AND APPROPRIATE DISCIPLINARY ACTION ON THE BASIS THAT THE TRIBE'S AUDITORS, **BRADY MARTZ, CERTIFIED PUBLIC ACCOUNTANTS AND CONSULTANTS**, ARE NOT INDEPENDENT NEITHER IN FACT NOR IN APPEARANCE AND WITH THE UNDERSTANDING THAT AUDITORS CANNOT AUDIT THEIR OWN WORK IF THEY ARE TO REMAIN INDEPENDENT IN FACT AND IN APPEARANCE.

WE ARE REQUESTING THAT YOU INVESTIGATION INCLUDE AS A MINIMUM THE FISCAL YEAR PERIODS AS FOLLOWS:

1. OCTOBER 1, 2003 TO SEPTEMBER 30, 2004
2. OCTOBER 1, 2004 TO SEPTEMBER 30, 2005
3. OCTOBER 1, 2005 TO SEPTEMBER 30, 2006

YOUR OFFICE CAN INVESTIGATE PRIOR YEARS AS WARRANTED.

WE ARE REQUESTING THAT YOU INVESTIGATION INCLUDE AS A MINIMUM **THE SPIRIT LAKE TRIBE** AND THE FOLLOWING ENTITIES:

1. SPIRIT LAKE CASINO AND RESORT
2. CANDESKA CIKANA (LITTLE HOOP) COMMUNITY COLLEGE
3. DAKOTA SIOUX MANUFACTURING, INC
4. DTI
5. OTHER ENTITIES UNDER THE JURISDICTION OF THE SPIRIT LAKE TRIBE

THERE ARE ALL KINDS OF NEW RULES, NEW REGULATIONS, AND NEW FEDERAL REGULATIONS AND FEDERAL LAWS INCLUDING THE **SARBANES-OXLEY ACT** SIGNED INTO LAW IN 2002 BY PRESIDENT BUSH THAT REGULATE AUDITORS INDEPENDENCE BOTH IN FACT AND IN APPEARANCE AND TO PREVENT AUDITORS FROM AUDITING THEIR OWN WORK AND ISSUING AN OPINION ON THEIR OWN WORK.

MOST IMPORTANT OF ALL, FROM THE INFORMATION AND TRAINING DIFFERENT TRIBAL MEMBERS RECEIVED, IT IS CLEAR TO US NOW THAT AUDITORS WILL NO LONGER BE ABLE TO USE THE ENGAGEMENT LETTER AND THE CLIENT REPRESENTATION LETTER OR MANAGEMENT LETTER TO MAKE THEIR CLIENTS LIE AS TO:

- WHO FOR REALS PREPARED THE GASB-34 GOVERNMENT-WIDE FINANCIAL STATEMENTS ON THE FULL-ACCRUAL BASIS OF ACCOUNTING,
- WHO FOR REALS PREPARED THE FIXED ASSET DEPRECIATION SCHEDULES REQUIRED BY GASB-34,
- WHO FOR REALS PREPARED THE MD & A OR MANAGEMENT DISCUSSION AND ANALYSIS REQUIRED BY GASB-34.
- WHO FOR REALS PREPARED THE RECONCILIATION SCHEDULES TO RECONCILE THE DIFFERENCES BETWEEN THE GASB-34 FULL-ACCRUAL FINANCIAL STATEMENTS AND THE MODIFIED-ACCRUAL BASIS COMBINING AND INDIVIDUAL FUND FINANCIAL STATEMENTS,
- WHO FOR REALS COMPILED THE INFORMATION AND PREPARED THE NOTES TO THE FINANCIAL STATEMENTS,
- WHO FOR REALS PREPARED THE SEFA OR SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS,
- WHO FOR REALS PREPARED THE MODIFIED- ACCRUAL BASIS COMBINING AND INDIVIDUAL FUND BALANCE SHEETS AND STATEMENTS OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE REQUIRED FOR THE ADMINISTRATION OF GRANTS AND CONTRACTS,
- THE LAWS AND REGULATIONS STATE VERY CLEARLY THAT AUDITORS **CANNOT AUDIT THEIR OWN WORK** AND MUST BE INDEPENDENT BOTH **IN FACT AND IN APPEARANCE**,
- THE AUDITORS HAVE BEEN AUDITING, **IT LOOKS LIKE FOREVER**, THE SPIRIT LAKE TRIBE AND ALL OF THE TRIBE'S ENTERPRISES SUCH AS THE SPIRIT LAKE CASINO, THE TRIBAL COLLEGE, DAKOTA SIOUX MANUFACTURING, ETC. **THEY MIGHT AS WELL BE MARRIED TO THE TRIBE AND THE CASINO, ETC.** IT LOOKS LIKE THEY HAVE BEEN AUDITING OUR TRIBE AND OUR TRIBAL ENTERPRISES FOREVER. **HOW INDEPENDENT IS THAT? IN FACT? IN APPEARANCE?**
- THE CLIENT REPRESENTATION LETTER IS A BIG COVER-UP CLAIMING THAT TRIBAL PERSONNEL ASSEMBLED ALL OF THE FINANCIAL STATEMENTS (GASB-34 AND MODIFIED-ACCRUAL BASIS), NOTES TO THE FINANCIAL STATEMENTS AS AN INTEGRAL PART OF THE FINANCIAL STATEMENTS, THE SEFA OR SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS, ETC., WHEN IN FACT, THE AUDITORS TOOK THE RAW DATA FROM THE TRIBE TO THEIR OFFICE IN GRAND FORKS AND ASSEMBLED IN THEIR GRAND FORKS OFFICES ALL OF THE FINANCIAL STATEMENTS (GASB-34 AND MODIFIED-ACCRUAL BASIS), ASSEMBLED IN THEIR GRAND FORKS OFFICES THE NOTES TO THE FINANCIAL STATEMENTS, INCLUDING THE FIXED ASSET SCHEDULES AND RELATED FINANCIAL INFORMATION, INCLUDING LONG TERM DEBT SCHEDULES, AMORTIZATIONS, AND RELATED FINANCIAL INFORMATION. THE TRIBAL TREASURER DOES NOT HAVE ANY FORMAL EDUCATION OR EXPERTISE OR EXPERIENCE IN ACCOUNTING, MUCH LESS GASB-34 OR MODIFIED-ACCRUAL BASIS ACCOUNTING. THE EDUCATION AND EXPERIENCE LEVEL OF TRIBAL EMPLOYEES IS AT MOST AT THE LEVEL OF BASIC BOOKKEEPING.

IN YOUR INVESTIGATION, PLEASE PAY CLOSE ATTENTION TO THE FOLLOWING MATTERS AS IT RELATED TO AUDITORS' INDEPENDENCE IN FACT, IN APPEARANCE, AND THE FACT THAT AUDITORS CANNOT AUDIT THEIR OWN WORK AND THEN TURN AROUND AND ISSUE AN OPINION ON THEIR OWN WORK THAT THEY MATERIALLY COMPILED:

1. THE **GASB-34 GOVERNMENT-WIDE FINANCIAL STATEMENTS** ON THE MODIFIED ACCRUAL BASIS OF ACCOUNTING: WHO COMPILED THEM? WHERE? ON WHOSE COMPUTER? USING WHOSE PROGRAM?
2. THE **MD & A OR MANAGEMENT DISCUSSION AND ANALYSIS**: WHO COMPILED IT? WHERE? ON WHOSE COMPUTER?
3. THE **NOTES TO THE FINANCIAL STATEMENTS** AND THE INFORMATION RELATED TO LONG TERM DEBT AND THE LONG TERM DEBT AMORTIZATION SCHEDULES: WHO COMPILED THE NOTES TO THE FINANCIAL STATEMENTS AND INFORMATION THERE IN? WHERE? ON WHOSE COMPUTER? USING WHOSE PROGRAM FOR LONG TERM DEBT OR FOR FIXED ASSET SCHEDULES?, ETC. ?
4. THE **FIXED ASSET SCHEDULES AND RELATED DEPRECIATION SCHEDULES** REQUIRED BY GASB-34: WHO COMPILED THEM? WHERE? ON WHOSE COMPUTER? USING WHOSE PROGRAM?
5. THE **RECONCILIATION SCHEDULES** TO RECONCILE THE DIFFERENCES BETWEEN THE GASB-34 FULL-ACCRUAL FINANCIAL STATEMENTS AND THE MODIFIED-ACCRUAL BASIS COMBINING AND INDIVIDUAL FUND FINANCIAL STATEMENTS: WHO COMPILED THEM? WHERE? ON WHOSE COMPUTER? USING WHOSE PROGRAM?
6. THE **SEFA** OR SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS: WHO COMPILED THEM? WHERE? ON WHOSE COMPUTER? USING WHOSE PROGRAM?
7. THE **MODIFIED- ACCRUAL BASIS COMBINING AND INDIVIDUAL FUND BALANCE SHEETS AND STATEMENTS OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE**: WHO COMPILED THEM? WHERE? ON WHOSE COMPUTER? USING WHOSE PROGRAM?
8. WE HAVE A REPORT WHICH SHOWS THAT THE BALANCE SHEET ACCOUNTS FOR ALL 255 PLUS FUNDS ARE FULL OF GARBAGE THAT HAS BEEN ACCUMULATING FOR YEARS AND YEARS. ONE ITEM MIGHT NOT BE MATERIAL, HOWEVER, IN THE AGGREGATE, THEY ARE MATERIAL.
9. WE HAVE A REPORT WHICH SHOWS THAT **ACCOUNTS RECEIVABLE AND LOANS RECEIVABLE** WITH VERY MATERIAL AMOUNTS AND BALANCES ARE NOT PROPERLY REFLECTED IN THE GENERAL LEDGER AND THEREFORE ARE NOT REFLECTED PROPERLY IN THE AUDIT REPORT(S) EITHER.
10. ALL OF THE **LOAN PROGRAMS** ADMINISTERED BY THE TRIBE ARE IMPROPERLY ACCOUNTED FOR. TRIBAL MEMBERS ARE CONCERNED ABOUT WASTE, ABUSE, AND POTENTIAL FRAUD.
11. WE HAVE BEEN INFORMED THAT TRAVEL ADVANCES SHOULD BE RECORDED AS A RECEIVABLE IN THE BALANCE SHEETS AND LIQUIDATED OR EXPENSED OUT WHEN RECEIPTS AND OTHER TRAVEL DOCUMENTATION ARE TURNED IN BY THE APPLICABLE TRAVELER. WE HAVE ALSO BEEN INFORMED THAT **TRAVEL ADVANCES RECEIVABLE** ARE NOT PROPERLY REFLECTED AS AN ASSET IN THE BALANCE SHEET AND ARE NOT PROPERLY REFLECTED IN THE AUDIT REPORT.

12. WE HAVE INFORMATION TO SHOW THAT ACCOUNTS PAYABLE ARE NOT PROPERLY REFLECTED IN THE FY2005 AUDIT REPORT. ACCOUNTS PAYABLE FOR FY2006 HAVE NOT BEEN ACCRUED YET IN THE GENERAL LEDGER EITHER. WE WERE TOLD THAT ACCOUNTS PAYABLE FOR ONE FUND MAY NOT BE MATERIAL, HOWEVER, THEY ARE MATERIAL IN THE AGGREGATE AS A WHOLE. WE WERE TOLD THAT ALL ACCOUNTS PAYABLE MUST BE ACCRUED IN THE GENERAL LEDGER BECAUSE YOU CANNOT USE NEXT YEAR'S FUNDING TO PAY FOR PRIOR YEAR'S BILLS ACCORDING TO THE FEDERAL GOVERNMENT REGULATIONS.
13. WE HAVE BEEN INFORMED THAT **PAYROLL RELATED LIABILITIES** NEED TO BE PROPERLY ADJUSTED AND CLEANED UP.
14. **LONG TERM DEBT** NEEDS TO BE PROPERLY ADJUSTED IN THE GENERAL LEDGER TO CONFORM WITH GASB-34 AND ACCOUNTING PRINCIPLES GENERALLY ACCEPTED IN THE UNITED STATES OF AMERICA AND TO BE PROPERLY REFLECTED IN THE CORRESPONDING OMB CIRCULAR A-133 SINGLE AUDIT AS REQUIRED BY THE FEDERAL GOVERNMENT.
15. WE WERE TOLD THAT **ACCRUED INTEREST PAYABLE** STILL NEEDS TO BE RECORDED IN THE TRIBE'S BOOKS.
16. DUE FROM GRANTOR AND DUE TO GRANTOR ACCOUNT BALANCES HAVE NOT BEEN RECONCILED AND ADJUSTED FOR ALL FUNDS (250 FUND IN QUESTION).
17. INTERNAL CONTROLS AND ETHICS, INCLUDING NEPOTISM EVEN IN THE TRIBAL GOVERNMENT. THE **MOTHER/SON RELATIONSHIP** BETWEEN THE TREASURER AND HIS MOTHER WHO IS THE TRIBAL CHAIRWOMAN, RELATED PARTY TRANSACTIONS, CONFLICTS OF INTEREST, ARE MAJOR PROBLEM WITH OUR TRIBAL GOVERNMENT AS TOLD IN A RECOMMENDATION WHICH SAYS: "AS I MENTIONED TO THE TRIBAL COUNCIL ON SEVERAL OCCASIONS, I WOULD LIKE TO ENCOURAGE THE TRIBAL COUNCIL TO SET UP AN EMERGENCY ASSISTANCE PROGRAM WITH ITS OWN DIRECTOR AND ITS OWN BUDGET, DUE TO ETHICAL IMPLICATIONS WHICH IN TURN AFFECT AND PERMEATE THE WHOLE SYSTEM OF INTERNAL CONTROLS".

IN CONCLUSION, IT IS OUR POSITION THAT THE AUDITORS SHOULD BE MANDATED TO RE-ISSUE THE AUDIT REPORTS FOR AT LEAST THE LAST THREE YEARS AND DISCLAIM AN OPINION BECAUSE OF THEIR LACK OF INDEPENDENCE BOTH IN FACT AND IN APPEARANCE AND BECAUSE THEY WERE AUDITING THEIR OWN WORK AND IN TURN ISSUING AUDITORS OPINIONS AND AUDITORS REPORTS ON THEIR OWN WORK THAT THEY COMPILED FROM RAW DATA OR INFORMATION THAT WAS TAKEN FROM THE ACCOUNTING OFFICES OF THE TRIBE AND TRIBAL ENTERPRISES TO THEIR OFFICE IN GRAND FORKS.

OUR ATTORNEY WILL CONTACT YOU BY FORMAL LETTER WITHIN THE NEXT 30 DAYS. WE SEARCHED CAREFULLY FOR A LAW FIRM WITH THE PROPER EXPERTISE AND CREDENTIALS TO ASSIST US WITH OUR CLASS-ACTION COMPLAINT.
