



# LUMMI INDIAN BUSINESS COUNCIL

2616 KWINA RD. • BELLINGHAM, WASHINGTON 98226-9298 • (206) 734-8180

DEPARTMENT \_\_\_\_\_

EXT: \_\_\_\_\_

## RESOLUTION #93-123 OF THE LUMMI INDIAN BUSINESS COUNCIL

WHEREAS, the Lummi Indian Business Council is the duly constituted governing body of the Lummi Indian Reservation by the authority of the Constitution and By-Laws of the Lummi Nation of the Lummi Reservation, Washington, as approved on April 10, 1970, by the Assistant Commissioner of Indian Affairs; and

WHEREAS, in 1992 and 1993 the Lummi Indian Nation cooperated with the United States of America in the Federal indictments and conviction of six individuals; and

WHEREAS, The Lummi Indian Business Council approved Resolution 93-41, which resulted in the removal of all Lummi tribal rights and privileges for five Lummi persons and one non-Lummi person; and

WHEREAS, Resolution 93-41 insufficiently identified some of those individuals.

NOW THEREFORE BE IT RESOLVED, that Resolution 93-41 be amended by the Lummi Indian Business Council to clearly identify the legal and a.k.a. names of the following:

Amelia Kay Commodore is **Amelia Kay Commodore** (aka Boneclub, Edwards, or Johnnie), whose date of birth is 06-02-36 and held the Lummi Tribal enrollment number 922; and

Raphaella Johnnie is **Raphaella Marie Edwards** (aka Johnnie), whose date of birth is 05-02-65 and held the Lummi Tribal enrollment number 2206; and

**Samuel Rice** is not a Lummi Tribal Member, but has been removed from the Lummi Nation through Law and Order Title 12- Expulsion and Exclusion of Non-Members from the Lummi Indian Reservation.

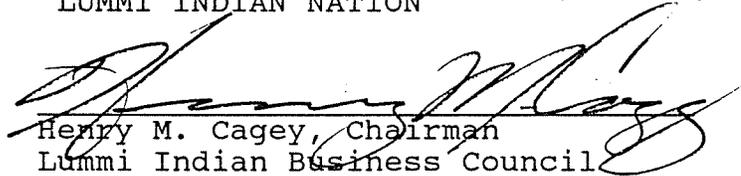
Bernice Commodore is **Bernice Eileen Edwards** (aka Commodore, aka Bernice Deanna Edwards), whoses date of birth is 01-18-72 and held the Lummi Tribal enrollment number 2531; and

Patricia Fawcett is **Patricia Ann Edwards** (aka Fawcett), whose date of birth is 06-27-55 and held the Lummi Tribal enrollment number 961; and

Raphael Johnnie is **Raphael Leonard Johnnie Jr.** (aka: none), whose date of birth is 05-26-64 and held the Lummi Tribal enrollment number 2205; and

BE IT FURTHER RESOLVED, that the Chairman (or the Vice Chairman in his absence) is hereby authorized and directed to execute this resolution and any documents connected therewith, and the Secretary (or the Recording Secretary in his absence) is authorized and directed to execute the following certification.

LUMMI INDIAN NATION

  
Henry M. Cagey, Chairman  
Lummi Indian Business Council

C E R T I F I C A T I O N

As Secretary of the Lummi Indian Business Council, I hereby certify that the above Resolution 93-123 was adopted at a Special meeting of the Council held on the 3 day of August, 1993, at which time a quorum of 7 was present, and was adopted by a vote of 6 For, 0 Against, and 0 Abstention(s).

  
Levi Jefferson Sr., Secretary  
Lummi Indian Business Council



# LUMMI INDIAN BUSINESS COUNCIL

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DEPARTMENT \_\_\_\_\_

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## RESOLUTION #93-41 OF THE LUMMI INDIAN BUSINESS COUNCIL

WHEREAS, the Lummi Indian Business Council is the duly constituted governing body of the Lummi Indian Reservation by the authority of the Constitution and By-laws of the Lummi Nation of the Lummi Reservation, Washington, as approved on April 10, 1970, by the Assistant Commissioner of Indian Affairs; and,

WHEREAS, the Lummi Indian Nation, before the 1792 contact with non-Indian society, was governed by tradition, ceremony, culture, and strong tribal social values, ethics, and altruism essential to our survival as a tribal society, and our society was strict in the control of behavior and respect for oneself, family, extended family, and tribalism; and,

WHEREAS, the Lummi Indian Nation is party to the Treaty with the Duwamish, Suquamish, and Allied Tribes (Pt. Elliot Treaty, 12 Stat. 927) of 1855, which was ratified by the President and Senate of the United States on March 8, 1859, and proclaimed April 11, 1859, in accordance to respective Articles of the U.S. Constitution, and said treaty which provided under Article 9, as follows:

".....And if any of the said Indians commit depredations on other Indians within the Territory the same rule shall prevail as that prescribed in this article in cases of depredations against citizens. And the said tribes agree not to shelter or conceal offenders against the laws of the United States, but to deliver them up to the authorities for trial."

WHEREAS, Article 10 of the Pt. Elliot Treaty, further, provides that: "The above tribes and bands are desirous to exclude from their reservation the use of ardent spirits, and to prevent their people from drinking the same, and therefore it is provided that any Indian belonging to said tribe who is guilty of bringing liquor into said reservations, or who drinks liquor, may have his or her proportions of the annuities withheld from him or her for such time as the President may determine."

WHEREAS, in United States v. Washington, 384 Fed. Supp. 360, the Federal Court concluded, "The Lummi Tribe is the present day tribal entity which, . . . ., is a political successor in interest to some of the Indian tribes or bands which were parties to the Point Elliot Treaty. This tribe is recognized by the United States as a currently functioning Indian tribe maintaining a tribal government on the Lummi Indian Reservation. Its membership

is determined in accordance with its Constitution and By-Laws approved by the Commissioner of Indian Affairs on April 12, 1948, as amended April 10, 1970."; and,

WHEREAS, the United States has used its claims to "Plenary Power" to apply various federal and state criminal statutes to Indian Country (e.g., 18 U.S.C.A. Sec. 1152, 1153; 25 U.S.C. Sec. 1301, 1302;), and other appropriate laws such as the national legislation laws governing the distribution, use and sale of narcotics and other controlled substances. Such narcotics/controlled substances are included in the Lummi Indian Nation's definition of the modern "ardent spirits" that are prohibited as a matter of treaty right, and under Treaty power the said Lummi Nation has cooperated by delivering up violators of such laws- under the respective treaty clause that provided: "And the said tribes agree not to shelter or conceal offenders against the laws of the United States, but to deliver them up to the authorities for trial."

WHEREAS, the Preamble to the 1970 Lummi Constitution states it is the intent of the People to make the tribal government "responsive to the tribe, to develop our community resources, administer justice, protect our tribal interests, and promote the economic and social welfare of ourselves and our descendants, and to preserve our land base, culture, and identity, ...". Which is definitive of the demand of our tribal constituency for said government to protect the tribal public from all such activities and actions that are injurious to the best interests of the tribal community and values; and,

WHEREAS, it is provided in the Lummi Constitution, under Article II- Membership, Section- 2. "The Lummi Business Council shall have the power to pass ordinances subject to the approval of the Commissioner of Indian Affairs, governing future membership, abandonment of membership, and the adoption of new members, provided that all adoptions must be approved by the general council."

WHEREAS, there have been recognized limitations on "federal intrusion into tribal autonomy," in which the federal courts, as well, have been reluctant to allow federal intrusion in "internal tribal matters" such as "eligibility for tribal membership." See Groundhog v. Keeler, 442 F.2d 674 (10th Cir. 1971). And, the Lummi Indian Tribe has jurisdiction over the resolution of all questions of membership of persons that believe themselves to be eligible, unless otherwise prohibited. And, the federal recognition of Lummi control of its membership has been a major issue in United States v. Washington, 384 F. Supp. 312, and established through such complex litigative proceedings; and,

WHEREAS, the Lummi Indian Nation has the power to declare all persons, who have been convicted as dealers and sellers of Narc-

otics and Controlled Substances, within and outside the boundaries of the Lummi Reservation, as exercising those acts that are contrary to the best welfare of the tribal membership and children, and that such actions have enacted a state of "abandonment" of all right to be an enrolled member of the Lummi Indian Nation, as provided under said Article II, Section 2 of said Lummi Constitution; and,

WHEREAS, the Lummi Indian Nation recognizes convictions of violations of tribal laws, State of Washington laws, and those of the U.S. enacted to prevent the sale of Narcotics and Controlled Substances, as proof of respective persons "abandonment of membership" and automatically directs the tribal officers and officials to initiate all actions important to implement the removal of said persons names from the membership rolls, and to institutionalize the withdrawal of any "privileges" the said persons may have exercised as a Lummi member to treaty rights (hunting, fishing, gathering, health, education, etc.), and declares them to be ineligible for such privileges until their membership may be reinstated. Their membership may only be reinstated by the accomplishment of the following:

1. He/She/They shall not be eligible to seek reinstatement of membership until the expiration of the number of federal convictions for the sale of narcotics, or other relevant convictions for crimes related to the original actions, multiplied by six months for each; and,

2. He/She/They shall have completed extensive in-patient treatment for alcohol, narcotics addictions, with related out-patient treatment and counseling, from a certified treatment facility approved by the State of Washington and/of federal government. And, then, only if they provide the tribal counsel of proof of on-going out-patient counseling for a term of five years after in-house treatment; and,

3. He/She/They shall have appeared before the Lummi General Counsel at the next annual general council meeting, set after the completion of their certified in-patient treatment, and receives 30% or more of the votes of all eligible voters' signatures petitioning the Lummi Indian Business Council to (re)consider their individual request for "enrollment;" and,

4. He/She/They shall be required to secure, if they still have custody, counseling services for all children of the immediate family, to overcome and repair the damages created through psychological, physical, emotional, and sexual abuse.

5. He/She/They shall be required to provide to the LUmMi Indian Business Council and Lummi Tribal Court official papers of proof of having completed all parole requirements imposed upon them by state or federal corrections before initiating reenrollment actions.

WHEREAS, all actions declaring the "abandonment of membership" by the Lummi Indian Business Council of specified persons at issue

shall not include the status of minor children otherwise qualified for said membership, or adult members of said family(ies) that were not involved with said violations. Their rights as tribal members shall be protected by the Nation and its agencies; and,

WHEREAS, the Lummi Nation has enacted Title 12- Expulsion and Exclusion of Non-members from the Lummi Indian Reservation. This provides, under Section 12.1.01 Who May Be Excluded- "Any non-member of the Lummi Indian Tribe, except persons authorized by federal law to be present on tribal land, may be excluded from the Lummi Indian Reservation."

WHEREAS, it is further provided, under Section 12.1.02 Grounds for Exclusion-

- (f) Any act causing physical loss or damage of any nature to tribal property or property of any enrolled member.
- (g) Crime, as defined by state or federal law.
- (h) Violation of any tribal ordinance, or the Law and Order Code.
- (i) Immorality.
- (q) Use, possession or sale of any drug, narcotic drug or controlled substance as defined by the State Uniform Controlled Substances Act.

WHEREAS, specific persons have been convicted for trafficking in Narcotics and Controlled Substances, as defined under tribal, state, and federal laws, and such convictions are automatic grounds for the declaration of "abandonment of membership" and the disenrollment of their individuals names from the tribal enrollment, and certified notification of their ineligibility to be recognized as "Lummi Members" shall be sent to all such tribally controlled agencies that deliver services to the whole tribal population (e.g., fisheries, health clinic, tribal education, Law & Order, etc.); and,

WHEREAS, the power to declare "abandonment of membership" predates the Pt. Elliot Treaty of 1855, as a matter of traditional and cultural law, and inclusion of such concepts and powers in the treaty, Lummi Constitution, or otherwise is only a manifestation of some of the powers delegated, but are in fact only a part of those rights reserved to the tribal council, under the Lummi Constitution (Article VI, Sections 1, 2, and 3). And, such reserved powers were and have been recognized in United States v. Winans , 198 U.S. 371, 381 (1905), in that a treaty "was not a grant of rights to the Indians, but a grant of rights from them- a reservation of those not granted."

WHEREAS, the United States, through extensive investigations in cooperation with the Lummi Indian Nation, has convicted the following persons for illegal sales, use, and distribution of

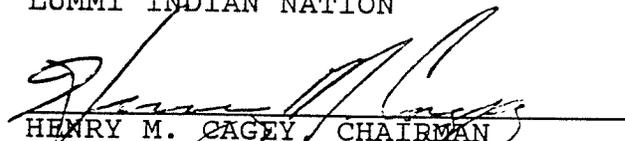
Narcotics and/or Controlled Substances to members of the Lummi Tribe, and non-members, and the federal process has assured their due process and civil rights were protected, and the respective governments did concurrently press for and obtain federal indictments and convictions of: Amelia Kay Commodore, Raphaella Johnnie, Samuel Rice, Bernice Commodore, Patricia Fawcett, and Raphael Johnnie in 1992 and 1993.

NOW, THEREFORE BE IT RESOLVED, the Lummi Indian Nation, hereby, declares and recognizes that said persons, listed immediately above, have "abandoned" all right or privilege of Lummi Membership, and all agencies of the Lummi Nation government shall be informed to withdraw said names from their rolls, and said persons shall hereafter not be considered eligible to exercise the rights and privileges of membership.

BE IT FURTHER RESOLVED, the Office of the Chairman, the Office of the Reservation Attorneys, the Office of the Lummi Prosecutor, the Lummi Law & Order Office, and the Lummi Tribal Court, all shall respectively initiate and complete the "expulsion and exclusion" of said persons from the Lummi Indian Reservation, which shall remain in effect until otherwise notified by the Lummi Indian Business Council.

BE IT FINALLY RESOLVED, that the Chairman (or Vice-Chairman in his absence) is hereby authorized and directed to execute this resolution and any documents connected therewith, and the Secretary (or the Recording Secretary in his absence) is authorized and directed to execute the following certification.

LUMMI INDIAN NATION

  
HENRY M. CAGEY, CHAIRMAN  
LUMMI INDIAN BUSINESS COUNCIL

CERTIFICATION

As Secretary of the Lummi Indian Business Council, I hereby certify that the above Resolution #93-41 was adopted at a Special meeting of the Council held on the 6 day of April, 1993, at which a quorum of 11 was present, and was adopted by a vote of 10 For and 0 Against, and 0 Abstentions.

  
Levi Jefferson Sr., Secretary  
LUMMI INDIAN BUSINESS COUNCIL