

September 8, 2006

Hon. Debbie Stabenow, U.S. Senator
133 Hart Senate Office Building
Washington, DC 20510

Hon. Carl Levin, U.S. Senator
269 Russell Senate Office Building
Washington, DC 20510

Dear Senators Stabenow and Levin:

As you know, on June 28, 2006, President Bush sent to the Senate nominations to fill several federal court vacancies, including a nomination for Robert Jonker to be United States District Judge for the Western District of Michigan in Lansing. We are writing to explain why we believe Robert Jonker is an unsuitable candidate for a lifetime appointment to the federal court. The signatory tribes to this letter respectfully asks for your assistance in seeking a withdrawal of Mr. Jonker's nomination by the White House or, in the alternative, in pursuing a rejection of Mr. Jonker's nomination by the U.S. Senate.

For the past seven years, Robert Jonker has led a protracted and costly war of attrition through the federal and state courts to deny several tribes the ability to pursue economic development under the Indian Gaming Regulatory Act and to threaten the ongoing gaming operations of two other tribes that employ thousands of Michigan citizens and generate millions of dollars in local revenues and taxes. These cases are: *Taxpayers of Michigan Against Casinos (TOMAC) v. Norton*, 433 F.3d 852 (D.C. Cir., 2006); *Citizens Exposing the Truth About Casinos (CETAC) v. Norton*, No. 02-1754, slip op. (D.D.C. Apr. 23, 2004); *Michigan Gambling Opposition (MichGO) v. Norton*, No. 05-01181 (D.D.C.); *TOMAC v. State*, 471 Mich. 306, 685 N.W.2d 221 (Mich., 2004). Most importantly, Robert Jonker's ethics, motivations, and alliances as revealed by his involvement in this litigation indicate a bias against Indian tribes and raise serious questions regarding his fitness to serve as a federal district court judge.

Attorneys have ethical obligations to bring only meritorious claims and to make reasonable efforts to expedite litigation. Throughout the litigation described above, Robert Jonker has displayed a pattern of employing every available tactic and device to delay a resolution of claims having little or no merit. In the *TOMAC v. Norton* case, the federal district court and the circuit court of appeals for the District of Columbia each concluded that "TOMAC's claims have no merit" and went so far as to characterize one of TOMAC's principal claims as "specious". Yet, Mr. Jonker's litigation strategies succeeded in delaying the Pokagon Band's casino project for five years. The *CETAC*

case and the *MichGO* case Mr. Jonker brought to challenge the casino projects of the Nottawaseppi Huron Band of Potawatomi Indians and the Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians (Gun Lake Tribe), respectively, have created years of delay based, essentially, on the same frivolous claims made in the *TOMAC v. Norton* case.

There is also ample evidence suggesting that Mr. Jonker's client, TOMAC, is backed by a financially powerful Nevada gambling company, Boyd Gaming. Boyd Gaming owns and operates several casinos in the United States, including the Blue Chip Casino – a “riverboat” casino in northwestern Indiana that would face significant competition from the casino projects to be developed in southwestern Michigan by the Pokagon Band, the Huron Band and the Gun Lake Tribe. When purchasing the Blue Chip Casino, Boyd contracted to pay a local gambling magnate and then principal owner of Blue Chip, Kevin Flynn, over \$7 million to stall the casino projects of the Pokagon Band and the Huron Band for five years. Boyd Gaming later expanded Flynn's engagement to include efforts to block the Gun Lake Tribe's project. TOMAC is reported to have shared the same law firm and the same lobbying firm with Boyd Gaming and Kevin Flynn. See K. Buchthal, “Kevin Flynn draws Michigan aces: Ex-casino owner eyes \$5-mil prize,” *CRAIN'S CHICAGO BUSINESS* (May 10, 2004); and G. Wells, “High rollers join West Michigan casino fight,” *THE GRAND RAPIDS PRESS* (July 8, 2001). (Copies are attached hereto). In 2001, an Illinois Gaming Regulatory Commission investigation indicated that Kevin Flynn had ties to organized crime figures.

Finally, Jonker is a member of an organization called “23 Is Enough” and represents their interests through his client, MichGO. In an effort to generate opposition to the Gun Lake Tribe's project, 23 Is Enough disseminated information from an individual who has publicly portrayed Native Americans in racist terms. At least two members of the Michigan Legislature have rebuked 23 is Enough for its “racial intolerance” and “anti-Native American sentiment.” (See attached letters from Rep. Mary D. Waters and Senator Mark H. Schauer). Several prominent members of 23 Is Enough disavowed the racist portrayals, but not Robert Jonker. The alliances of Robert Jonker's clients, TOMAC, CETAC and MichGO, with wealthy competitors of the tribal casino projects, their apparent associations with such unseemly characters as Kevin Flynn, and Jonker's own involvement with an organization that disseminates anti-Indian writings of a racist raises serious questions about Mr. Jonker's ethics and fitness to serve as a federal district court judge.

For the foregoing reasons, we respectfully ask that you assist our effort to prevent Robert Jonker from gaining a lifetime appointment to serve as a federal district court judge for the Western District of Michigan. We will be available to answer any questions you may have or to provide information regarding the litigation brought by Mr. Jonker.

Hon. Debbie Stabenow, U.S. Senator

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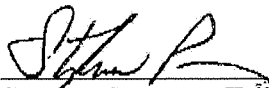
September 8, 2006

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Sincerely yours,



Susan LaFernier, Tribal Council President
Keweenaw Bay Indian Community



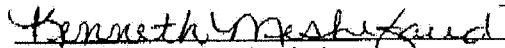
Stephen Parsons, Tribal Council Speaker
Little River Band of Ottawa Indians



David K. Sprague, Tribal Chairman
Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians

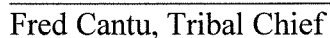


John Miller, Tribal Chairman
Pokagon Band of Potawatomi Indians

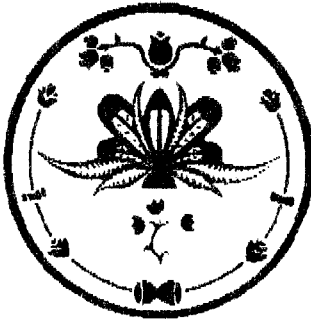


Kenneth Meshigaud, Chairperson
Hannahville Indian Community

Signature on enclosed letter



Fred Cantu, Tribal Chief
Saginaw Chippewa Indian Tribe of Michigan



The Saginaw Chippewa Indian Tribe Of Michigan

TRIBAL CHIEF

7070 EAST BROADWAY

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(989) 775-4000

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August 23, 2006

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Band of Pottawatomie Indians (Gun Lake Tribe), respectfully, have created years of delay based, essentially, on the same frivolous claims made in the *TOMAC v Norton* case.

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Sincerely yours,



Fred Cantu, Tribal Chief

Saginaw Chippewa Indian Tribe of Michigan