



06-24-NH

**RESOLUTION OF THE GOVERNING BODY
OF THE
THREE AFFILIATED TRIBES
OF THE
FORT BERTHOLD INDIAN RESERVATION**

A Resolution Entitled: *"Policy Requiring Compliance with Voluntary Wage Assignments by All Tribal Entities"*

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934 and the authority under said Act and having adopted a Constitution and By-laws pursuant to said Act; and

WHEREAS, Article III of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribes; and

WHEREAS, The Constitution of the Three Affiliated Tribes authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and

WHEREAS, Article VI, Section 5 (b) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council has the power to adopt resolutions regulating the procedure of the Tribal Business Council and other Tribal agencies and Tribal officials on the Reservation; and

WHEREAS, The Tribal Business Council adopted Resolution #00-175 DSB which adopted a Wage Withholding Process for tribal employees who owe debts to the Tribes; and

WHEREAS, Certain tribally operated programs including tribal day care centers and the Tribal Housing Division have developed programs whereby clients that owe debts to these programs for services may be required to issue voluntary wage assignments to guarantee payment of these debts; and

WHEREAS, Certain tribal entities have failed to comply with these voluntary wage assignments by refusing to honor them or by allowing employees to revoke them without prior approval of the Tribe or tribal programs; and

WHEREAS, The Tribal Business Council finds that it is in the best interests of the Tribes and its members that a policy be adopted that mandates that all tribal entities, including tribal businesses and corporations, be required to honor voluntary wage assignments and that further provides that once a voluntary wage assignment is issued by an employee it can not be stopped or revoked without the approval of the tribal program.



06-24-NH

NOW, THEREFORE, BE IT RESOLVED, that the Tribal Business Council of the Three Affiliated Tribes hereby adopts the following Wage Assignment Policy for the Tribes which shall be applicable to all tribal entities, programs, sub-divisions and corporations:

1. Employees of the Three Affiliated Tribes and all of its programs, sub-divisions and entities, including it's for profit and not for profit corporations, shall be authorized to issue voluntary wage assignments for the purpose of guaranteeing the payment of debts owed to the Tribe or any of its programs, sub-divisions or entities. Such wage assignments shall be honored by the Tribes, its programs, sub-divisions and entities, including tribal for profit and not for profit corporations.
2. Once an employee issues a voluntary wage assignment, the employee may not permanently or temporarily revoke, cancel, or otherwise stop the wage assignment without the express written approval of the tribal program who is the beneficiary of the assignment.

BE IT FURTHER RESOLVED, that this Policy is supplemental to any prior policies regarding wage assignments adopted by the Tribal Business Council and is not intended to repeal, revoke, supersede or nullify such prior policies.

BE IT FINALLY RESOLVED, that the above Wage Assignment Policy constitutes a policy of the Three Affiliated Tribes and failure by any employee of the Tribe or any of its programs, entities or sub-divisions to comply with it may subject such employee to disciplinary proceedings according to the applicable personnel policies and procedures of the program, entity or sub-division.

CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Forth Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 7 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 10th day of February, 2006; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 6 members, 0 members opposed, 1 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman voting. [] not voting.

Dated this 10th day of February, 2006.

12/27/2005 09:55 FAX 7015721505
DEC-21-2005-WED 11:26 AM

Schmitz&Furuseth

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P. 002

THREE AFFILIATED TRIBES
FORT BERTHOLD RESERVATION

IN DISTRICT COURT
NEW TOWN, NORTH DAKOTA

William E. Woods Jr.,
Plaintiff,
vs.
Yvette Johnson,
Defendant.

ORDER FOR INCOME
WITHHOLDING

Civil No. LV20050013

The above entitled matter having come on for hearing before this court on the 13 day of December, 2005, before the Honorable Peter Furuseth, Associate Tribal Judge, with the Plaintiff having appeared at the time and place set by the Court. The Defendant failed to appear after due notice from the Clerk of Court, having filed an untimely statement seeking a continuance.

The Court having reviewed the file and having been appraised of the relief requested by the Plaintiff, hereby makes the following findings.

1. Plaintiff was awarded a monetary judgment against the Defendant in the sum of \$6,000.00, with interest at judgment rate.
2. Defendant has failed to make any payments on the money judgment, even though she is gainfully employed by the Three Affiliated Tribes.
3. The Clerk of Tribal Court issued a writ of execution against wages of the Defendant which has failed to be returned.
4. That Defendant receives sufficient wages to exceed the exemptions from execution as provided by law, entitling Plaintiff to a portion of said wages.
5. The Court has equitable powers to provide a remedy under the law.

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Conklin v. Tribes Walker
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P. 003

Based upon the foregoing, the Court makes the following Order:

IT IS HEREBY ORDERED, that the Three Affiliated Tribes shall withhold from the wages of the Defendant the sum of \$50.00 per bi-weekly pay period and deposit the same with the Fort Berthold Tribal Court.

IT IS FURTHER ORDERED that the wages shall be paid over to the Plaintiff by the Tribal Court to satisfy the money judgment against the Defendant.

Dated this 26 day of December, 2005.

BY THE COURT:


ASSOCIATE TRIBAL JUDGE

Filed
12/26/05

Jennifer Fyten

From: Jennifer Fyten
Sent: Friday, January 06, 2006 3:16 PM
To: Evangeline Conklin
Cc: Barlow Wells; Steve Kelly; Richard E. Mayer; Tex G. Hall; Mervin Packineau; Nathan Hale; Frank White Calfe; Daylon Spotted Bear; Marcus WellsJR; Malcolm Wolf
Subject: court wage withholding orders

Vangie:

I recently received a copy of an order that was issued by Tribal Court Judge Pete Furuseth which ordered the Tribe to withhold wages of Yvette Johnson for payment on a civil judgment in favor of Bill Woods. I am not sure if you have received this, however, it is the opinion of the legal department that these types of orders that involve garnishments other than child support are invalid and unenforceable. I am requesting that the Tribal Council make a decision on whether they will honor these orders. I have submitted them a memorandum on the issue which you will receive a copy of. Therefore, I would recommend that your department not honor these until the TBC makes a decision.

I am attaching a copy of the memorandum referred to above. If you have any questions please give me a call.

Thank you.

Jennifer Fyten
Legal Department



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WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act and having adopted a Constitution and By-laws pursuant to said Act; and

WHEREAS, Article III of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribes; and

WHEREAS, The Constitution of the Three Affiliated Tribes authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and

WHEREAS, Article VI, Section 5 (l) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council has the power to adopt resolutions regulating the procedure of the Tribal Business Council and other Tribal agencies and Tribal officials on the Reservation; and

WHEREAS, The Tribal Business Council adopted Resolution #00-175 DSB which adopted a Wage Withholding Process for tribal employees who owe debts to the Tribes; and

WHEREAS, Certain tribally operated programs including tribal day care centers and the Tribal Housing Division have developed programs whereby clients that owe debts to these programs for services may be required to issue voluntary wage assignments to guarantee payment of these debts; and

WHEREAS, Certain tribal entities have failed to comply with these voluntary wage assignments by refusing to honor them or by allowing employees to revoke them without prior approval of the Tribe or tribal programs; and

WHEREAS, The Tribal Business Council finds that it is in the best interests of the Tribes and its members that a policy be adopted that mandates that all tribal entities, including tribal businesses and corporations, be required to honor voluntary wage assignments and that further provides that once a voluntary wage assignment is issued by an employee it can not be stopped or revoked without the approval of the tribal program.



NOW, THEREFORE, BE IT RESOLVED, that the Tribal Business Council of the Three Affiliated Tribes hereby adopts the following Wage Assignment Policy for the Tribes which shall be applicable to all tribal entities, programs, sub-divisions and corporations:

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BE IT FURTHER RESOLVED, that this Policy is supplemental to any prior policies regarding wage assignments adopted by the Tribal Business Council and is not intended to repeal, revoke, supersede or nullify such prior policies.

BE IT FINALLY RESOLVED, that the above Wage Assignment Policy constitutes a policy of the Three Affiliated Tribes and failure by any employee of the Tribe or any of its programs, entities or sub-divisions to comply with it may subject such employee to disciplinary proceedings according to the applicable personnel policies and procedures of the program, entity or sub-division.

CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Forth Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 6 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the ___ day of ~~October~~ 2005; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 6 members, 0 members opposed, 1 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [] voting. [] not voting.

Dated this ___ day of ~~October~~ 2005.

ATTEST:

Secretary, Nathan Hale
Tribal Business Council

Chairman, Tex G. Hall
Tribal Business Council



MANDAN, HIDATSA & ARIKARA NATION
Three Affiliated Tribes • Ft. Berthold Reservation
404 Frontage Road • New Town, ND 58763-9402

*Mandate to serve
Court enter an
order v. someone unless
they are a party to
no jurisdiction to serve
tribe is immune from
suit →
where authority?
Constitution?
Child support*

Evangeline Conklin, Payroll Technician
Three Affiliated Tribes Human Resources
404 Frontage Road
New Town, N.D. 58763

May 12, 2005

RE: Tribal Court Wage Withholding Orders

Dear Evangeline:

Commencing May 12, 2005 the Court will have you personally served as the Tribes agent for executing the wage withholding orders issued by the Tribal Court. Personal service means that an officer or someone with law enforcement authority will serve you with documents ordering that you perform as required by the order. As it is your job to input data into the computer relating to payroll for the Three Affiliated Tribes and the individuals are employees of the Tribe therefore an order to the Tribe for it to withhold amounts from their payroll is proper.

By personally serving you as an agent of the Tribe the Court will make you personally and on behalf of the Tribe subject to the Courts contempt authority. Contempt is addressed in several ways by the Court and its most severe punishment may be up to six months in jail and fines.

Once the orders are served upon you they cannot be "stopped" by the employee. The only authority to modify or stop the withholding is to receive a court order stating that the withholding order is modified or discontinued. Ultimately, it is the individual employee that is responsible for ensuring that payments are made to the Court and they are subject to the Courts immediate contempt authority in most cases as they have already been served with the order to pay child support and they have been notified that they are subject to wage withholding.

I hope this clarifies matters for you. Please contact me if you have any questions.

Sincerely,

El Marie Conklin
District Judge

cc: Judge Berryhill, Brandee Brugh, Tillie Little Soldier, Barlow Wells



ATTEST:



Secretary, Nathan Hale
Tribal Business Council

Chairman, Tex G. Hall
Tribal Business Council