

LEGISLATIVE ORDER OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Suspending Larry K. Yazzie Without Pay)

LEGISLATIVE ORDER NO. 13-374

1 **WHEREAS,** the Legislative Council is exclusively vested with the power to appoint and
2 remove the Nation's judges (Constitution of the Tohono O'odham Nation, Article
3 VIII, Sections 3 and 4, and Article XIII, Sections 1 and 3); and

4 **WHEREAS,** the Tohono O'odham Judicial Court's jurisdiction to review Legislative Council
5 removal proceedings is "extremely limited," *Francisco v. Manuel*, 89-WM-4664 at
6 9 (T.O.Jud.Ct. Nov. 9, 1989); "There is, after all, no right to hold office." *Enos*
7 *Francisco, Jr. v. Legislative Council*, (Trial Ct., Mar 7, 1989) 1 Tohono O'odham
8 Reports 76, 77; and

9 **WHEREAS,** in addition to possessing the power to appoint and remove, the Legislative
10 Council is vested with the power to suspend Nation's judges from office for
11 criminal conduct, gross neglect of duty, and other grounds, subject to a
12 reasonable cause determination by the Judiciary Committee and a final
13 determination by the Legislative Council (6 Tohono O'odham Code Chapter 4 -
14 Suspension of Judges); and

15 **WHEREAS,** on August 5, 2013 Chief Judge Violet Lui-Frank filed with the Judiciary
16 Committee chairperson an Amended Suspension Statement requesting the
17 suspension of Judge Larry K. Yazzie in accordance with the provisions of 6
18 Tohono O'odham Code Chapter 4, Section 4103; and

19 **WHEREAS,** Judge Yazzie was served with notice of the reasonable cause hearing, the
20 Suspension Statement, and the Judicial Suspension Reasonable Cause Hearing
21 Procedures adopted by the Judiciary Committee; and

22 **WHEREAS,** on August 27-28, 2013, the Judiciary Committee conducted a reasonable cause
23 hearing in accordance with the provisions of 6 T.O.C Chapter 4, Section 4104 and
24 found reasonable cause that Judge Yazzie committed conduct contrary to
25 justice, honesty, modesty or good morals and misconduct reflecting on the
26 dignity and integrity of the Judicial Court as charged in the Amended
27 Suspension Statement (Judiciary Committee Resolutions No. 13-11 and 13-12);
28 and

29 **WHEREAS,** pursuant to 6 T.O.C. Chapter 4, Section 4104(D), the Judiciary Committee filed
30 with the Secretary of the Legislative Council a copy of the Amended Suspension
31 Statement and its resolutions finding reasonable cause; and

32 **WHEREAS,** on September 4, 2013, the Legislative Council Secretary served the parties with
33 the Judiciary Committee's reasonable cause resolutions, written notice of the
34 Legislative Council's September 17, 2013 suspension hearing, the Amended

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Suspension Statement, and the Council's Judicial Suspension Hearing Procedures; and

WHEREAS, Judge Yazzie was represented by legal counsel, given the opportunity to file motions, be present at the hearing, testify, call and question witnesses, make opening and closing statements, make objections, present evidence, and otherwise answer the charges contained in the Amended Suspension Statement; and

WHEREAS, after conducting a suspension hearing and considering the evidence, the Legislative Council found Judge Yazzie responsible for committing offenses as provided by 6 T.O.C. Chapter 4, Section 4102 and as charged in the Amended Suspension Statement and suspended him for sixty days; and

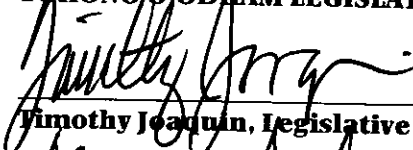
WHEREAS, pursuant to 6 T.O.C., Chapter 4, subsection 4106(B), "During the term of a suspension, a suspended judge shall not exercise any powers of the Judicial Court and shall not be deemed to continue in office."; and

WHEREAS, pursuant to Judicial Suspension Hearing Procedures 23(C), "The Accused shall not continue in office during the term of the suspension, and the Council in a separate order may vote to suspend the Accused's pay during that period."

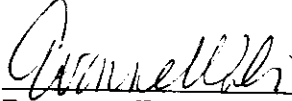
NOW, THEREFORE, BE IT ORDERED by the Tohono O'odham Legislative Council that Larry K. Yazzie is suspended without pay for 60 days effective immediately.

The foregoing Order was passed by the Tohono O'odham Legislative Council on the 17TH day of SEPTEMBER, 2013 at a meeting at which a quorum was present with a vote of 2,253.65 FOR; 692.85 AGAINST; and [03] ABSENT, pursuant to the powers vested in the Council by Article VI, Section 1(d) and 1(f); Article VIII, Sections 3 and 4; and Article XIII, Sections 1 and 3 of the Constitution of the Tohono O'odham Nation, adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat.984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL


Timothy Joaquin, Legislative Chairman
20 day of September, 2013

ATTEST:


Evonne Wilson, Legislative Secretary
20 day of September, 2013

ACTION: SUSPENDING LARRY K. YAZZIE WITHOUT PAY

MOVED: COUNCILMAN QUINTIN C. LOPEZ

SECOND: COUNCILWOMAN BARBARA HAVIER

DATE: SEPTEMBER 17, 2013

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	ABSENT
SIF OIDAK 224.2	1. LUCINDA ALLEN (Nicholas Jose)	112.1	X		
	2. MARY LOPEZ ()	112.1	X		
SELLS 502.0	1. ARTHUR WILSON (Kimberly Mull)	251.0	X		
	2. BARBARA HAVIER ()	251.0	X		
SCHUK TOAK 174.2	1. FRANCES B. STEPHENS (Anthony J. Rios)	87.1	X		
	2. QUINTIN C. LOPEZ (John Fendenheim)	87.1	X		
SAN XAVIER 224.2	1. HILARION CAMPUS ()	112.1		X	X
	2. ADAM ANDREWS(Absent) (Rachel Vilson-Stoner) (Present)	112.1		X	
SAN LUCY 219.6	1. DIANA MANUEL (Gloria Ramirez)	109.8	X		
	2. JANA MONTANA ()	109.8	X		
PISINEMO 210.6	1. CHESTER ANTONE (Tony Murrietta)	105.3		X	X
	2. EDWARD MANUEL, SR. ()	105.3		X	
HICKIWAN 196.9	1. LOUIS R. LOPEZ (Michelle Ortega)	98.45		X	
	2. SANDRA ORTEGA (Manuel Osequeda, Jr.)	98.45	X		
HIA CED 19.6	1. LORRAINE EILER (Jolene Garcia)	9.8	X		
	2. MICHAEL FLORES ()	9.8	X		
GU VO 241.0	1. GRACE MANUEL (Floyd Flores)	120.5	X		X
	2. PAMELA ANGHILL (Jeffery Antone, Sr.)	120.5	X		
GU ACHI 257.3	1. TIMOTHY L. JOAQUIN ()	128.65	X		
	2. LORETTA LEWIS (Louis Johnson)	128.65	X		
CHUKUT KUK 319.2	1. ETHEL GARCIA (Marlakay C. Henry)	159.6	X		
	2. BILLMAN LOPEZ ()	159.6		X	
BABOQUIVARI 357.7	1. FRANCES MIGUEL (Roberta Harvey)	178.85	X		
	2. VERNON J. SMITH (Gloria Zazueta)	178.85	X		
TOTAL		2,946.5	2,253.65	692.85	[03]