



Ramona Prieto
Acting Director



Edmund G. Brown Jr
Governor

Department of Alcoholic Beverage Control
Administrative Hearing Office
PO BOX 348210
Sacramento, CA 95834-8210

January 11, 2017

In the Matter of the Protest Of:

Dianne Jacob, County Supervisor, District 2, *et al*
Against the Issuance of a License to:

Jamul Indian Village Development Corporation
San Diego Gaming Ventures LLC
Dba: Hollywood Casino Jamul
14191 Highway 94
Jamul, CA 91935-3213

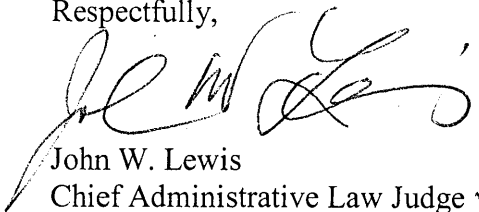
File: 47-562483
Reg: 16 084 762

Concerned Parties:

After the conclusion of two days of hearing on November 16 and 17, 2016, in the above entitled matter, an issue has been presented which now causes me to recuse myself from presiding over this matter any further. The reason for my recusal is because of an e-mail communication that was sent to me. I am recusing myself in an abundance of caution and to ensure that all parties receive a fair hearing.

I have enclosed a copy of the e-mail communication in question in order to provide full transparency to all those concerned. A different Administrative Law Judge will be assigned to hear this matter. You will be notified in the near future.

Respectfully,


John W. Lewis
Chief Administrative Law Judge

Enclosure

Lewis, John@ABC

From: Prieto, Ramona@ABC
Sent: Wednesday, November 30, 2016 11:42 AM
To: Lewis, John@ABC
Subject: Fwd: Jamul hearing

John
When you have a moment let's discuss. Thanks. Mona

Thank you,

Ramona Prieto
Acting Director
Department of Alcoholic Beverage Control
916-419-2510

Begin forwarded message:

From: "Williams, Peter@BCSH" <Peter.Williams@bcsh.ca.gov>
Date: November 30, 2016 at 11:04:26 AM PST
To: "Prieto, Ramona@ABC" <Ramona.Prieto@abc.ca.gov>
Subject: **FW: Jamul hearing**

Mona:

Below is the language from the federal decision I mentioned to you regarding the plaintiff's counsel who was representing the opponents to the tribe at the public meeting in San Diego. I would recommend that you share this with the ALJ with the presumption he will arrive on his own to the conclusion that: (1) is dealing with a semi-vexatious litigant; and (2) that the ALJ does not have jurisdiction to consider the issue of proper tribal sovereignty (and it's been determined already per decision below and elsewhere).

-Pete

From: Joe Dhillon [<mailto:Joe.Dhillon@GOV.CA.GOV>]
Sent: Friday, November 18, 2016 7:35 AM
To: Williams, Peter@BCSH
Subject: RE: Jamul hearing

Here is an excerpt from a 2009 US Court of Federal Claims decision. Patrick Webb was plaintiff's counsel. He also appeared at the ABC hearing and as I understand it was the one who presented the information about the tribe not being a tribe. Pretty strong language from a federal judge. That was 7 years ago.

Two cases before this court, Walter J. Rosales and Karen Toggery v. United States, No. 08-512 L. ("Rosales X"), and Walter Rosales, et al. v. United States, No. 98-860 L. ("Rosales VI"), arise out of a common set of facts and implicate similar principles of law. For the purposes of judicial economy, the court addresses both cases in this single opinion.

*Both cases stem from internecine disputes among the members and purported members of the Jamul Indian Village ("Village"), a federally-recognized tribal government.¹ The two complaints before this court, in Rosales VI and Rosales X, represent but the most iterations of plaintiffs' persistent attempts—in the face of repeated dismissals and unfavorable judgments over the course of fifteen years—to invalidate a series of tribal elections and to wrest from the Village the beneficial ownership of two parcels of tribal land. Plaintiffs have litigated or sought to litigate these same and related issues in no fewer than fourteen legal actions brought before tribal tribunals, administrative boards, and federal courts in California and the District of Columbia, all without success.² Indeed, what this court previously *572 observed in Franklin Sav. Corp. v. United States, 56 Fed.Cl. 720, 721 (2003), seems doubly apt here: "Despite vainly prosecuting myriad legal claims in every conceivable forum and fruitlessly propounding inventive and novel legal theories, plaintiffs have continually stared down the face of defeat, personifying Mason Cooley's aphorism, 'if you at first don't succeed, try again, and then try something else.' " Plaintiffs' current attempt to defy their fate—an attempt this court strongly admonishes plaintiffs to make their last—miscarries again.*

The court hereby grants defendant's motion to dismiss the complaint in Rosales X, and dismisses, on its own motion, the complaint in Rosales VI.

From: Williams, Peter@BCSH [<mailto:Peter.Williams@bcsh.ca.gov>]
Sent: Friday, November 18, 2016 7:28 AM
To: Joe Dhillon
Subject: Re: Jamul hearing

Thanks Joe. Can you let Cynthia know as well in case the tribal attorney intends to call her?

-Pete

On Nov 17, 2016, at 9:40 PM, Joe Dhillon <Joe.Dhillon@GOV.CA.GOV> wrote:

Will do. Thanks!

Sent with Good Work (www.blackberry.com)

From: Williams, Peter@BCSH <Peter.Williams@bcsh.ca.gov>
Date: Thursday, Nov 17, 2016, 8:10 PM
To: Joe Dhillon <Joe.Dhillon@GOV.CA.GOV>
Subject: Jamul hearing

Joe,

I just got a call from ABC. Apparently, at the end of today (the second day of hearings), a protestant presented the ALJ with a challenge to the tribe sovereignty (I.e., That they didn't properly qualify as a tribe).

Despite ABC's protest, the ALJ took it under consideration, even though it was far outside of his jurisdiction. Ultimately, he (apparently) ruled that Jamul was a proper tribe, but approved their alcohol license with conditions.

The tribal attorney approach ABC counsel afterward, and stated that he would be calling the tribal liaison (you, I think) to protest either the general procedures, or the specific conditions on the license. I'm not sure which.

Anyway, I'm just trying to give you a heads up. Please let me know how the conversation goes tomorrow.

-Pete