

LEGISLATIVE ORDER OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Judgment in Contest of 2011 General Election for Chukut Kuk District Council
Representatives and Alternates for the West Villages Community)

LEGISLATIVE ORDER NO. 11-218

1 **WHEREAS, the Constitution of the Tohono O'odham Nation provides that the "Council shall**
2 **enact an election ordinance . . . which shall prescribe the qualifications of**
3 **candidates, the registration requirements for voting and such other rules and**
4 **procedures necessary to the orderly conduct of elections, including but not limited**
5 **to procedures for validation of petitions and the settlement of any and all election**
6 **disputes." (Constitution, Article X, Section 7); and**

7 **WHEREAS, the "decision of the Tohono O'odham Council in all election matters, including the**
8 **eligibility and qualifications of candidates, shall be final." (Constitution, Article X,**
9 **Section 7); and**

10 **WHEREAS, Article VIII of the Uniform Election Ordinance, Ordinance No. 03-86, establishes the**
11 **procedure for "any eligible voter of the nation" to contest an election upon specific**
12 **grounds, including "for misconduct on the part of any District Election Board or of**
13 **the Election Board, or any member thereof" (Uniform Election Ordinance, Article**
14 **VIII, Section 1.A.); and**

15 **WHEREAS, when "a contest statement [is] based on allegations of misconduct on the part of the**
16 **Election Board or any member thereof," the Legislative Council has jurisdiction to**
17 **hear the contest (Uniform Election Ordinance, Article VIII, Section 5); and**

18 **WHEREAS, the Uniform Election Ordinance further provides that the "council will meet within**
19 **twenty (20) days after the filing of the contest statement for the sole purpose of**
20 **hearing the contest on the grounds of misconduct on the part of the Election Board**
21 **or any member thereof, and of deciding the issue raised in the contest on those**
22 **grounds only." (Uniform Election Ordinance, Article VIII, Section 5); and**

23 **WHEREAS, the Nation's 2011 general election was held on May 28, 2011; and**

24 **WHEREAS, on May 31, 2011 five contest statements alleging Election Board misconduct within**
25 **the Chukut Kuk District were filed with the Election Board and were forwarded to**
26 **the Legislative Council Secretary; and**

27 **WHEREAS, on June 1, 2011, the Legislative Council Secretary delivered written notice to the**
28 **Election Board, requiring the Board to file an answer to the contest statements with**
29 **the Secretary within five days (Uniform Election Ordinance, Article VIII, Section 5);**
30 **and**

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1 **WHEREAS, on June 6, 2011, the Election Board filed with the Council Secretary written**
2 **responses to each contest statement, including a motion to dismiss the statement**
3 **filed by the Chukut Kuk District; and**

4 **WHEREAS, attorneys for the eligible voters filing contests (“contestors”) and the Election Board**
5 **(“contestee”) both received copies of the contest statements and responses; and**

6 **WHEREAS, on June 9, 2011 and by Legislative Order No. 11-213, the Legislative Council set an**
7 **election contest hearing for June 14-16, 2011, adopted Election Contest Hearing**
8 **Procedures, and elected Legislative Council Vice Chairwoman Felicia Nuñez as the**
9 **chairperson for the election contest hearing; and**

10 **WHEREAS, on June 9, 2011 and by Legislative Order No. 11-214, the Legislative Council**
11 **determined it lacked jurisdiction to hear the contest statement by Chukut Kuk**
12 **District and its communities; and**

13 **WHEREAS, on the same date, attorneys for the contestants and for contestee were given notice**
14 **of the June 14-16, 2011 hearing, and were provided with the Election Contest**
15 **Hearing Procedures and with Legislative Orders No. 11-213 and No. 11-214; and**

16 **WHEREAS, Vice Chairwoman Nuñez subsequently resigned her office, and the Council by**
17 **Legislative Order No. 11-215 elected Representative Edward Manuel as contest**
18 **hearing chairperson and accordingly amended the Election Contest Hearing**
19 **Procedures, which were provided to the parties’ attorneys with copies of Legislative**
20 **Order No. 11-215; and**

21 **WHEREAS, in accordance with the Election Contest Hearing Procedures, the contestors and**
22 **contestee each provided a list of all hearing evidence and witnesses to the other**
23 **party at least 24 hours before the contest hearing; and**

24 **WHEREAS, during the contest hearing, the contestors and contestee were represented by**
25 **attorneys and were given the opportunity to appear; to make opening statements;**
26 **to call, question, and cross-examine witnesses; to present evidence; to make**
27 **objections; to present and argue motions; and to make closing statements; and**

28 **WHEREAS, after hearing the proofs and allegations of the parties, the hearing chairman**
29 **ordered a vote to determine whether or not the election results contested should**
30 **be certified or set aside based upon the proof or lack of proof of misconduct on the**
31 **part of the Election Board or any member thereof.**

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1 **NOW, THEREFORE, BE IT ORDERED** by the Tohono O'odham Legislative Council that the 2011
2 **general election results for the offices of Chukut Kuk District Council representatives and**
3 **alternates for the West Villages Community are set aside.**

4 **The foregoing Order was passed by the Tohono O'odham Legislative Council on the 16TH day of**
5 **JUNE, 2011 at a meeting at which a quorum was present with a vote of 1,224.65 CERTIFIED; 1,370.85**
6 **SET ASIDE; and [01] ABSENT, pursuant to the powers vested in the Council by Section 1 of Article**
7 **V; Section 1 of Article VI; subsection 1 (a) and 1(d) of Article VI; and Section 7 of Article X of the**
8 **Constitution of the Tohono O'odham Nation, adopted by the Tohono O'odham Nation on January**
9 **18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on**
10 **March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).**

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14 **TOHONO O'ODHAM LEGISLATIVE COUNCIL**

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18 **Verlon M. Jose, Legislative Chairman**

19 16 day of June, 2011

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22 **ATTEST:**

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25 **Evonne Wilson, Legislative Secretary**

26 16 day of June, 2011
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ACTION: JUDGMENT IN CONTEST OF 2011 GENERAL ELECTION FOR CHUKUT KUK DISTRICT COUNCIL REPRESENTATIVES AND ALTERNATES FOR THE WEST VILLAGES COMMUNITY

DATE: JUNE 16, 2011

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	CERTIFIED	SET ASIDE	ABSENT
SIF OIDAK 198.7	1. WAVALENE ROMERO (Nicholas Jose)	99.35	X		
	2. MARY LOPEZ ()	99.35	X		
SELLS 449.6	1. KIMBERLY MULL ()	224.80	X		
	2. EVELYN B. JUAN MANUEL ()	224.80	X		
SCHUK TOAK 159.0	1. FRANCES B. CONDE (Stanley Stephens)	79.50	X		
	2. FREDERICK JOSE (Phyllis Cachora)	79.50		X	
SAN XAVIER 204.7	1. VACANT ()	102.35		X	
	2. OLIVIA VILLEGAS-LISTON (Eugene Enis)	102.35		X	
SAN LUCY 187.1	1. LORRAINE EILER ()	93.55		X	X
	2. GLORIA RAMIREZ ()	93.55		X	
PISINEMO 184.5	1. CHESTER ANTONE (Tony Murrietta)	92.25	X		
	2. EDWARD MANUEL (Gerald Fayuant)	92.25		X	
HICKIWAN 174.5	1. MICHELLE ORTEGA ()	87.25	X		
	2. SANDRA ORTEGA ()	87.25	X		
GU VO 206.3	1. GRACE MANUEL ()	103.15		X	
	2. PAMELA ANGHILL (Angela Ortiz)	103.15		X	
GU ACHI 230.1	1. TIMOTHY L. JOAQUIN ()	115.05	X		
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	115.05	X		
CHUKUT KUK 277.0	1. ETHEL GARCIA (Sara Mae Williams)	138.50		X	
	2. VERLON M. JOSE ()	138.50		X	
BABOQUIVARI 324.0	1. FRANCES MIGUEL (Roberta Harvey)	162.0		X	
	2. FRANCES G. ANTONE (Vernon Smith)	162.0		X	
TOTAL		2,595.50	1,224.65	1,370.85	[01]