

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

QUAPAW NATION
TRIBAL COURT
JUL 01 2023
FILED

QUAPAW NATION,)
)
Plaintiff,)
)
vs.)
)
JACK N. BRILL, II)
)
ADDR: 8215 GOLDFINCH)
NEOSHO, MO 64850)
)
)
SSN: ***-**-3957)
DOB: 05/xx/1969)
)
Defendant.)

Case No: CF-23- 17

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

Said Counts being under the Quapaw Law and Order Code established February 21, 2009, until superceded January 21, 2023.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

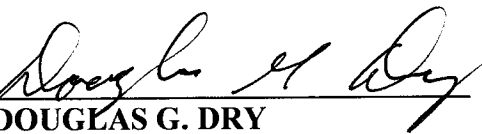
COUNT 4: EMBEZZLEMENT §106 ~ in violation of §106 of the Quapaw Law and Order Code, to wit: **JACK N. BRILL, II, was a person that was an officer of the Quapaw Nation, as a then Board Member of the Quapaw Nation's subsidiaries The Downstream Development Authority and Saracen Development, LLC**, being 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
Larry J. Ramsey, 1410 Orchid Lane, Grove, OK 74344
Aaron J. Harkins, 1935 County Road B2 West, Suite 460, St. Paul, MN 55113
Callie Bowden, Quapaw Nation Business Committee Vice Chairwoman, P.O. Box765, Quapaw, OK
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Lloyd Buffalo, Former Quapaw Nation Business Committee Member, P.O. Box765, Quapaw, OK
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Zac Turley, Former Quapaw Nation Business Committee Member, P.O. Box765, Quapaw, OK
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Lena McQuary, HR Director Downstream Casino Resort, 69300 E Nee Road, Quapaw, OK 74363
Madeline Carpino, Sr HR Manager Downstream Casino Resort, 69300 E Nee Road, Quapaw, OK 74363