

IN THE COURT OF THE QUAPAW NATION
(THE O-GAH-PAH)

QUAPAW NATION,

Plaintiff,

vs.

JACK N. BRILL, II

ADDR: 8215 GOLDFINCH
NEOSHO, MO 64850

DL: ****

SSN: ***-**-XXXX

DOB: 05/xx/1969

Defendant.

Case No: CF-23-17

QUAPAW NATION
TRIBAL COURT

JUN 01 2023

FILED

CRIMINAL COMPLAINT

FOR:

COUNT 1: ATTEMPTED EMBEZZLEMENT §104 QUAPAW TRIBAL CRIMINAL CODE
COUNT 2: CONSPIRACY §102 QUAPAW TRIBAL CRIMINAL CODE
COUNT 3: OFFENSE BY OFFICERS §53 QUAPAW TRIBAL CRIMINAL CODE
COUNT 4: EMBEZZLEMENT §106 QUAPAW TRIBAL CRIMINAL CODE
COUNT 5: OFFENSE BY OFFICERS §53 QUAPAW TRIBAL CRIMINAL CODE

PROBABLE CAUSE AFFIDAVIT

Comes now the undersigned Affiant, and states upon oath or affirmation that the following information and facts are correct to the best of the Affiant's knowledge and belief. The undersigned believes that probable cause exists for the detention of the below names arrestee for the below listed crime committed on the below listed date against the Quapaw Nation.

SUBJECT NAME: JACK N. BRILL, II

DOB: 05/xx/1969

SSN: XXX-XX-XXXX

SEX: M

RACE: AMERICAN INDIAN

HAIR: Brown

EYE: Brown

HEIGHT: _____ WEIGHT: _____

ETHNICITY: AMERICAN INDIAN

ADDRESS: 8215 GOLDFINCH

NEOSHO, MO 64850

ARREST DATE/ TIME:

ARREST LOCATION/ CITY:

OFFENSE LOCATION/ CITY: QUAPAW TRIBAL JURISDICTION

OFFENSE(S) COMMITTED/ ANTICIPATED CHARGES:

COUNT 1: ATTEMPTED EMBEZZLEMENT §104 QUAPAW TRIBAL CRIMINAL CODE

COUNT 2: CONSPIRACY §102 QUAPAW TRIBAL CRIMINAL CODE

COUNT 3: OFFENSE BY OFFICERS §53 QUAPAW TRIBAL CRIMINAL CODE

COUNT 4: EMBEZZLEMENT §106 QUAPAW TRIBAL CRIMINAL CODE

COUNT 5: OFFENSE BY OFFICERS §53 QUAPAW TRIBAL CRIMINAL CODE

AFFIDAVIT

I, Michael Crump, of lawful age and being first duly sworn upon oath, depose and say that I am the President and Owner of Innovative Gaming Solutions (IGS); a casino industry training and consulting company. IGS has specialized in fraud, waste and abuse detection and deterrence and regulatory compliance since 2005. IGS services and training has been utilized by tribal and corporate casinos, federal and state agencies across the United States, Canada, and several other countries. I was hired by the Quapaw Tribal Gaming Agency, and subsequently by the Quapaw Nation, to conduct an internal audit and investigation of the Downstream Development Authority and Saracen Development Authority, LLC, both subsidiaries of the Quapaw Nation. The following is probable cause to believe that JACK N. BRILL, II, DOB: 05/xx/1969, a Native American and member of the Quapaw Nation, a federally recognized Tribe located within the state of Oklahoma, committed the crimes as listed above in violation of Title 11, Quapaw Nation Law and Order Code.

1. On or about 11 June, 2020 IGS was contacted by Quapaw Nation Gaming Authority (QNGA) Executive Director Barbara Collier about completing an internal audit and investigating allegations of improper bonuses being paid to tribal leaders and casino executives as seen on a popular tribal Facebook page entitled Everything Quapaw. An official complaint was filed with the Quapaw Nation Gaming Agency (QNGA) by former Downstream Development Authority (DDA) board member Larry Ramsey concerning unauthorized bonuses being paid to casino key employees and tribal leaders.
2. As stated in the Quapaw Nation Gaming Ordinance Title 17, Chapter 1, Section 5 – Definitions: "...” The Gaming Ordinance defines the Tribal Gaming Commission is “established to secure, oversee, and protect the honesty, integrity, fairness and security of Quapaw Tribal gaming by adjudicating matters that come before it and performs such other functions as are authorized by this Ordinance”.
3. Jack Brill, a licensed attorney in the state of Missouri, served the Quapaw Nation in the capacity of Legal Counsel for the Downstream Casino Resort, from July 1, 2011 to October 22, 2022 and Board Member on Quapaw Nation’s subsidiaries, The Downstream Development Authority, from April 23, 2019 to September 19, 2020, and Saracen Development, LLC, from June 19, 2019 to September 19, 2020.
4. On 16 July 2020 Chris Lenggenhager of IGS began the Internal Minimum Internal Control Standards (MICS) Audit. Immediately, resistance was encountered during the audit when asking for information. Having discussions with the QNGA staff about the resistance, it was determined the root cause of the resistance was due to the timing of the internal audit, the public allegations being made and the fact the allegations also involved two key tribal leadership positions up for reelection on 25 July 2020.

5. On 17 July 2020, IGS was given a copy of the letter posted on the Everything Quapaw Facebook page. The posted letter was authored by Larry Ramsey, a former Board Member of the Quapaw Nation's subsidiaries The Downstream Development Authority and Saracen Development, LLC. The letter made accusations of improper bonuses being paid to the Chairman of the tribe and the Chief Financial Officer (CFO) of the casinos. The CFO and his staff are who IGS needed documents from to complete the internal audit. It was decided to wait until the election results were determined on 25 July 2020.
6. On Saturday, 25 July 2020 the incumbents Chairman John L. Berrey and Secretary/Treasurer Tamara Reeves lost their bid for reelection.
7. On 29 July 2020 IGS staff was onsite to complete the internal audit and begin the investigation into the Larry Ramsey allegations. During this initial meeting it was revealed to the IGS team that on 27 July, 2020 Chairman Berrey, Secretary/Treasurer Reeves, CFO Merlin "Kent" Jones, General Manager Janet Cummings, **Downstream Development Authority (DDA) and Saracen Authority, LLC Board Member Jack Brill conspired to issue unauthorized manual checks totaling \$1,351,119.53** (one million, three hundred fifteen thousand, one hundred nineteen dollars and fifty-three cents) in the net amount and/or a gross amount of \$2,343,067.26 (Two Million, Three-Hundred Forty Three Thousand, Sixty-Seven Dollars and Twenty-Six Cents) made payable to and for the benefit of **JACK BRILL II, JOHN L. BERREY, TAMARA SMILEY-REEVES, MERLIN KENT JONES and JANET M. CUMMING.** The net amount of the check to JACK BRILL II was **\$72,939.27 (Seventy two thousand, nine hundred thirty nine dollars and twenty seven cents), and/or a gross amount of \$128,250.00 (One-Hundred Twenty Eight Thousand and Two Hundred Fifty Dollars).**
8. Between the periods 30 July 2020 and 17 August, 2020 IGS interviewed General Manager Janet Cummings, former board member Larry Ramsey, Executive Secretary to the DDA Tena Smith, Payroll Manager Delores Baptista, Financial Controller Mary Cabalero, researched payroll records, personnel change forms, General Ledger, Profit and Loss statements, credit card statements, Balance Sheets and Bank Account records. A review of the tribes governing documents was performed to determine the proper methods for approving payment, including the governing document for the DDA called the DDA Charter, established by the Quapaw Nation Business Committee Resolution 052207, (May 22, 2007), which revealed in section 114 C (Title 17 of the Quapaw Nation Code) the DDA must submit changes in compensation, benefits and bonuses to the Business Committee for review and approval prior to any changes being deemed approved.
9. On July 31, 2020, a review of payroll records confirmed \$1,000,000 bonus was paid to CFO Merlin "Kent" Jones in 6 installments (\$166,666.67 each) from Saracen casino funds beginning 31 December 2019. The remaining payments occurred on 01 January 2020, 01 February 2020, 04 March, 2020, 04 April 2020 and 01 May 2020. This confirmed the public accusations made by former DDA Secretary Larry Ramsey. A related search of DDA and Business Committee meeting minutes, Human Resource Change Forms proper authorization was never recorded for this bonus.

10. 31 July 2020 a review on payroll records confirmed \$1,500,000.00 bonus was paid to Chairman John L Berrey in 6 installments (\$250,000.00 each) from Saracen casino funds beginning 31 December 2019. The remaining payments occurred on 01 January 2020, 01 February 2020, 04 March, 2020, 04 April 2020 and 01 May, 2020. Each check was referenced as a SAR Sup a/k/a Saracen Success Fee Bonus. A related search of DDA and Business Committee meeting minutes, Human Resource Change Forms proper authorization was never recorded for this bonus.
11. My payroll investigation, included reviewing the Kronos payroll system records for Downstream Casino Resort and Downstream Development Authority, where it was discovered Mr. Brill received funds as shown in the below detailed unauthorized compensation from Saracen payroll for fiscal year 2019-2020 and from his compensation at both Saracen and Downstream casinos shown as follows:
- a.) between March 6, 2020, through July 2, 2020, revealed bonus monies belonging to the Saracen Casino Resort and Q Store owned by the Saracen Development LLC, a subsidiary of the Downstream Development Authority, a subsidiary of the Quapaw Nation, was paid to Jack Brill, II in 5 installments unlawfully appropriate the gross sum amount of **\$513,000.00 (five hundred thirteen thousand dollars and no cents)** paid in monthly installments of \$128,250.00 (one hundred twenty eight thousand, two hundred fifty dollars and no cents) via four checks 1) March 6, 2020 net amount of \$66,562.58 by Check No. 2851; 2) April 4, 2020 net amount of \$73,380.49 by Check No. 2918; 3) May 1, 2020 net amount of \$72,939.27 by Check No. 2934; and 4) June 5, 2020 net amount of \$72,939.27 by Check No. 2956, each, the fifth check July 2, 2020 net amount of \$72,939.27 by Check No. 3000 was not cashed and subsequently a stop payment was placed on said check by the Quapaw Nation. A sixth check July 27, 2020 net amount of \$72,939.27 by Check No. 3090 was issued each was also not cashed as the Quapaw Nation placed a stop payment on the same day it was issued. Each check was referenced as a SAR Sup a/k/a Saracen Success Fee Bonus. As stated in paragraph 10 above a related search of DDA and Business Committee meeting minutes, Human Resource Change Forms proper authorization was never recorded for this bonus. Although there is reference to approval by the DDA records on March 6, 2020 there was no approval or authorization by the Quapaw Nation Business Committee as required by the Nation's DDA Charter.
- b.) On or about November 1, 2019, through December 31, 2019, JACK N. BRILL, II, was received compensation or reward in the net sum amount of **\$141,106.37 (One Hundred Forty-One Thousand, One Hundred Six Dollars and Thirty Seven Cents), and gross amount of \$256,349.63** (Two-Hundred Fifty-Six Thousand, Three Hundred Forty Nine Dollars and Sixty Three Cents) paid in two installments the first, on Nov 20, 2019 in the gross amount of \$75,000.00, (Seventy-Five Thousand Dollars), with Check No 1958 in the net sum amount of \$41,106.37, (Forty One Thousand, One Hundred Six Dollars and Thirty Seven cents) and the second on November 23, 2019 in the gross amount of \$181,349.63 with Check No. 2035 in the net sum of \$100,000.00 (One Hundred Thousand Dollars), said monies belonging to the Saracen Casino Resort and Q Store which are owned by the Saracen Development, LLC, a subsidiary of the DDA. Each check was referenced as a SAR Sup a/k/a Saracen Bonus. As stated in paragraph 10 above a related search of DDA and Business Committee meeting minutes, Human Resource Change Forms proper authorization was never recorded for this bonus. Although there is reference to approval in the DDA records there was no approval or authorization by the Quapaw Nation Business Committee as required by the Nation's DDA Charter.

c.) On or between May 30, 2019, through November 17, 2020, JACK N. BRILL, II, a person that was an officer of the Quapaw Nation, as the former Attorney for Downstream Casino Resort and a then Board Member of the Quapaw Nation's subsidiary The Downstream Development Authority, received compensation or reward in excess of \$100,000.00, (One Hundred Thousand Dollars), an amount greater than authorized by the Quapaw Nation Business Committee under QNBC Resolution 122209-A pursuant to the QNBC's exclusive power and authority under the Downstream Development Authority Charter, Title 17, Chapter Two, specially Section 114 (C). During this time period JACK N. BRILL, II, received biweekly pay checks paid at the **hourly rate of \$96.15 from June 16, 2019 to June 27, 2019, \$105.77 from July 11, 2019 to April 16, 2020, \$84.62 from April 30, 2020 to June 25, 2020, \$105.77 from July 9, 2020 to July 23, 2020, \$132.21 from August 6, 2020 to August 20, 2020, bonus check(s) in the amount of \$41,537.50 on June 5, 2019, and Paid Time Off, (PTO) in excess of \$75,000.00 (Seventy Five Thousand Dollars) from August 20, 2020 to November 17, 2020**, all being above the amounts previously approved by the Quapaw Nation Business Committee, in which said Downstream Development Authority Board Member(s) compensation was last approved and set on December 22, 2009 by Quapaw Nation Business Committee Resolution 122209-A in which the highest paid Business Committee member hourly rate was approved and set at \$62.176 per hour for an annual pay of \$129,326.87, and the annual bonus was approved and set at \$34,375.00, and PTO was approved and set at \$7,872.59 for a total approved and set amount of \$171,574.46. The December 22, 2009, compensation approval by the Quapaw Nation Business Committee as prescribed by the Charter of the Downstream Development Authority, Title 17 Chapter Two, was and remains the legal Authority over The Downstream Development Authority and Saracen Development, LLC.

12. I reviewed the General Council Meeting held July 4, 2019, which demonstrates the false statement by Downstream Casino Resort Attorney and DDA Board Member Jack Brill in front of the whole Quapaw Nation General Council to the effect of how the DDA compensation is set for the DDA. The pertinent portion of the transcript of the General Council Meeting held July 4, 2019, beginning @ 3:51 is show below:

Malinda McFarland: I would like to make a motion that we the people as the whole people (O-Ga-Pah) people do away with the DDA salary and we as a people set the salary. Is that legal?

Berrey: No, the motion is out of the order. Next. We just went through this. It is the same issue.

Malinda McFarland: How is that? The salary and the bonuses. We need to do away with the salary and the bonuses and have a **set set** salary. No more bonuses and a set salary. In open Business Committee meeting.

Brill: I will just point out that the DDA is not paid by tribal money. That is 100% the investors' money.

Malinda McFarland: We are the investors! We are the investors!

... *[Unintelligible argument]*...

Brill: I will answer you if give me a chance. The Tribe is the owners. We are the owners, but other people hold the bank. We owe to the Bank. The bank pays John—they pay Tamera—

they pay the DDA. That is not tribal money. 100% of every dime that can come to the tribe does in fact come to the tribe. I can guarantee you that.

Malinda McFarland: Then who does the checks and balances? Is it the GC or the DDA? We want checks and balances.

Brill: Their salaries are approved by the investors.

Malinda McFarland: Why?

Brill: You are not the investor. You are the owner. Somebody else funded all of this.

Malinda McFarland: Are you saying it will take us 5 million, 7 million or 10 million....
[unintelligible]...

Brill: I cannot tell you. No bylaws control that, that is the investors. They hired the DDA to run this business. That is how it is set up. The loan documents create that.

.....

Roman K: Mr. Brill, just so we are clear (what you told me off microphone) --that the BC does not set the DDA's salary. Is that correct?

Brill: That is correct.

Roman K: When did that go into effect because if I recall the charter that established the DDA said that the BC is who sets it.

Brill: No, No. They approve the salary. They do not set. Turns to Berrey—is that right?

Berrey: Yes.

13. On or about 04 August 2020 a review of DDA meeting minutes revealed Janet Cummings was present on March 6, 2019 when the DDA board approved bonuses, referred to as a Success Fee Bonus, from Saracen Casino funds. The DDA meeting minutes revealed the DDA members approved their own bonuses on 6 March, 2020, including retroactively the bonus payments previously paid to John L. Berrey and Merlin Kent Jones as described in paragraphs 9 and 10 above.

a. DDA meeting records revealed John Berrey, Tamara Reeves, Jack Brill Jent Cummings, Merlin Jones and Tena Smith were in attendance on the March 6, 2020 DDA meeting. Larry Ramsey was not in attendance.

14. On or about 04 August 2020 a review of the governing document for the DDA called the DDA Charter revealed in section 114 C (Title 17 of the Quapaw Nation Code) the DDA must submit changes in compensation, benefits and bonuses to the Business Committee for review and approval prior to any changes being deemed approved.

a. DDA and elected Quapaw Business Committee meeting minute books and resolutions were researched by two IGS staff, Chris Lenggenhager and Erin Jill Peters, and Quapaw Nation Tribal Administrator Assistant, Steva Stand. No records were found in the Business Committee meeting minutes or Resolutions for merit increases, bonuses or benefit increases for the DDA since December 2009. The 2009 Resolution simply stated the Business Committee reviewed compensation and **determined the compensation was fair but did not list positions or dollar amounts, which was \$180,000.00 for the Chairman and the highest paid member of the DDA at the end of 2009 was \$129,326 87.** The records searched were the meeting minute books, tribal website, tribal office vault and computer archived records.

b. Governing documents require the DDA to create and approve a formal budget annually. It was verified with both the casino accounting department and the tribal accounting department that no formal DDA budget was ever submitted to them.

- c. A text conversation recovered from DDA Executive Secretary Tena Smith's company cell phone with In House Counsel and DDA and SDA, LLC Board Member Jack Brill revealed Tena Smith deliberately did not put DDA Member pay in the meeting minutes on purpose and Tina Smith further stated to Brill that she intentionally kept the minutes vague.
15. On or about 04 August 2020 an ongoing review of governing documents revealed the following facts relevant to the findings throughout this affidavit:
- a. The Gaming Ordinance in *Section 2 Jurisdiction of the Tribe Over Gaming Activities*, letter C states All entities or persons who apply for licenses under this Ordinance shall be required, as a condition to such licensing, to acknowledge the authority and jurisdiction of the Tribe, including the jurisdiction of the courts, the tribe Tribal Gaming Agency, and the Tribal Gaming Commission, over their activities and transactions conducted within the Indian Country of the Tribe and with the Gaming Operations of the Tribe. As a further condition to such licensing, all such persons or entities shall be required to acknowledge their duty to comply with all a Tribal and federal laws and regulations and the terms of any gaming compact(s) between the Tribe and the State of Oklahoma then in effect and as may subsequently be amended.
 - b. The Gaming Ordinance clearly states in *Section 19. Violations, letter J Failure to Maintain Suitability* states; It shall be a substantial violation for any licensee to fail or meet the suitability standards established by this Ordinance.
 - i. *Chairman Berrey and Secretary/Treasurer Reeves consistently did not follow tribal governing documents, casino protocols. The same results were found for the remaining DDA board members (Jack Brill, Larry Ramsey, Marilyn Rogers, George McWaters)*
 - c. *Section 19. Violations, letter K Fraudulent Conduct* states; It shall be a substantial violation of this Ordinance for any person engage in any fraudulent conduct, which shall include:
 - i. *Number 6: Falsifying, destroying, erasing or altering any books, computer data, records, or other information relating to a gaming facility or activity;*
 - ii. *Number 8: Concealing, altering, defacing, or destroying any records, documents, information, or materials of any kind, including, but not limited to, photographs, audio recordings, or video tapes;*
 - 1. *John Berrey and Tamara Smith never turned in company cell phones, computers, or other property paid for with tribal assets. Both Berrey and Reeves used personal emails for official business there by making their actions covert to other members of the business and the tribe.*
 - d. *Section 19. Violations, letter N Improper Interference* states; It shall be a substantial violation of this Ordinance for any person or entity to engage in:
 - i. 1. Acts or omissions of an individual that interfere with or prevent the Tribal Gaming Agency from fulfilling its duties and responsibilities under this Ordinance;
 - ii. 4. Refuse to comply with an order, directive, request, or demand of the Tribal Gaming Agency or the Commission.
16. On 05 August 2020 your affiant conducted a second interview with Jani Cummings in which she reveals she did know about the bonus payment to Merlin "Kent" Jones (see Janet Cummings initial denial of such knowledge in her July 30, 2020 Interview). Cummings said in her second interview that she discovered the \$166, 666.67 paid to Merlin Kent Jones when reviewing Jones' payroll

records while writing his annual review. Cummings stated she approached legal counsel Jack Brill, both a DDA Member and SDA, LLC Member, about Jones' unauthorized bonus. Janet Cummings further stated Brill said he would look into it. After more than a month, Cummings checked payroll records again. Another \$166,666.67 was paid to Merlin Kent Jones and she stated she approached Brill again; Brill brought Larry Ramsey, also both a DDA Member and SDA, LLC Member, into the conversation. Cummings could not recall the date.

17. On 07 August 2020 former member of both the Downstream Development Authority and the Saracen Development Authority, LLC Larry Ramsey was interviewed in which he confirmed Brill's involvement in the revelation of unauthorized bonus to Merlin Kent Jones, (while Chief Financial Officer of the Downstream Casino Resort and the Saracen Casino Resort, as a Quapaw tribal official). Ramsey stated he and Brill met Tamara Reeves, the Secretary/Treasurer Quapaw Business Committee and Treasurer of both the DDA and SDA, at Reeves' home to discuss the findings. Ramsey stated that the meeting took place on or around the beginning of March 2020; the three agreed to confront Chairman Berrey about the bonuses. Ramsey stated they confirmed prior to this meeting Chairman Berrey's pay and saw that John Berrey also was receiving an unauthorized bonus. Ramsey claimed they met with Berrey at the DDA office at the Downstream Casino. Ramsey stated Berrey responded "anyone involved in securing the financing for the Saracen Casino Project should have received the Saracen Success Bonuses", which included all the DDA and SDA members, Kent Jones and Janet Cummings. Berrey went on to state to Ramsey that it must have been a mistake for the addition individuals, all the DDA and SDA members, and Janet Cummings not to have been receiving their Saracen Success Bonus. Ramsey stated Berrey left the conversation and Merlin Kent Jones joined the conversation. Ramsey stated Merlin Kent Jones admitted to Ramsey that the Saracen Success Bonus were not authorized.
18. August 2020 Your Affiant asked the then Human Resources Director Brad Stone for Downstream and Saracen Personnel Action Forms or Change Forms (PAF's). It was revealed there were no Saracen PAF's. Upon our request for PAF's, the HR Director ordered staff to create them for Saracen and back date them. The HR Director has since been terminated.
19. It was discovered in governing documents (The Quapaw Code Titles 17 section 114. C) the DDA board members could propose raises. Such proposals then had to be presented to the Business Committee for a vote and approval. No record of Business Committee votes could be found. The first DDA mention of Success Fee Bonus raises and bonuses does not show up until the meeting minutes recorded March 6th, 2020, and again in meeting minutes recorded on March 26th, 2020.
20. Mr. Brill had direct responsibility to ensure proper procedures were followed and Tribal Resolutions were adhered to. Mr. Brill accepted the Saracen pay and Bonuses without proper approval. Mr. Brill also did not report unauthorized pay being issued to himself, and other DDA and SDA board members.
21. On 27 July 2020, the first business day after the Quapaw Nation Business Committee election took place, the CFO Kent Jones approached the payroll department to manually issue the following payments from the payroll system. Jack Brill II, John L Berrey, Tamara Smiley-Reeves, Merlin Kent Jones, and Janet Cummings attempted to take substantial unauthorized payments. A recorded telephone conversation on this same day revealed a conversation with the above-listed parties as well as attorney Aaron Harkins concerning getting these unauthorized payments. The actions and conversation on 27 July 2020 intentionally bypassed the approval required from the Business

Committee for these payments. The payments for DDA severance pay, PTO were made without any severance package(s) being approved by the Business Committee. A transcript was made of the July 27, 2020, phone conference call as stated above and a portion of the conversation is shown below:

JACK BRILL: Let me ask you this, Aaron,
real quick. Let's say I -- because if I'm the last man
standing, I would have to terminate, let's say Kent, for
instance, so he could get his severance. Is there some
way that they could say that I was either acting in bad
faith to the company, or trying to sabotage it, and come
back after me for that?

AARON HARKINS: I mean, I guess there's the
-- I don't think so as -- if you think it's in the best
interest of the DDA, you know, I guess you would have, you
know, a duty. But in this context, I think all the
members are really indemnified by the Tribe under the
resolution. You know, let me pull that up again.
I don't -- I don't -- I'm not saying they couldn't
come up with some reason in tribal court to allege it.
But they shouldn't be successful. Right?

JACK BRILL: Right. I mean, yeah, I
understand you can sue somebody for anything; it just
doesn't mean you win.

AARON HARKINS: Right.

JACK BRILL: If I act in the best interest
of the DDA to get rid of Kent, I've got to dance a fine
line that my best interest for the company doesn't mean
that Kent did something wrong because I can't do for
cause. I've just got to -- there's got to be some -- some
little line there I'm just not thinking of yet.....

JOHN BERREY: Well, let's just take it one
step at a time. Do you want to reconvene later this
afternoon to get feedback on the meeting, let Kent go
ahead and get these severances completed, and then figure
out what we're going to do next after this meeting?

JACK BRILL: Sounds like a good idea.

AARON HARKINS: Sure.

JACK BRILL: Now, so I'm clear, Kent, where
it stands right now, the three -- so you're working on
three of them, correct, John, Tamara, and yourself?

KENT JONES: Yes. Well, except for mine,
do you -- I guess Jani has got to make up her mind what
she wants to do.

JACK BRILL: I don't know what Tena wants,

KENT JONES: Well, I -- I've given the

instructions for everybody. So, if it's not going to be, tell me who is not, and we'll just cancel those.

JACK BRILL: Tena does not want it right now.

JOHN BERREY: All right. Is that what you understand, Jani, that Tena does not want her severance?

JOHN BERREY: Okay. And then, Jani, you can decide. I think Kent can go ahead and have this stuff, the transaction doesn't have to take place. But I'm going to send Allen over there in a few minutes to pick up my check if that's okay, Kent.

KENT JONES: Yeah, let me -- let me check with Dee, Chairman, and I'll text you when it's all ready. Okay?

TAMARA SMILEY-REEVES: Will you text me and I'll send my husband? I'm going to send Jeff up.

KENT JONES: Yeah, yeah, I'll get you, too, Jani.....

22. CFO Merlin "Kent" Jones did transfer funds and issue said checks in the net sum amount of \$1,315,119.53 (one million, three hundred fifteen thousand, one hundred nineteen dollars and fifty-three cents) and/or a gross amount of \$2,343,067.26 (Two Million, Three-Hundred Forty Three Thousand, Sixty-Seven Dollars and Twenty-Six Cents) made payable to and for the benefit of Jack Brill II, John L. Berrey, Tamara Smiley-Reeves, Merlin Kent Jones, and Janet Cummings drawn on the accounts of the Downstream Casino Resort and the Saracen Casino Resort and Q Store, which are subsidiaries of the Quapaw Nation. Again, Jack Brill, II serving as Legal Counsel and board members had direct knowledge these actions were not appropriate, but he did not stop the payments but instead participated in receiving the payments representing himself as the only DDA member remaining. The checks processed with his approval was as follows:

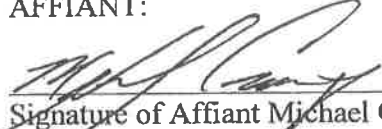
Net Amounts

Name	Date	Description	Check #	Amount
Berrey, John	7/27/2020	1 Yr. Severance - SAR	3089	189,525.29
Brill, Jack	7/27/2020	SAR Supplemental Bonus - Final Payment	3090	72,939.27
Reeves, Tamara	7/27/2020	SAR Supplemental Bonus - Final Payment	3091	72,631.89
Reeves, Tamara	7/27/2020	1 Yr. Severance - SAR	3092	104,596.57
Jones, Merlin	7/27/2020	1 Yr. Severance - SAR	3093	100,111.27
Cummings, Janet M	7/27/2020	PTO Cash In - 574.76 Hours	45808	52,572.16
Berrey, John L	7/27/2020	PTO Cash In - 214.65 Hours	45809	33,290.32
Berrey, John L	7/27/2020	1 Yr. Severance - DCR	45810	312,464.00
Reeves, Tamara R	7/27/2020	PTO Cash In - 306.07 Hours	45811	25,644.58
Reeves, Tamara R	7/27/2020	1 Yr. Severance - DCR	45812	171,237.23
Jones Jr, Merlin K	7/27/2020	PTO Cash In - 131.73 Hours	45813	11,521.30
Jones Jr, Merlin K	7/27/2020	1 Yr. Severance - DCR	45814	168,585.65
Grand Totals	14	Total Checks:		1,315,119.53

Upon oath, I declare that the above information is true and correct to the best of my knowledge and belief.

Dated this 25th day of May, 2023.

AFFIANT:



Signature of Affiant Michael Crump

STATE OF MISSOURI)

) ss

COUNTY OF LACLEDE)

This Affidavit was signed before me, a Notary Public in and for the State of Missouri, on this 25th day of May, 2023.



Notary Public

My commission number 22560303

My commission expires 01/02/2026



IN THE COURT OF THE QUAPAW NATION
(THE O-GAH-PAH)

QUAPAW NATION
TRIBAL COURT

JUN 01 2023

FILED

QUAPAW NATION,

Plaintiff,

vs.

JACK N. BRILL, II

ADDR: 8215 GOLDFINCH
NEOSHO, MO 64850

SSN: ***-**-****
DOB: 05/xx/1969

Defendant.

Case No: CF-23-17

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FOR:

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Said Counts being under the Quapaw Law and Order Code
established February 21, 2009, until superceded January 21, 2023.

THE QUAPAW NATION,

I, Douglas G. Dry, the undersigned Special Prosecutor, in the name and by the authority of the Quapaw Nation, give information that in said Indian Country, subject to the jurisdiction of the Quapaw Nation and within the jurisdiction of The Court of The Quapaw Nation, JACK N. BRILL, II, the Defendant herein, who is an adult Indian, did unlawfully, willfully, knowingly and wrongfully commit the offense(s) of:

COUNT 1: ATTEMPTED (Title 11 QCL §104) EMBEZZLEMENT (TITLE 11 QCL §106)
~ in violation of Title 11 QCL §106 of the Quapaw Law and Order Code, to wit: JACK N. BRILL, II, did, on or about the 27th day of July, 2020, unlawfully appropriate the net sum of \$72,939.27 (Seventy two thousand, nine hundred thirty nine dollars and twenty seven cents),

and/or a gross amount of \$128,250.00 (One-Hundred Twenty Eight Thousand and Two Hundred Fifty Dollars) belonging to the Saracen Casino Resort and Q Store, owned by Quapaw Nation's subsidiaries The Downstream Development Authority and Saracen Development, LLC, for purposes not intended or authorized by the Quapaw Nation and with the fraudulent intent to divert said funds from the Quapaw Nation by claiming said unappropriated funds for his own use as a Saracen SAR Sup a/k/a Saracen Success Fee Bonus. Said funds being entrusted to the defendant, an officer of the Quapaw Nation, as a former Attorney for the Downstream Development Authority and then Board Member of of the Quapaw Nation's subsidiaries The Downstream Development Authority and Saracen Development, LLC, wherein the defendant JACK N. BRILL, 2ND, diverted said funds that were entrusted to him for a specific purpose, use or disposition and appropriated by the defendant for his own use and a purpose not intended by the Quapaw Nation or by law.

Punishable by up to 3 years in prison; a fine up to \$15000; and/or community service and/or training; and/or restitution to any individual for damage to or loss of property; and/or temporary suspension of tribal benefits.

COUNT 2: CONSPIRACY §102 ~ in violation of §102 of the Quapaw Law and Order Code, to wit: **JACK N. BRILL, II** is a person that agreed, within the Tribal jurisdiction, with: **JOHN L. BERREY**, then Chairman of the Quapaw Nation Business Committee, as a Quapaw Nation elected official, and former Chairman of the Board for the Downstream Development Authority, and former Chairman of the Saracen Development, LLC; **MERLIN KENT JONES** the then Chief Financial Officer of The Downstream Development Authority and Saracen Development, LLC; and **TAMARA SMILEY-REEVES**, the then Secretary/Treasurer of the Quapaw Nation Business Committee, as an elected official, and former Treasurer of the Downstream Development Authority and former Treasurer of Saracen Development, LLC; to engage in or cause the performance of conduct with the intent to commit **EMBEZZLEMENT** which is an offense punishable by Tribal, Federal, or state laws applicable to the jurisdiction of the Quapaw Nation, and wherein **JACK N. BRILL, 2ND** committed an overt act of **EMBEZZLEMENT** by directing **MERLIN KENT JONES** to transfer unappropriated funds and issue checks made payable to and for the benefit of **JACK BRILL II, JOHN L. BERREY, TAMARA SMILEY-REEVES, MERLIN KENT JONES** and **JANET M. CUMMINGS** and **MERLIN KENNT JONES** did transfer funds and issue said checks in the net sum amount of \$1,315,119.53 (one million, three hundred fifteen thousand, one hundred nineteen dollars and fifty-three cents) and/or a gross amount of \$2,343,067.26 (Two Million, Three-Hundred Forty Three Thousand, Sixty-Seven Dollars and Twenty-Six Cents) made payable to and for the benefit of **JACK BRILL II, JOHN BERREY, TAMARA SMILEY-REEVES, MERLIN KENT JONES** and **JANET M. CUMMINGS**, drawn on the accounts of the Downstream Casino Resort and the Saracen Casino Resort and Q Store, which are subsidiaries of the Quapaw Nation.

Punishable by the same possible punishment as the completed offense of **EMBEZZLEMENT** which is up to 3 years in prison; a fine up to \$15000; and/or community service and/or training; and/or restitution to any individual for damage to or loss of property; and/or temporary suspension of tribal benefits.

COUNT 3: OFFENSE BY OFFICERS §53 ~ JACK N. BRILL, II, on or between November 1, 2019, through December 31, 2019, was a person that was an officer of the Quapaw Nation, as a then Board Member of of the Quapaw Nation's subsidiaries The Downstream Development Authority and Saracen Development, LLC, acting in his connection as said official in which he knowingly received compensation or reward not prescribed by law, in the **net sum amount of \$141,106.37** (One Hundred Forty-One Thousand, One Hundred Six Dollars and Thirty Seven Cents), **and gross amount of \$256,349.63** (Two-Hundred Fifty-Six Thousand, Three Hundred Forty Nine Dollars and Sixty Three Cents) paid in two installments the first, on Nov 20, 2019 in the gross amount of \$ 75,000.00, (Seventy-Five Thousand Dollars), with Check No 1958 in the **net sum amount of \$ 41,106.37**, (Forty One Thousand, One Hundred Six Dollars and Thirty Seven cents) and the second on November 23, 2019 in the **gross amount of \$181,349.63** with Check No., **2035 in the net sum of \$100,000.00** (One Hundred Thousand Dollars), said monies belonging to the Saracen Casino Resort and Q Store which are subsidiaries of the Quapaw Nation, for purposes not intended or authorized by the Quapaw Nation and with the fraudulent intent to divert said funds from the Quapaw Nation by claiming said unappropriated funds to be a Saracen Bonus Pay not approved by the Quapaw Nation Business Committee as prescribed by the Charter of the Downstream Development Authority, Title 17 Chapter Two, the legal Authority over the The Downstream Development Authority and Saracen Development, LLC.

Punishable by to 3 years in prison; a fine up to \$15000; and/or community service and/or training; and/or temporary suspension of tribal benefits.

COUNT 4: EMBEZZLEMENT §106 ~ in violation of §106 of the Quapaw Law and Order Code, to wit: **JACK N. BRILL, II**, was a person that was an officer of the Quapaw Nation, as a then Board Member of the Quapaw Nation's subsidiaries The Downstream Development Authority and Saracen Development, LLC, being entrusted to oversee the finances of both the Downstream Casino Resort and Saracen Casino and Q-Store, did on or between March 6, 2020, through June 5, 2020, unlawfully appropriate the gross sum amount of **\$513,000.00 (five hundred thirteen thousand dollars and no cents)** paid in monthly installments of **\$128,250.00 (one hundred twenty eight thousand, two hundred fifty dollars and no cents)** via four checks 1) March 6, 2020 net amount of **\$66,562.58** by check no 2851; 2.) April 4, 2020 net amount of **\$73,380.49** by check no 2918; 3.). May 1, 2020 net amount of **\$72,939.27** by check no 2934; and 4.) June 5, 2020 net amount of **\$72,939.27** by check no 2956, each, monies belonging to the Saracen Casino Resort and Q Store owned by the Saracen Development LLC, a subsidiary of the Downstream Development Authority, a subsidiary of the Quapaw Nation, for purposes not intended or authorized by the Quapaw Nation and with the fraudulent intent to divert said funds from the Quapaw Nation by claiming said unappropriated funds to be a **SUCCESS FEE/BONUS PAY** without the approval of the Quapaw Nation Business Committee as prescribed by the Charter of the Downstream Development Authority, Title 17 Chapter Two, the legal Authority over The Downstream Development Authority and Saracen Development, LLC.

Punishable by up to 3 years in prison; a fine up to \$15000; and/or community service and/or training; and/or restitution to any individual for damage to or loss of property; and/or temporary suspension of tribal benefits.

COUNT 5: OFFENSE BY OFFICERS §53 ~ in violation of §53 of the Quapaw Law and Order Code, to wit JACK N. BRILL, II, on or between May 30, 2019, through November 17, 2020, was a person that was an officer of the Quapaw Nation, as the former Attorney for Downstream and a then Board Member of of the Quapaw Nation's subsidiaries The Downstream Development Authority and Saracen Development, LLC, acting in his connection as said official in which he knowingly received compensation or reward not prescribed by law, in excess of \$100,000.00, (One Hundred Thousand Dollars), received by the Defendant in biweekly pay checks paid at the hourly rate of \$96.15 from May 30, 2019 to June 27, 2019, \$105.77 from July 11, 2019 to April 16, 2020, \$84.62 from April 30, 2020 to June 25, 2020, \$105.77 from July 9, 2020 to July 23, 2020, \$132.21 from August 6, 2020 to August 20, 2020, bonus check(s) in the amount of \$41,537.50 on June 5, 2019, and Paid Time Off, (PTO) in excess of \$75,000.00 (Seventy Five Thousand Dollars) from August 20, 2020 to November 17, 2020, all being above the amounts previously approved by the Quapaw Nation Business Committee, in which said Downstream Development Authority Board Member(s) compensation was approved and set on December 22, 2009 by Quapaw Nation Business Committee Resolution 122209-A in which the highest paid Business Committee member hourly rate was approved and set at \$62.176 per hour for an annual pay of 129,326.87, and the annual bonus was approved and set at \$34,375.00, and PTO was approved and set at 7,872.59 for a total approved and set amount of 171,574.46. The December 22, 2009 compensation approval by the Quapaw Nation Business Committee as prescribed by the Charter of the Downstream Development Authority, Title 17 Chapter Two, the legal Authority over The Downstream Development Authority and Saracen Development, LLC.

Punishable by to 3 years in prison; a fine up to \$15000; and/or community service and/or training; and/or temporary suspension of tribal benefits.

DOUGLAS G. DRY
SPECIAL PROSECUTOR

By: 
DOUGLAS G. DRY
Quapaw Nation Special Prosecutor

WITNESSES ENDORSED FOR THE QUAPAW NATION

Michael Crump, Innovative Gaming Solutions, 14945 Edison Road, Lebanon, MO 65536
Chris Lenggenhager, Innovative Gaming Solutions, 14945 Edison Road, Lebanon, MO 65536
Mary Cabalero, Downstream Casino Resort, 69300 E Nee Road, Quapaw, OK 74363
Delores Patista, Former Downstream Casino Former Resort Payroll Manager,
69300 E Nee Road, Quapaw, OK 74363
Sherri Davies, Downstream Casino Resort Payroll Manager, 1522 Lincoln Drive, Galena, KS 66739
Arron Richardson, Downstream Quapaw Tribal Gaming Agency Investigative Auditor
P. O. Box 405, Quapaw, OK 74363
Steva Stand, Quapaw Nation Tribal Administrator Assistant, P.O. 765, Quapaw, OK 74363
Eric J. Bohn, CPA, Quapaw Nation Chief Financial Officer, P.O. 765, Quapaw, OK 74363
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Madeline Carpino, Sr HR Manager Downstream Casino Resort, 69300 E Nee Road, Quapaw, OK 74363