

Tribes File Trust Funds Mismanagement Lawsuit Against Federal Government

BOULDER, Colo. – The Native American Rights Fund (NARF), a non-profit law firm in Boulder, announced in late December that it has filed a class action lawsuit in federal district court in Washington, D.C., on behalf of more than 250 Indian tribes.

The suit seeks full and complete accountings from the federal government for hundreds of tribal accounts worth billions of dollars that are held in trust by the United States.

The federal government long ago assumed the role of trustee for tribal trust funds and created the accounts at issue. The funds come from revenues from tribal natural resources such as timber, minerals, oil and gas; court judgments entered against the United States for the unlawful appropriation of Indian land and property; and income from the investments of money held in the accounts. The federal government gave tribes no choice about the creation of these trust fund accounts, some of which date back to the 1800s.

NARF Executive Director John Echohawk explained recent events leading up to the lawsuit: "By the early 1980s, tribes increasingly were concerned that they could not get accountings of their trust funds. The Government Accounting Office (GAO) and the U.S. Department of the Interior's Office of the Inspector General (OIG) issued key reports that identified major problems in the government's management of tribal and individual Indian trust funds. The reports detailed records lost or never kept, systems that didn't work or

weren't coordinated, and policies that were deficient or never even existed.

"In 1987, Congress began ordering the Interior Department to audit and reconcile the accounts, which never had been done, and to provide full and complete accountings of the funds to tribes and individual Indians whose money was in the accounts.

"In 2003 the GAO stated that notwithstanding some improvements, Indian trust fund account holders have no assurance that their account balances are accurate. And as recently as 2005, the OIG reported that Interior Department procedures and controls were not adequate to ensure that Indian trust fund activities and balances were recorded properly or timely.

"The bottom line is that despite the agency reports and 20 years of congressional mandates, no adequate accountings have resulted to date."

The government's only response has been far short of full and complete accountings.

In the 1990s, the Bureau of Indian Affairs within the Interior Department contracted with the accounting firm of Arthur Andersen, LLP, to do a very limited "reconciliation" of tribal trust fund accounts.

Even though Arthur Andersen, the Interior Department, and the GAO all have acknowledged the Arthur Andersen reconciliation project shortcomings, the government has tried repeatedly to get tribes to accept the Arthur Andersen reconciliation reports as full and complete accountings of their trust

funds, thereby avoiding its basic trust responsibilities.

Efforts by Congress to resolve the situation have failed. Moreover, in 2002 Congress, concerned about the government's potential liability for Indian trust fund mismanagement estimated by the government itself to be in the hundreds of billions of dollars, gave tribes a deadline of Dec. 31, 2005, by which to challenge the accounting adequacy of the Arthur Andersen reconciliation reports.

In December 2005, Congress extended this deadline for one year to Dec. 31, 2006. Congress has refused to extend the deadline any further.

Given this deadline, the only recourse for tribes was to file a lawsuit by Dec. 31, 2006, seeking a court order declaring that the Arthur Andersen reconciliation reports are not full and complete accountings, and requiring the government to provide such accountings according to court-ordered standards.

As many as 50 tribes to date have filed lawsuits on their own behalf. But more than 250 other tribes either did not have the financial resources or the needed information to file their suits by the end of 2006.

NARF thus filed a class action lawsuit to protect those tribes that did not file their own lawsuits from forever losing their rights to challenge the adequacy of the Arthur Andersen reconciliation reports and to get full and complete trust fund accountings from the government.

The chairman of NARF's Board of Directors, John Gonzales, stated, "We are confident that the court will agree that the Arthur Andersen reconciliation reports are not full and complete accountings. The real battle will be over what more the court or Congress will do to protect the rights of tribes and hold the government accountable for its duties as the trustee for tribal trust funds."

Eleven tribes – the Nez Perce Tribe, the Mescalero Apache Tribe, the Tule River Indian Tribe, the Hualapai Tribe, the Yakama Nation, the Klamath Tribes, the Yurok Tribe, the Cheyenne-Arapaho Tribe, the Pawnee Nation of Oklahoma, the Sac and Fox Nation, and the Santee Sioux Tribe of Nebraska – are the named plaintiff tribes in the lawsuit.

Rebecca Miles, chair of the lead-named plaintiff, the Nez Perce Tribe, commented that, "This lawsuit is a reflection of a huge historical problem with the federal government's mismanagement of tribal trust accounts. We have tried to work with the agencies and we have tried to work with Congress. Our hope now is with the courts. We are pleased to step forward with NARF in leading this fight for Indian justice."

The Native American Rights Fund is a non-profit organization that has been protecting the legal and sovereign rights of tribes and Native people within the American legal system for more than 36 years. NARF is headquartered in Boulder, Colo., with offices in Anchorage, Alaska, and Washington, D.C.

Time for Hot Jazz in Portland

PORTLAND, Ore. – As snowbirds fly south for the winter, flocks of jazz fans dash to the Pacific Northwest's City of Roses. Why? Jazz!

Each February, Portland hotel ballrooms, theaters, clubs, and restaurants open their doors to the beat of jazz icons, emerging talent, and thousands of their fans. Venture out for the Portland Jazz Festival presented by Qwest and The Oregonian A&E on Feb. 6-25, 2007.

This year's festival expands to two weeks, highlighting ECM Records and presenting more than 125 separate jazz-related events.

The fourth annual Portland Jazz Festival will celebrate the 35th anniversary of *Crystal Silence*, the breakthrough recording of Chick Corea and Gary Burton (2/16) and one of the first ECM releases.

Other headline concerts feature the Grammy Award-winning Branford Marsalis Quartet (2/16); Detroit premier pianist Geri Allen; inspiring Norwegian saxophonist Trygve Seim; virtuoso clarinetist Don Byron's interpretation of the music of Junior Walker; named trumpeter, composer, and Downbeat Jazz Artist of the Year Dave Douglas Quintet (2/17); the distinctive ensemble of the sax man Charles Lloyd's Quar-

tet and award-winning Polish trumpeter Tomasz Stanko Quartet (2/18); Grammy Award-winning trumpeter Roy Hargrove (2/23); and will wind up with the out-of-Chicago premiere of *An Evening at the Green Mill* with Kurt Elling & Patricia Barber (2/24).

The festival will officially close with the annual **First Jazz** performance, presented by the Jazz Society of Oregon (2/25).

In addition to headline performances, visitors can indulge in Discover! concerts, more than 30 jazz education and outreach events, 20 free performances showcasing Northwest jazz artists, regional jazz talents in Portland clubs, and a variety of jazz programs produced by PDX Jazz community partners.

To not miss a beat, stay in one of 17 Portland Jazz Festival partner hotels. The Portland Oregon Visitors Association (POVA) has put together **special discount hotel rate packages** that include breakfast for two and free parking. All guests who book through POVA will receive a special Portland Jazz Festival gift bag.



For more information, please contact POVA at 1-87-PORTLAND (toll free, 1-877-678-5263) or visit www.travelportland.com.

Reserved seating is available for all headline concerts. Tickets for the Chick Corea and Gary Burton performance at the Arlene Schnitzer Concert Hall are available at all TicketMaster outlets.

Ticketing for all other PDX Jazz-ticketed concerts is at TicketsWest locations.

All tickets and numerous ticket packages can be purchased at www.pdxjazz.com.

For additional festival information, contact the festival office at 503-228-JAZZ (5299).

For hotel and Amtrak Cascades train reservations, visit www.travelportland.com or call 1-87-PORTLAND.

The Portland Jazz Festival is presented by Qwest and The Oregonian A&E, with generous support from Amtrak Cascades, Azumano Travel, Enterprise Rentals, Lufthansa Airlines, Music Millennium, Bang & Olufsen, Bill Naito Company, Flying Elephant's Deli, Umpqua Bank, Quango Inc., Jazz

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