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7 **ATTORNEY FOR DEFENDANT WHITE CLAY**

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

FIRST INTERSTATE BANCSYSTEM, INC.
and FIRST INTERSTATE BANK,

No. CV 19-10-BLG-SPW-TJC

Plaintiff,

and

ALVIN NOT AFRAID, JR., CARLSON GOES
AHEAD, RUDOLPH KNUTE OLD CROW,
RONALD ARNESON, FRANK WHITE CLAY,
SHAWN BACK BONE, and CROW TRIBE OF
INDIANS,

Defendants

**SECOND AFFIDAVIT OF FRANK WHITE CLAY
SPEAKER OF THE CROW LEGISLATURE**

I, FRANK WHITE CLAY, hereby declare as follows:

1. I am a member of the Crow Tribe of Indians, and am named as a Defendant in this action in my elected role as Speaker of the Crow Tribe Legislature.
2. Previously I submitted an Affidavit in this case styled as a response to NOT AFRAID's request for a Temporary Restraining Order so he could spend Crow tribal funds held by First

**SECOND AFFIDAVIT OF FRANK WHITE CLAY IN OPPOSITION
TO DEFENDANT NOT AFRAID'S MOTION FOR TEMPORARY
RESTRAINING ORDER**

1 Interstate Bank. I find it necessary to file this second affidavit because the Court acted before
2 my first affidavit was considered.

3 3. Recently NOT AFRAID was quoted in the local media, and those quotes were generally
4 echoed in his affidavit in support of the TRO. The article is found here:
5 [https://www.kulr8.com/news/federal-court-issues-summons-in-dispute-over-control-of-](https://www.kulr8.com/news/federal-court-issues-summons-in-dispute-over-control-of-crow/article_e30dc27a-28d2-11e9-af34-8f5bcb944296.html)
6 [crow/article_e30dc27a-28d2-11e9-af34-8f5bcb944296.html](https://www.kulr8.com/news/federal-court-issues-summons-in-dispute-over-control-of-crow/article_e30dc27a-28d2-11e9-af34-8f5bcb944296.html).

7 4. Specifically, in that article, and what I want to address, is this quote:

8 Chairman Alvin "A.J." Not Afraid, Jr. remarked, "While I can withstand the pressure of
9 lies and rumors, our government cannot function without funds. The freezing of our
10 bank accounts may be a political victory for the Vice-Chairman and the Legislature, but
11 it is devastating to Elders who are relying on their Elder Benefit checks. Those checks
12 cannot be sent out now. This is devastating to our Crow kids, who are relying on Head
13 Start and day care to provide them with an education. And it hurts dialysis patients who
14 cannot make it to their appointments, without the Tribe being able to pay for their
15 transport."

16 5. NOT AFRAID is not truthful. He may feel these things are true, but his actions, now and
17 for the past two years, betray his words.

18 6. For instance, Head Start is very important and a topic the Legislature has taken on
19 repeatedly, and to no avail with the former Chairman. Now we know why our children have not
20 attended Head Start for more than a few days this entire school year. See Exhibit 1. Exhibit 1 is
21 a true and correct copy of correspondence between NOT AFRAID and his Certified Public
22 Accountant at the time and a public record of the Crow Tribe. Exhibit 1 shows NOT AFRAID
23 cannot be trusted to his word, or to use federal moneys for the purpose they are allocated.
24 Exhibit 1 shows a blatant misuse of Head Start moneys and the children NOT AFRAID is so
25 worried about are still not in an operating Head Start program.

7. The Legislature has in its possession evidence of numerous "Christmas bonus checks"

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1 paid to a select number of employees. Meanwhile, payroll checks for others go without
2 processing, and whole branches of government remain unfunded. I am happy to provide the
3 payroll stubs to the Court.

4 8. The Legislature has evidence of “consultants” being paid \$2,000 every two weeks, with a
5 contract and description of duties that cannot be deciphered and no discernable work product
6 produced. Moreover, the consultant appears to process his own invoices. The Legislature will
7 make this documentation available at the courts request, as it is a public record of the Crow
8 Tribe.

9 9. The Legislature has evidence of a suspended lawyer billing for his non-lawyer wife for
10 nearly \$20,000. The Legislature will make this documentation available at the courts request, as
11 it is a public record of the Crow Tribe.

12 10. The Legislature has evidence of \$6,800 every two weeks being paid to a “zero work
13 employee” through Bureau of Reclamation funds. It is important to remember this article:
14 [https://billingsgazette.com/news/state-and-regional/montana/montana-s-crow-tribe-misused-](https://billingsgazette.com/news/state-and-regional/montana/montana-s-crow-tribe-misused-millions-federal-investigators-say/article_2f5a7375-af41-58d5-b22e-f74d6d11a1dc.html)
15 [millions-federal-investigators-say/article_2f5a7375-af41-58d5-b22e-f74d6d11a1dc.html](https://billingsgazette.com/news/state-and-regional/montana/montana-s-crow-tribe-misused-millions-federal-investigators-say/article_2f5a7375-af41-58d5-b22e-f74d6d11a1dc.html)
16 (“Montana's Crow Tribe misused millions, federal investigators say”). It is even more important
17 to know those funds were held by First Interstate Bank. In no way am I asserting First Interstate
18 wrongly paid over those funds.

19 11. It is important to remember this article, too: [https://billingsgazette.com/news/state-and-](https://billingsgazette.com/news/state-and-regional/govt-and-politics/crow-tribe-can-t-account-for-million-in-grant-dollars/article_1da04d07-8638-53ed-8ade-db50f2d8185e.html)
20 [regional/govt-and-politics/crow-tribe-can-t-account-for-million-in-grant-dollars/article_1da04d07-](https://billingsgazette.com/news/state-and-regional/govt-and-politics/crow-tribe-can-t-account-for-million-in-grant-dollars/article_1da04d07-8638-53ed-8ade-db50f2d8185e.html)
21 [8638-53ed-8ade-db50f2d8185e.html](https://billingsgazette.com/news/state-and-regional/govt-and-politics/crow-tribe-can-t-account-for-million-in-grant-dollars/article_1da04d07-8638-53ed-8ade-db50f2d8185e.html)
22 (“Crow Tribe can't account for \$14.5 million in grant dollars, according to audit”).

23 12. I recently was in a meeting with NOT AFRAID and the Internal Revenue Service. The
24

1 Internal Revenue Service agent wanted to know what the Tribe's plan is for repayment of
2 hundreds of thousands of dollars of unpaid taxes. In that meeting, NOT AFRAID offered to be
3 "thrown in jail" because he had no plan to repay taxes.

4 12. The Crow Legislature has been in this battle to fix the rampant fraud, waste and abuse
5 for two years. The Crow Tribe, despite appearances to those outside, does have the ability to
6 govern itself and although it appreciates the well-intentioned acts of others, the Legislature
7 knows it has to protect the Crow people and its money from more abuse and is doing that.

8 13. Political and cultural change takes time and is hard work. Investigations take time and
9 are best accomplished without fanfare.

10 14. The order granting injunctive relief is counterproductive to the efforts of the Crow tribe
11 and its elected Legislature to make lasting and much needed change at Crow.

12
13 SIGNED this 9th day of February 2019.

14
15 

16 _____
17 Frank White Clay
18 Speaker, Crow Legislature

EXHIBIT 1

Cc: Solomon Little Owl <Solomon.LittleOwl@crow-nsn.gov>

Subject: RE: crow fair

Chairman:

We will use the unrestricted funds in the Head Start bank account to make the following payments:

- Rodeo - \$11,000
- Pow Wow - \$40,000
- Parade - \$40,000
- Racing - \$40,000

That will give each of the various directors a total of \$50,000.

IHS has agreed to pay ½ of the toilet costs.

We still need to pay the honorarium for the speaker to the youth.

Also, we need to pay for the portable showers.

Can the above be paid from Head Start unrestricted funds?

Thanks.

Denis Adams | Senior Manager | Wipfli/Joseph Eve | Office: 406.252.3535 | Direct: 406.206.1607 | Cell: 406-788-9252
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 Please consider the environment before printing this email

From: AJ Not Afraid Jr <AJ.NotAfraid@crow-nsn.gov>

Sent: August 14, 2018 1:13 PM

To: Kennedy, Travis <Travis.Kennedy@wipfli.com>; Adams, Denis <Denis.Adams@wipfli.com>

Cc: Julee Amyotte <Julee.Amyotte@crow-nsn.gov>

Subject: crow fair

Please use the unrestricted funds in the head start account for Crow Fair expenditures also keep in donations are still arising up until next week. We can replenish with the buffalo sales that the buyer plans to deliver this Friday. As to the buffalo sales the proceeds will be used for buffalo program development as to the management plan with the Buffalo Pasture management plan, most of the projects will be implemented next spring.

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