

Nooksack Indian Tribe

November 7, 2016

Galanda Broadman
Attn.: Gabriel Galanda
8606 35th Ave NE, Suite L1
P.O. Box 15146
Seattle, WA 98115

Re: Revocation of privilege to practice law and/or any business activities

Mr. Galanda,

As you are undoubtedly aware, the Tribal Council passed Resolution No. 16-149 on October 7, 2016, which barred you from practicing law or engaging in business activities within the jurisdiction of the Nooksack Indian Tribe.

I am aware that you continue to advocate within the jurisdiction of the Nooksack Indian Tribe, pursuant to the September 21, 2016 Nooksack Court of Appeals order staying any past disbarment resolution; you are well aware that the Court of Appeals Order has been vacated, and the Tribal Council issued the abovementioned resolution following a full and fair hearing in which you participated on June 9, 2016. The Tribal Council action is final – your privilege to practice law and/or engage in business activities within the jurisdiction of the Nooksack Indian Tribe has been revoked.

As the above privileges have been revoked, materials you submit on behalf of others before the Nooksack Tribal Council or Courts constitute violations of Title 10 and Title 54. Unlawfully engaging in business activities subjects you to a civil penalty of up to \$1,000.00 for each violation and also subjects you to removal and/or exclusion from Nooksack Tribal lands. Any further efforts in violation of Tribal Council Resolution No. 16-149 will result in a Petition for an Order to Show Cause and a referral for a formal barring and/or exclusion.

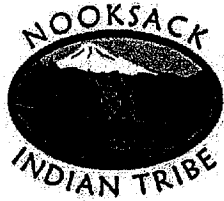
Regards,
Nooksack Indian Tribe

Katherine Canete, MPA
General Manager

Encl: Sup. Ct. Order, dated Oct. 7, 2016
Resolution No. 16-149

cc: Individuals listed on April 12, 2013 "Representation List"
Tribal Council





NOOKSACK TRIBAL COUNCIL

4979 Mt. Baker Hwy, Suite G.
PO Box 157
Deming, WA 98244

RESOLUTION #16- 149
October 7, 2016

**TITLE: FINDINGS, CONCLUSIONS, AND PENALTY FOLLOWING HEARING
(GALANDA)**

WHEREAS, the Nooksack Indian Tribe is a party to the Treaty of Point Elliot dated January 22, 1855, 12 Stat. 927, and is a sovereign, federally-recognized Indian Tribe; and

WHEREAS, the Nooksack Tribal Council is the governing body of the Nooksack Indian Tribe in accordance with Article III, Section 1 of its Constitution and Bylaws approved by the Deputy Assistant Secretary of Indian Affairs on September 24, 1973, as amended; and

WHEREAS, the health, safety, welfare, education, economic security, employment and preservation of cultural and natural resources are primary goals and objectives of the Nooksack Indian Tribe; and

WHEREAS, on February 24, 2016, the Tribal Council took emergency action to bar Mr. Gabriel Galanda and his law firm from Nooksack Tribal Lands and the Tribal Court for failure to obtain a valid business license and his behavior and practices in Tribal Court (Reso. #16-28); and

WHEREAS, on April 18, 2016, the Tribal Council approved Procedures for Tribal Council Hearings ("Procedures") (Reso. #16-45) for all hearings wherein an Ordinance or Policy does not contain such provisions, and said Procedures are in compliance with Article IX of the Tribal Constitution and the opinion in *Roberts v. Kelly*, 2013-CI-CL-003 (Mar. 18, 2014); and

WHEREAS, on April 18, 2016, the Tribal Council authorized the initiation of hearings against Mr. Galanda for alleged violations of Title 10 and Title 54 (Reso. #16-46); and

WHEREAS, in accordance with the Procedures, on or about May 13, 2016, a Notice of Hearing ("Notice") was sent by certified mail, return receipt requested, to Mr. Galanda indicating the hearing date and time (mailing received May 17, 2016); and

WHEREAS, the Notice also included a copy of the following documents: (1) Resolution #16-28; (2) Resolution #16-46; and (3) an Explanation of Exhibits Illustrating Galanda Ethical Issues with accompanying exhibits; and

WHEREAS, on or about May 31, 2016, in accordance with the Procedures, the Tribe timely received a signed Representation Form from Mr. Galanda; then on June 2, 2016, another copy from Mr. Galanda's proposed representative Jacob M. Downs; and

WHEREAS, on or about June 3, 2016, the Tribe received a 21-page written response directly from Mr. Galanda; and

WHEREAS, on or about June 3, 2016, the Tribe received an Index and Appendices A-L from Ms. Jones from the Law Offices of Galanda Broadman; and

WHEREAS, on or about June 3, 2016, the Tribe received Appendices M-W from Ms. Jones from the Law Offices of Galanda Broadman; and

WHEREAS, on or about June 4, 2016, the Tribe received an amended 21-page written response directly from Mr. Galanda; and

WHEREAS, on or about June 4, 2016, the Tribe received another amended 21-page written response directly from Mr. Galanda; and

WHEREAS, Mr. Galanda timely confirmed his hearing in accordance with the Procedures, and the Tribal Council designee(s) convened a Hearing on the merits on June 9, 2016; and

WHEREAS, Mr. Galanda appeared telephonically for the hearing without Council although he previously submitted the Representation Form in a timely fashion; and

WHEREAS, the Tribal Council designee reviewed and considered the following: (1) the materials submitted to Mr. Galanda informing him of the basis for the hearing; (2) the materials submitted by Mr. Galanda (or on his behalf); and (3) the statements made by Mr. Galanda during the course of the hearing; and

WHEREAS, having considering the above information, the Chairman reported his findings back to the Council for its consideration; and

WHEREAS, given the Chairman's reported findings, the Council hereby FINDS that Mr. Galanda has committed the following act(s):

- (1) Violation of Title 54 – Mr. Galanda either intentional failed to obtain a business license in the Nooksack Tribal jurisdiction, or recklessly disregard the law, by not obtaining said license for the period of 2013-2016; and
- (2) Violation of Title 10 – Mr. Galanda committed an act(s) that reflected so poorly on the proper administration of justice that further privileges before the Nooksack bar should be revoked. Specifically, Mr. Galanda sat as judge in another jurisdiction during the pendency of his representation of clients within the Nooksack Tribal Court, and authored a judicial opinion he knew was likely to be reversed (or

otherwise made of no force and effect), then cited the opinion as good law before the Nooksack Tribal Court with the intent of misleading the Nooksack Tribal Court as to the actual value of the opinion Mr. Galanda authored.

NOW THEREFORE BE IT RESOLVED, the Tribal Council accepts and adopts the Chairman's reported findings, as its own; and

BE IT FURTHER RESOLVED, the Tribal Council CONCLUDES that (1) Mr. Galanda is, and has been at all material times prior to now, non-compliant with Tribal law, specifically Title 54; and, (2) Mr. Galanda is not fit to practice further within the Nooksack Tribal Court(s); and

BE IT FURTHER RESOLVED, given the above findings, the Tribal Council hereby: (1) revokes any privilege Mr. Galanda, has or may have had, to engage in business activities within the Nooksack Tribal land, specifically including the practice of law and (2) revokes any privilege Mr. Galanda, has or may have had, to practice law before the Nooksack Tribal Court(s) or within Nooksack Tribal Lands; and

BE IT FURTHER RESOLVED, that Council hereby rescinds Resolution #16-28; and

BE IT FURTHER RESOLVED, that the Chairman (or other councilperson in his/her absence) is hereby authorized and directed to execute this resolution and any documents connected here within, and the Vice Chairman (or other councilperson in his/her absence) are authorized and directed to execute the following certification.

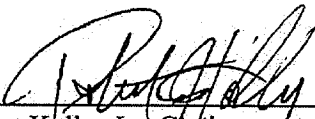
CERTIFICATION

I, the undersigned do hereby certify that the Nooksack Tribal Council is composed of eight (8) members, of which 5 were present, constituting a quorum of a duly called meeting thereof held on this 7 day of October, 2016, and that the above Resolution #16- 149

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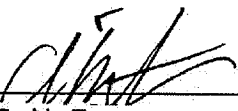
approving the FINDINGS, CONCLUSIONS, AND PENALTY FOLLOWING HEARING (GALANDA) was duly enacted by the Council Members vote of: 4 FOR, 0 OPPOSED, and 0 ABSTENTIONS, and since its approval this resolution has not been altered, rescinded, or amended in any way.

Dated this 7 day of October 2016.



Robert Kelly, Jr., Chairman
Nooksack Tribal Council

ATTEST:



Agripina Smith, Treasurer
Nooksack Tribal Council

filed Court
10/17/16

IN THE SUPREME COURT OF THE NOOKSACK TRIBE OF INDIANS

In re: Orders Entered by Nooksack Tribal
Court of Appeals after May 30, 2015

No. No. 2016-CI-SC-002

NOOKSACK INDIAN TRIBE, et al,
Petitioners.

ORDER VACATING TRIBAL
COURT OF APPEALS ORDERS
AS VOID

The Nooksack Indian Tribe and its Officers and Councilmembers petitioned this Court for expedited review and vacation of the following orders issued by the Court of Appeals, in their entirety:

	Case Number	Date of Decision	Nature of Decision
1.	2016-CI-APL-002 <i>Belmont v. Kelly</i> (Judges Nash, Nielsen, and Silverman)	3/22/2016	Order Denying NIT's Permission for Interlocutory Appeal
2.	2016-CI-CL-001 & 002 <i>In re Galanda</i> (Judges Nash, Nielsen, and Silverman)	4/25/2016	Order re: Petition for Writ of Mandamus

	Case Number	Date of Decision	Nature of Decision
1			
2	3. 2016-CI-APL-002 <i>Belmont v. Kelly</i> (Judges Nash, Nielsen, and Silverman)	4/26/2016	Order Dismissing NIT's Appeal
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6	4. 2016-CI-CL-001 & 002 <i>In re Galanda</i> (Judges Nash, Nielsen, and Silverman)	5/24/2016	Order re: Written Responses to April 25, 2016 Order on Petition for Writ of Mandamus
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9	5. 2016-CI-CL-001 & 002 <i>In re Galanda</i> (Judges Nash, Nielsen, and Silverman)	5/27/2016	Order re: Second Petition for Writ of Mandamus
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12	6. 2016-CI-CL-001 & 002 <i>In re Galanda</i> (Judges Nash, Nielsen, and Silverman)	6/28/2016	Order Finding Betty Leathers in Contempt
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16	7. 2016-CI-APL-002 <i>Belmont v. Kelly</i> (Judges Nash, Nielsen, and Silverman)	6/28/2016	Order Re: the Petition for Writ of Mandamus
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19	8. 2016-CI-CL-001 & 002 <i>In re Galanda</i> (Judges Nash, Nielsen, and Silverman)	7/25/2016	Order on Motion to Enforce Contempt Order
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22	9. 2016-CI-APL-002 <i>Belmont v. Kelly</i> (Judges Nash, Nielsen, and Silverman)	8/29/16	Order Denying Motion to Expand Jurisdiction
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24			
25	10. 2016-CI-APL-002	9/21/16	Order Granting Requests to

	Case Number	Date of Decision	Nature of Decision
	<i>Belmont v. Kelly</i> (Judges Nash, Nielsen, and Silverman)		Join April 15, 2016 Motion and be Subject to June 28, 2016 Order
11.	2016-CI-CL-001 & 002 <i>In re Galanda</i> (Judges Nash, Nielsen, and Silverman)	9/21/16	Order Re: Plaintiffs' Second Motion for Show Cause Order Re: PSJ, Contempt, Mandamus
12.	2016-CI-CL-001 & 002 <i>In re Galanda</i> (Judges Nash, Nielsen, and Silverman)	9/21/16	Order and Judgment Awarding Costs

By Order dated October 7, 2016 the Court accepted expedited review, as permitted by N.T.C. 80.17.070. The Court ordered that brief(s) in opposition must be filed no later than Monday, October 17, 2016, and that the decision would be made on the briefs, with no oral argument. The Court has reviewed the Tribe's Petition and _____

has deliberated, and is prepared to enter its Opinion and Order.

Opinion and Order

The facts recited in the Tribe's Petition are as follows:

The Northwest Intertribal Court System (NICS) agreed to provide appellate services for the Tribe under the terms of a March 12, 2013 Agreement for Appellate Services ("Agreement"). Pursuant to the Agreement, NICS was required to identify and recommend individuals who meet the eligibility requirements identified by the Tribe and were under contract with NICS, to be

1 appointed as appellate judges.

2 Tribal Council Resolution #13-24 (adopted February 14, 2013) provided that the initial
3 appointment of a Court of Appeals judge nominated by NICS and approved by the Tribe was for
4 a two-year term. At the end of the initial term, the Tribal Council could renew recommendations
5 by NICS for subsequent appointments to successive three-year terms if the recommended
6 nominees were otherwise qualified pursuant to Resolution #13-24.

7 Resolution #13-24 required NICS to submit to the Tribal Council at the time of
8 nomination the resume, credentials, examples of relevant work product, and a letter in support of
9 nomination for each attorney nomination to the Court of Appeals. The Tribal Council is
10 authorized to approve or deny NICS's recommendations.

11 The Tribe approved NICS's choosing a panel of three judges for each appeal to be heard
12 by the Court of Appeals from a list of seven individuals. Nooksack Tribal Council Resolution
13 #13-82 (adopted May 30, 2013).

14 Pursuant to Resolution #13-24, the initial appointments of the seven individuals approved
15 as Court of Appeals judges commenced on May 30, 2013 and terminated on May 30, 2015,
16 subject to re-appointment by the Tribe upon the recommendation of NICS and subject to the
17 nominee meeting the minimum qualification for re-appointment.

18 NICS did not recommend the re-appointment of any of the judges initially nominated by
19 NICS and approved by the Tribe prior to or after the end of the initial two-year terms on May 30,
20 2015 as required under the Agreement. The Tribal Council has taken no action to re-appoint any
21 judges to subsequent three-year terms. There are presently no judges qualified and appointed to
22 act as judges in the Nooksack Tribal Court of Appeals. Judges Nash, Nielsen, and Silverman
23 have continued to issue orders in cases assigned after the expiration of their terms, without a
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1 current appointment by the Tribal Council.

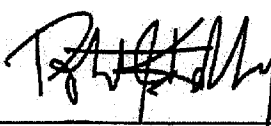


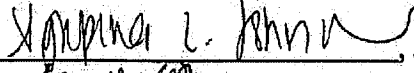
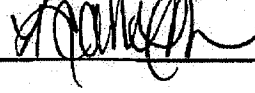
2 This is not an issue that has previously been addressed under Nooksack law, so the Court
3 must look to other jurisdictions for guidance.

4 The Washington State Supreme Court has held that all actions taken by a judge without
5 authority to act are null and void. See *National Bank of Washington v. McCrillis*, 15 Wn.2d 345,
6 359, 130 P.2d 901 (1942) (“As the basis of Mr. Sieler’s [pro tem] appointment is the consent of
7 the parties, if there has been no consent, either in writing or orally in open court, he is without
8 jurisdiction to hear the case, and the entire proceedings before him are void.”). Courts in Texas,
9 Pennsylvania, and California have reached the same conclusion. See, *Lackey v. State*, 364
10 S.W.3d 837, 841 (Tex. Crim. App. 2012) (if a judge has no authority to act, his putative actions
11 are a nullity which may be attacked for the first time on appeal); *Smith v. Gallagher*, 408 Pa.
12 551, 600, 185 A.2d 135, 159 (1962) (an order signed by a judge without authority is null and
13 void), overruled on other grounds by *In re Application of Biester*, 487 Pa. 438, 409 A.2d 848
14 (1979); *In re Damian V.*, 197 Cal. App. 3d 933, 938, 243 Cal. Rptr. 185, 188 (1988) (a trial
15 before an attorney, acting as a judge under no authority other than the consent of the parties, is a
16 nullity).
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18 Under Nooksack law, the authority to act as a judge for the Nooksack Tribal Court of
19 Appeals is bestowed, according to Resolutions #13-24 and 13-82, by an appointment by the
20 Tribal Council. The three judges who have issued the orders the Tribe seeks to vacate were
21 appointed to initial two-year terms which expired on May 30, 2015. None of these judges is
22 presently appointed. Without the appointment by the Tribal Council, the judges have no
23 authority to act. Without authority to act, they do not constitute the Court of Appeals. The
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1 orders entered by the Court of Appeals since May 30, 2015 are null and void, and hereby
2 VACATED.

3 Dated: Oct. 17, 2016

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5  _____, Chief Justice
6  _____, Justice
7  _____, Justice
8  _____, Justice
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