

THE CHEYENNE AND ARAPAHO TRIBES: Their Quest for the Fort Reno Lands

Introduction

The Committee investigated the circumstances surrounding contributions totaling \$107,000 that the Cheyenne and Arapaho Tribes of Oklahoma (“C/A” or “tribes”) made to the DNC in 1996. The bulk of the contributions, approximately \$87,000 worth, was made shortly after two C/A representatives attended a June 17, 1996 luncheon at the White House, where they were afforded an opportunity to speak to President Clinton about a long-standing tribal land claim (to the Fort Reno lands in Oklahoma, described below). On March 13, 1997, following media accounts that discussed the stark poverty of the tribes and raised questions about the source of the money used for the contributions, the DNC returned all of the C/A contributions.

The Committee interviewed and deposed witnesses and reviewed documents and other materials in connection with its investigation, but public hearings were never held. The Committee’s work was hampered by a lack of access to key witnesses. First, the four most knowledgeable tribal representatives were initially cooperative with the Committee’s investigation but later asserted their Fifth Amendment privilege against self-incrimination and would not testify under oath without a grant of immunity. The Committee was thus unable to depose these crucial witnesses, who were: Charles Surveyor, the tribal chairman, Archie Hoffman, the tribal secretary, Tyler Todd, the tribal governmental affairs advisor, and Rick Grellner, a tribal attorney. Although the Committee respected these witnesses’ invocation of the privilege, it is doubtful they invoked it in good faith. Their immunity proffer disclosed no discernable basis for a criminal prosecution.

Moreover, their assertion appeared to contain a large measure of gamesmanship. Through their attorney, they originally asserted the privilege unconditionally. Then, the assertion was lifted as to the Committee's hearing subpoenas, provided that the witnesses could select who among them would testify and provided they could make a long speech at the start of their testimony. Then, when it was too late for the Committee to call them, they dropped their conditions with respect to the hearing subpoena but not the deposition subpoena.¹

Second, despite repeated attempts, the Committee was unable to secure the voluntary testimony of Michael Turpen, a former attorney general of Oklahoma who was retained by the C/A to help lobby on their behalf. Turpen was a crucial fact witness, a point Committee staff made often to him and his attorney. According to the tribe, Turpen helped solicit their DNC contributions and invited them to attend the June 17, 1996 White House luncheon. In one news account, Archie Hoffman, the tribal secretary, stated, "Turpen said give \$100,000; he said that's the way you gotta work."² The Committee repeatedly sought Turpen's cooperation, but he gave very little despite many representations that he would. Like the tribal representatives, Turpen

¹ Early on, the tribal representatives cooperated with the investigation, and they were asked to appear voluntarily for a deposition. They agreed but then at the eleventh hour asserted their Fifth Amendment privilege and declined to testify. See Conference -- Proposed Depositions, Sept. 15, 1997, pp. 6-7. The Committee then served deposition and hearing subpoenas on Hoffman, Todd, Grellner, and Surveyor, and the witnesses all asserted their Fifth Amendment privilege in response to both the hearing and deposition subpoenas. See Letter from Barry Coburn to John H. Cobb, Sept. 16, 1997. (Ex. 1)(asserting privilege for purposes of deposition). The witnesses never withdrew their assertion of the privilege regarding the deposition subpoenas, and only withdrew their privilege with respect to the hearing subpoenas on Oct. 30, 1997, the last day of the Committee's public hearings.

² Sue Schmidt, "Tribes Disappointed After Gifts to DNC," *Washington Post*, March 10, 1997, p. A1.

seemed to game the Committee for his own purposes, giving assurances of cooperation outwardly while never really intending to do so.³

Much of the tribes' story was presented to the Committee in a series of staff interviews of tribal representatives conducted in August and September 1997.⁴ Except where otherwise noted, the information contained in the discussion below was provided by the tribal representatives during those interviews.

Despite the limited cooperation of key witnesses, the Committee gathered enough facts to reach the following conclusion. This chapter in the DNC's 1996 fund-raising efforts is among the most sordid. In brief, Democratic fund-raisers led the tribes, who were politically naive, to believe that making a large contribution would secure them the long-sought Fort Reno lands. The tribes made contributions to the DNC, received encouragement about their land claim from many quarters, including the President himself, but ultimately received nothing. The tribes then fell into the hands of a series of Democratic operators, who attempted to pick their pockets for legal fees, land development fees, and additional contributions. The fleecing stopped only when several unflattering press accounts ran regarding the tribes' plight.

Background and the Decision to Donate to the DNC

³ The Committee's fruitless dealings with Turpen are briefly summarized in Ex. 2. Letter from John H. Cobb to C.S. Lewis, Nov. 6, 1997 (Ex. 2).

⁴ Separately, the tribes's attorney gave the Committee a detailed oral proffer on September 15-16, 1997, largely duplicating information that the tribal representatives had provided the Committee during the earlier interviews and also had provided to the press. The Committee did not formally consider an offer of immunity for the four tribal representatives who invoked the Fifth Amendment.

The C/A have aggressively pursued their claim to the Fort Reno lands for several years.⁵ In 1994 and 1995, the tribes contacted the Departments of Interior and Agriculture, seeking assistance in obtaining the land. The tribes made little apparent progress with the agencies, however, and grew frustrated. Their frustration was compounded by the widespread opposition of the entire Oklahoma congressional delegation to the Fort Reno claim.⁶ By late 1995, the tribes were ready to try another approach and hired Michael Turpen, a former Oklahoma attorney general, to lobby on their behalf. Turpen came to the C/A's attention through Tyler Todd, an advisor to the tribal business committee. Turpen set up meetings in Washington with relevant administration officials regarding the Fort Reno lands, accompanying the C/A to Washington on two different occasions in early 1996. In addition, Turpen wrote a senior White House official, Mack McLarty, in March 1996, seeking his help with the Fort Reno matter.⁷

Throughout this time, Turpen was also a top Oklahoma fund-raiser for the Democratic Party and Clinton/Gore 96.⁸ In early 1996, he first mentioned that the tribes should get involved in the "process" and make a contribution to the DNC. He told them at least once that in order for

⁵ The Fort Reno lands are located near the C/A tribal complex in west Oklahoma. The land is held by the federal government, which operates an agricultural research center there. The land apparently has valuable oil and gas reserves.

⁶ Although Democrats and Republicans alike in the Oklahoma delegation expressed opposition for their claim, the tribes took special exception to Senator Don Nickles and Congressman Frank Lucas and ran a series of television ads against them.

⁷ Letter from Michael C. Turpen to Mack McLarty, Mar. 18, 1996 (Ex.3).

⁸ The tribal representatives thought Turpen was the Oklahoma Chairman of Clinton/Gore '96. However, Jason McIntosh, a former DNC and Clinton/Gore official who knows Turpen well, was not aware of any official title Turpen held in 1996 with the campaign. McIntosh identified Turpen as a leading Democratic fund-raiser in Oklahoma. Deposition of Jason McIntosh, Oct. 29, 1997, p.15.

the tribes to be noticed, such a contribution should be “six figures.” Over the course of several weeks in the spring of 1996, the tribal leaders decided that they should contribute to the DNC as a means of “getting heard” on their land claim.

In May 1996, several tribal representatives, including Surveyor, Todd, Grellner, and perhaps others, met with Turpen in his law office. The tribes informed Turpen that they had decided to contribute \$100,000 to the DNC. Turpen, who was pleased, promptly called Jason McIntosh, an official at Clinton/Gore ‘96 and an old friend of his. Turpen put McIntosh on the speaker phone with the tribal representatives and explained that the tribe would be contributing \$100,000 to the DNC.⁹ Tribal representatives recall Turpen noting that the contribution would make the tribes the largest DNC donor in Oklahoma. During that call, the tribes and Turpen also discussed the Fort Reno land claim with McIntosh.

Turpen and McIntosh also discussed whether the tribes could afford the contribution. McIntosh apparently asked Turpen whether the C/A had sufficient funds to cover the contribution, to which Turpen replied, “Well, my check cleared,” meaning his initial \$5,000 retainer payment for representing the C/A.¹⁰ Sometime after the call, McIntosh provided wiring instructions to Turpen so that the tribes could wire their donation directly to the DNC.¹¹

⁹ Id. at p.22.

¹⁰ The tribe paid Mr. Turpen at least \$10,000 for his lobbying services. Tribal Resolution No. 052296S113, May 22, 1996 (Ex. 4). The tribe produced one bill from Turpen that shows some of this lobbying work on their behalf. Bill from Riggs, Abney, et al, May 2, 1996 (Ex. 5).

¹¹ McIntosh deposition, p.25.

Several days later, on June 13, 1996, Turpen called Grellner, telling him words to the effect, “You have decided to give \$100,000 to the DNC. As a result, you will be invited to a lunch with President Clinton at the White House on June 17, 1996.” The tribe was ecstatic, although they did not know how exactly their invitation came to pass. Neither Turpen nor McIntosh had mentioned a luncheon or any other meeting with President Clinton previously. Turpen made it clear that two tribal representatives could attend the lunch.

In his deposition, McIntosh indicated that Turpen extended the luncheon invitation to the C/A at his own initiative. Turpen had been invited to the luncheon, which was set up through the DNC and the White House political affairs office. Turpen asked McIntosh if two tribal representatives could be substituted in his place, and McIntosh passed along the request to the DNC and White House, which acceded.¹² McIntosh testified that the tribes’s pledge to contribute \$100,000 “possibly. . . helped them a great deal” in receiving an invitation to the June 17 luncheon.¹³

The June 17, 1996 Luncheon and Encouragement Regarding The Fort Reno Land Claim

On June 16, 1996, four tribal representatives, Surveyor, Todd, Hoffman, and Grellner, traveled to Washington for the luncheon. They chose Surveyor and Todd to attend the White House event. The next morning (the day of the luncheon), they recall meeting with McIntosh at

¹² Id. at pp. 28-32.

¹³ Id. at p. 33.

the DNC headquarters.¹⁴ Shortly after they arrived at the DNC, they remember McIntosh asking them, “Did you bring the check?” They explained that they had not but that they would wire the money as soon as they returned to Oklahoma. McIntosh did not seem upset.¹⁵ McIntosh recalls simply inquiring about whether they had encountered any difficulty in wiring their contribution, since he had provided the wiring instructions earlier.¹⁶

The C/A did not bring a contribution to the DNC because there had been dissent among the tribal business committee members, the tribal decision-making body, over whether to make the contribution. Surveyor and Todd and others favored making the contribution; but Robert Tabor, the committee treasurer, was not fully sold on the idea. Thus, the C/A came to the DNC on June 17 empty-handed.

Before they left for the luncheon, McIntosh showed the four around the offices and struck up some small talk. Eventually, McIntosh took them to meet Terry McAuliffe. According to the tribes, McIntosh said McAuliffe had raised \$40 million so far, and McIntosh told McAuliffe that the C/A was now the largest donor in Oklahoma.

¹⁴ McIntosh recalls the meeting taking place at Clinton/Gore’s headquarters, where McIntosh worked at the time. McIntosh deposition, p. 38.

¹⁵ In one Committee interview, Grellner indicated that McIntosh was in fact upset.

¹⁶ McIntosh deposition, pp. 41-42.

McAuliffe then took Surveyor and Todd to the White House for the luncheon.¹⁷ The group entered the White House through the East Gate and were taken to a small room, where five or six guests were already waiting. They were eventually joined by other guests, including McAuliffe, President Clinton, and a photographer. The luncheon consisted mainly of small talk, but towards the end of the luncheon, the guests were invited (prompted perhaps by McAuliffe) to speak briefly to President Clinton about whatever was on their minds. Surveyor and Todd have an imprecise recollection of what others said, but remember discussions about retirement benefits, railroads, and a publishing chain. Todd declined to speak, in deference to Surveyor, the tribe's top elected official. Surveyor was seated to President Clinton's immediate left, and he spoke last and apparently at much greater length than the other guests. He talked first generally about matters of concern to Native Americans, discussing health care funding, education, and the like.

Surveyor then spoke about the Fort Reno lands. He described the situation to President Clinton and noted that since the land was taken by executive order in the 1880s,¹⁸ perhaps President Clinton could arrange the return of the land by a new executive order. President Clinton turned to an aide who was taking down notes and asked, "Do we have anything on Fort Reno?" and the aide replied affirmatively.¹⁹ Without recalling President Clinton's exact words,

¹⁷ The White House political office prepared a briefing memorandum for the June 17th luncheon that described the event and the participants. Memorandum, Democratic National Committee Presidential Luncheon, June 16, 1996 (Ex. 6). McIntosh helped draft the portion that discussed Surveyor and Todd. McIntosh deposition, p. 36.

¹⁸ The tribes received \$15 million from the United States in settlement of their land claims. See Cheyenne-Arapaho Tribes v. United States, 16 Ind. Cl. Comm. 171 (1965).

¹⁹ The tribes have a standard Fort Reno information packet that they had given to McAuliffe earlier and surmise that McAuliffe's copy ended up with the aide.

Surveyor and Todd recount that the President said something like, “We will look into it and see if anything can be done about it, and we’ll see what we can do.” They did not take this to be a binding promise to return the land, but they were quite heartened by the President’s comment.

Surveyor and Todd walked out of the luncheon with McAuliffe and others. McAuliffe told them, “If the President says he’ll do something, he’ll do it.” McAuliffe, in his Committee deposition, could not recall any conversation between President Clinton and Surveyor, and he did not recall speaking with Surveyor or Todd after the luncheon about the Fort Reno lands.²⁰

Of interest to the Committee is whether the words of encouragement spoken by President Clinton or McAuliffe might have helped induce the tribes to consummate their DNC contributions. Because the Committee has not received sworn testimony from the tribal representatives, it is difficult to parse what exactly they were told, or how they might have viewed what was said to them. However, the tribes provided the Committee with tapes of two contemporaneous tribal business committee sessions -- held on June 20 and July 3, 1996 -- in which committee members discussed the decision to contribute to the DNC. As the following excerpts from the tapes reveal, it is clear the tribes believed that their discussion with President Clinton was made possible only by contributions and that the discussion with the President would lead to the return of the land:²¹

²⁰ Deposition of Terrance McAuliffe, Sept. 18, 1997, p. 29.

²¹ The Committee transcribed the tapes and gave transcripts to counsel for the tribes, with the understanding that the tribes would identify the voices on the transcripts and provide the Committee annotated versions of the transcripts. The tribes never provided such annotated versions, however. Thus, the voice identification made above was performed by Committee staff, based on staff’s familiarity with the voices of some of the business council meeting attendees. Unidentified voices are denoted “speaker.”

Todd: Mr. [Surveyor] brought up all of our issues, and the President listened very intently, and the secretary took all of the notes, and he made certain she had everything.

Surveyor: It was mostly on Fort Reno what I was talking about. And at the last, I told him how it was taken and if there was any way they could get it back the same way, then [inaudible]. When I got through talking, he [President Clinton] said, "Well, I think we can help you then." He told the secretary, "Do you have it?" and she said, "Yes."

Speaker: It can be returned by Executive Order?

Surveyor: Yes.²²

* * *

Speaker: Are you saying you feel that this donation --

Todd: Well, put it this way --

Speaker: -- would enhance the transfer of the property from the government to the tribe, Fort Reno?

Todd: I definitely think so.

Speaker: What kind of commitment did you get from the President?

Todd: Well, in the first place, you don't go in and make deals with the President. We go in and talk to him.

Speaker: That's what [inaudible] were saying, too. It's illegal for the President to make deals.

Surveyor: Well, there were no deals made to the Cherokees a few years back. . . . They donated \$150-and-some thousand or \$200-and-some thousand, right around there, and you can see the results. They got everything and are getting everything. That's what it comes down to. I hate to say it's that way, but . . . that's just the way it goes.²³

²² Excerpted transcript of Tribal Working Session, June 20, 1996, p. 38-39 (Ex. 7).

²³ Id. at pp. 41-42.

Moreover, it is clear from the tapes that the tribal representatives thought there was an admission price -- \$50,000 per head -- for attendance at the luncheon:

- Speaker: Was there a commitment?
- Speaker: Tyler [Todd], was there a commitment?
- Todd: Was there a commitment on what?
- Speaker: From us to the Democratic Party?
- Todd: Uh-huh.
- Surveyor: I believe there was something of a commitment -- again, to meet with the President.
- Speaker: It costs \$100,000 to visit the President?
[Pause.]
- Speaker: What do you charge, Charles?
[Laughter.]²⁴

The tribes' belief that DNC contributions would ultimately lead to success regarding the land is corroborated by the testimony of Terry Lenzner, a private investigator who met with the

²⁴ Id. at pp. 55-56. Although, as revealed by the tapes, the tribal representatives very clearly believed that their contributions would help them obtain Fort Reno, they took a more diplomatic view publicly. According to the tribal representatives, the contribution caused an uproar in the tribal community, which led Surveyor and Todd to issue a press release on June 28, 1996. The press release characterized the luncheon as an "historic" meeting between Surveyor and President Clinton. The press release recounted that Surveyor told the President about the Fort Reno land claim but rejected the notion that Clinton promised to return the land. News Release of Cheyenne-Arapaho Tribes of Oklahoma, June 28, 1996 (Ex. 8). Despite their public diplomacy, the private, contemporaneous words of the tribal leaders in the tape excerpts portray a different belief altogether. Or as poet Emily Dickinson once observed: "The thought beneath/so slight a film/is more distinctly seen/as laces just reveal the surge/or mists the Appenine."

tribes in May 1997.²⁵ Mr. Lenzner told the Committee that the C/A representatives with whom he met believed they had been promised favorable action on their land claim in exchange for contributions to the DNC:

Lenzner: They [the tribal representatives] say they had been approached by somebody who had worked in the campaign, whose name I can't recall. They had been promised action on the lands. . . . My recollection is that they were promised favorable action, that they were going to get their lands returned in exchange for a donation.²⁶

In fact, Lenzner, whose firm the DNC had retained to investigate foreign money contributions, initially thought the tribal representatives wanted him to investigate the DNC for the failure to consummate a contributions-for-land quid pro quo:

Senator Specter: [Tribal representatives say they were told they would] get their lands returned in exchange for a contribution?

Lenzner: That's my recollection of what they were telling me, and at the time . . . I started wondering whether they were asking me to conduct an investigation of this incident. . . . I thought there might be a problem with them telling me about it in view of the Democratic National Committee work we are currently doing.²⁷

Lenzner's conflict of interest concerns passed, however, when the tribes made clear that the target of the investigation in which they might be interested was not the DNC.

The Tribes Donate Approximately \$107,000 to the DNC

The First Contribution (\$87,000)

²⁵ Mr. Lenzner's involvement with the C/A is discussed more fully below.

²⁶ Testimony of Terry Lenzner, July 31, 1997, pp. 56-57.

²⁷ Id. at pp. 57-58.

Immediately after the White House luncheon, the C/A were called with some frequency by Turpen and McIntosh, an effort the C/A viewed as dunning the tribes into making good on their contribution pledge. They remember Turpen making the first call on June 20 and expressing irritation about the tribes not contributing \$100,000 before the luncheon event. Turpen insisted that the tribes pay the DNC immediately. According to tribal representatives, McIntosh then placed several calls starting on June 24, 1996 (usually to Grellner, the tribal attorney), which became increasingly aggressive in tone. In his deposition, McIntosh explained that Turpen had merely asked him to “coordinate” with the C/A and ensure that the contribution came through.²⁸ McIntosh testified that he had numerous conversations with Grellner about the contribution.²⁹ However, McIntosh said that the calls were frequently occasioned by Grellner’s indications that the money had been transferred, when the money in fact had not.³⁰

The C/A business committee met to discuss the contribution on June 20, 1996. Although no formal resolution authorizing the contribution was passed, Surveyor, Todd, Hoffman, and Grellner, having determined that the business committee informally expressed sufficient support, wired a contribution to the DNC on June 26, 1996 for \$87,671.74.³¹ That amount represented all of the money in the C/A’s bank account. The money for the contribution was derived from a bingo hall owned by the tribes.³² Although the hall is not profitable -- it has incurred millions in

²⁸ McIntosh deposition, p. 43.

²⁹ Id. at p. 45.

³⁰ Id. at pp. 139-40.

³¹ Wire transfer, Boatmen’s First National Bank of Oklahoma, June 26, 1996 (Ex. 9).

³² Memorandum from Tyler Todd to Charles Surveyor, April 23, 1997 (Ex. 10).

losses since opening -- the C/A receive a monthly \$5,000 payment from the entity that manages the bingo hall on their behalf. The tribes had intended to contribute the full \$100,000 pledged to the DNC, but there was a shortfall in the bank balance.

The tribes played a bit of a shell game internally in order to make the June 26th contribution. The business council treasurer, Robert Tabor, opposed the idea of a contribution and wanted nothing to do with it. To get around Tabor's reluctance, the money was transferred from the tribal account controlled by Tabor and placed into the account of an affiliated entity (a business development corporation) from where it was wired to the DNC.

The tribal business committee met again on July 3, 1996 and passed a resolution formally approving a \$100,000 contribution to the DNC.³³

The Second Contribution (\$20,000)

Sometime in July, Turpen called the tribe, reminded them that they were "\$13,000 short" on their DNC commitment, and suggested that they help host President Clinton's 50th birthday celebration in August. Turpen said that hosting the party would cost \$20,000, and the tribe agreed to do so. The tribe provided the funds in a cashier's check³⁴ to someone at Turpen's firm, whom the tribe understood was running the Oklahoma portion of the birthday celebration. As with the earlier \$87,000 contribution, Tabor, the business council treasurer, wanted nothing to do with the contribution, so again the money was transferred from a tribal account to that of the

³³ Tribal Resolution No. 070996S167, July 9, 1997 (and related meeting minutes) (Ex. 11).

³⁴ Cashier's check, People's National Bank, August 12, 1996 (Ex. 12).

tribal development corporation. The money qualified the C/A as a sponsor of a birthday dinner in Oklahoma City that coincided with, and was linked up by remote television connection to, the main birthday party held at Radio City Music Hall in New York in August 1996.³⁵

Where Did the Money Come From?

At times, the media has described the C/A contributions as coming from a tribal “welfare fund,” a description resisted by tribal representatives who do not like the implication that they made large political contributions, which accomplished little, at the expense of more basic tribal needs. The source of the money also raises the issue of the tribes’ poverty. Based on its questioning, the Minority appears ready to argue that these obviously impoverished tribes are in fact flush with money.³⁶

There are several points worth noting in this regard. First, while the Committee has undertaken no effort to determine the actual poverty level of the C/A, it is fair to say that they are very poor. The unemployment rate among tribal members is 62%, and two-thirds of tribal members receive public assistance.³⁷ The average per capita income is approximately \$6,000 per year.³⁸ The tribal representatives consider their people’s financial condition to be desperate, and indeed, one reason obtaining Fort Reno is important to them is the economic self-sufficiency that

³⁵ Invitation to Oklahoma Democratic Rally for President Bill Clinton’s 50th Birthday (Ex. 13).

³⁶ See McIntosh deposition, pp. 110-14.

³⁷ Michael Grunwald, “Modern Promises, Old Betrayal,” *The Boston Globe*, Jan. 18, 1998, p. A1.

³⁸ Id.

judicious development of the land promises. In fact, when the business council was debating the DNC contributions, during a July 1996 meeting, the tribes' poverty was noted frankly:

Speaker: \$100,000, that is not a lot to the people up there playing big politics, but for us it's a lot of money, and that, from what I gather, practically almost bankrupts us. It puts our capital way down there low. . . . Historically, we have a tough time making it, and the bills start coming in -- bills, bills, bills.³⁹

Second, while the account from which the money is drawn does not appear to be a specially-earmarked welfare fund, it is frequently used to pay for such things as funeral costs, heating bills, and general assistance for needy tribal members. When the DNC returned the contribution in March 1997, the tribes took the money and used it for buses to transport the elderly and infirm, a Head Start program, and emergency assistance.

The DNC returned the tribes' contributions on March 13, 1997, expressing concern that the contributions might have "come from their welfare fund."⁴⁰ The DNC, moreover, refunded the contribution to dispel the "link in the minds of the Tribe's members that they needed to give this money in order to be heard on an official government matter."⁴¹ Such a link, of course, is exactly what Turpen placed in the minds of the C/A when they were considering whether to contribute. Ironically, the tribes were offended that the DNC returned the money, thinking that the gesture meant their money was not good enough for the Democratic party.

Other Political Events Attended by Tribal Representatives

³⁹ Transcript of Tribal Working Session, July 3, 1996, p. 43 (Ex. 14).

⁴⁰ DNC Press Release: "DNC Returns Cheyenne-Arapaho Tribal Donation," Mar. 13, 1997 (Ex. 15). See also Letter from B.J. Thornberry to Charles Surveyor, Mar. 13, 1997 (enclosing contribution refund)(Ex. 16).

⁴¹ Id.

For a brief time in 1996, the C/A's sizeable contributions secured them invitations to several DNC-related events. Those included:

- In August 1996, Surveyor attended a reception at the Vice President's residence. His attendance was arranged by an attorney at Turpen's firm.
- In August 1996, Todd attended a dinner with Vice President Gore at a Washington hotel, an event to thank the sponsors of the "remote" birthday celebrations for President Clinton. Todd sat at the same table with Vice President Gore, who at one point told the table that if anyone needed anything, they should contact Mitchell Berger, a prominent fund-raiser also seated there.⁴²
- In August 1996, Surveyor, Todd, and Grellner attended the Democratic National Convention.
- On October 18, 1996, DNC Chairman Don Fowler visited the tribal complex in Oklahoma.⁴³

Nathan Landow and Peter Knight

⁴² Several weeks after the dinner, in October 1996, Tyler Todd did call Berger, telling him about some planned federal budget cuts to an Indian AIDS program. Berger was very responsive, reciting a list of Administration officials he would contact. Many of these officials subsequently called Todd to discuss the funding issue. Funding for the program was later restored. For his part, Berger contacted Todd around December 1996, and asked for a \$25,000 contribution to the inaugural, which the tribes declined. Berger solicited contributions several times, once saying that, "you [C/A] owe us money." For more on Berger, see the section of this report on R. Warren Meddoff.

⁴³ Don Fowler's Briefing Material for Cheyenne-Arapaho Meeting, Oct. 18, 1996 (Ex. 17).

As November and December 1996 wore on, the C/A grew restless. They had seen no progress regarding Fort Reno and little benefit from their contributions. In fact, the only tangible result of their DNC contributions was more solicitations from various Democratic fund-raisers.⁴⁴ A series of contacts would lead them to Nathan Landow, a wealthy Maryland area real estate developer who is a longtime supporter of Vice President Gore and the DNC,⁴⁵ and to the law firm where Peter Knight, Landow's friend, practiced. Knight, a former Gore aide, is a prominent political fund-raiser who chaired Clinton/Gore '96.

The path to Landow and Knight went through Michael Copperthite, a Democratic political consultant. In 1996, Copperthite managed the successful campaign of Arkansas Congressman Marion Berry, a former administration official the tribes had met in earlier rounds of Washington lobbying. Copperthite originally contacted Grellner, the tribal attorney, in October 1996 to see if the C/A would consider contributing to Berry's campaign. Although the C/A did not give money, Grellner did contribute \$5,000 personally to the Arkansas Democratic Party. Grellner also solicited advice from Copperthite about the C/A's growing restlessness over Fort Reno, and Copperthite agreed to help the tribes. After the Berry campaign, Copperthite took tribal

⁴⁴ The fund-raisers they mentioned to the Committee were Nathan Landow, Mitchell Berger, and Mary Pat Bonner. Tribal representatives also told Copperthite about solicitations from these individuals. Deposition of Michael Copperthite, Aug. 27, 1997, pp. 29-33. Although Landow could not recall soliciting the tribes, he recalled speaking to Berger and Bonner, both of whom indicated that they had solicited the tribes for contributions. Deposition of Nathan Landow, Sept. 17, 1997, pp. 66-67. Landow said it was "possible" but unlikely that he solicited the tribes himself for political contributions. *Id.* at pp. 57-59.

⁴⁵ In late November 1995, Vice President Gore successfully solicited Landow by phone for a \$25,000 DNC contribution. Landow, according to the Vice President's notes, replied, "You'll have it in hand in one hour." DNC Finance Call Sheet, Nov. 27, 1995 (Ex. 18).

representatives around Washington, and arranged for them to meet with lobbyists and Capitol Hill staffers to discuss the Fort Reno lands.⁴⁶ One of these meetings was with Landow.

Copperthite first took Surveyor, Grellner, and Hoffman to meet Landow on November 24, 1996, at Landow's offices in Bethesda, Maryland. Copperthite portrayed Landow as someone close to Vice President Gore who might be able to help them with the Fort Reno claim. According to Landow, Copperthite was persistent in asking Landow to meet with C/A representatives, and his persistence finally piqued Landow's interest in the matter.⁴⁷

At the November 24 meeting, the tribal representatives described for Landow their June 17 luncheon with President Clinton, and recounted how the President's words encouraged them to think there would be favorable action on the Fort Reno land. According to the tribes, Landow disputed their account, telling them something to the effect, "That was no meeting. It was an appreciation lunch." Landow denies having any discussion or any knowledge during this time about the tribes' White House luncheon.⁴⁸ The tribes then described their land claim. Landow

⁴⁶ Copperthite would figure prominently in the C/A's saga from November 1996 until late 1997, and he spent many hours trying to help them. Early on, Copperthite tried to arrange a fee-splitting agreement with Landow regarding the tribe's land. Copperthite deposition, Sept. 3, 1997, p. 133. Landow rebuffed the idea and, in any event, would part company with the tribes in March 1997, as discussed below.

To the Committee's knowledge, Copperthite has made no other effort to be paid for his work with the tribes, apart from occasionally asking (but not insisting on) reimbursement of his out-of-pocket expenses. Copperthite's methods seem unorthodox, his motivation somewhat inscrutable, but he has worked pro bono for the tribes and appears to have earned their trust. He was involved in having a bill introduced in the House of Representatives during the 105th Congress to convey the Fort Reno lands to the tribes.

⁴⁷ Landow deposition, pp. 20-21.

⁴⁸ Id. at p. 32.

expressed interest preliminarily, and explained his view that the tribes needed to proceed on two different tracks -- one, negotiating with the federal government to obtain the land, and two, determining how to develop the land once they had it.⁴⁹ Landow viewed his role as that of the developer and thought the tribes needed to find legal representation to help with their claim to Fort Reno.⁵⁰

Landow said he recommended several Washington lawyers and law firms to the tribes at the November 24 meeting, including specifically Peter Knight of the firm Wunder, Diefenderfer, Cannon & Thelen.⁵¹ Landow denied that he marketed Knight's close relationship with Vice President Gore.⁵² He does recall saying that Knight and his firm would take the case only if they felt "they could be of assistance."⁵³

The tribes recall Landow's characterization of Knight quite differently. They remember Landow explicitly touting Knight's close relationship to Vice President Gore and claiming that Knight's relationship to the Vice President would improve the tribes's likelihood of prevailing on Fort Reno. They also recall Landow saying that Knight would only take the case if "he could deliver." Thus, the tribal representatives were quite pleased when Landow called Rick Grellner the night of the 24th, and told him representatives of Knight's firm wanted to meet them the next

⁴⁹ Id. at p. 25.

⁵⁰ Id.

⁵¹ Id. at pp. 25-26.

⁵² Id. at p. 36.

⁵³ Id. at pp. 40-41.

day. They related this news to Copperthite.⁵⁴ In fact, shortly after the initial meeting with Landow ended, Landow called Grellner at Grellner's hotel, and directed Grellner to describe the Fort Reno claim over the phone to an associate at Knight's law firm, Jody Trapasso. They arranged to meet with Trapasso the next day and discuss the matter further.

The November 25 meeting was held at the Wunder, Diefenderfer offices, attended by Grellner, Surveyor, Landow, and Trapasso. Grellner described for Trapasso and Landow various ways the federal government could return the land to the tribes. Without committing, Trapasso indicated that the firm would "take a look at it." Landow told Surveyor and Grellner that fees would have to be "worked out." According to the tribes, Landow also solicited them for a contribution to a Gore 2000 Committee. Landow described that such a committee was being set up, and the tribe, without making a firm commitment, indicated they planned to be supportive. In his deposition, Landow did not recall ever soliciting the tribes for a political contribution.⁵⁵ Following the initial meetings with Landow and Trapasso, there were a series of calls between Landow and Grellner, in which Landow talked up Knight's connections to the Vice President and indicated that although Knight had not decided whether he would take the case, it would be a "great opportunity" for the tribes if he did.

The C/A were pleased with this turn of events. They viewed Landow and Knight as people with sufficient ties to the Administration to cause favorable action on the land. As explained by Copperthite, "[the tribes] were pretty ecstatic because they now felt . . . their [DNC]

⁵⁴ Copperthite deposition, Aug. 27, 1997, p. 46.

⁵⁵ Landow deposition, p. 59. The tribes never contributed in response to any solicitations by Landow.

contribution, though it didn't get them what they initially thought it would, they now were meeting the people who could carry forth and help them get their land back."⁵⁶

Landow also began sketching out fees, both for himself and Knight or Knight's firm. According to the tribes, Landow told Grellner that Knight would require a \$100,000 payment up front, plus \$10,000 a month in order to represent them. Landow also described his compensation generally and discussed receiving commissions based on a percentage of the closing price for any future sales of the Fort Reno lands. Landow and Grellner had approximately a half dozen conversations about fees in November and December 1996. During one of these, Landow unsuccessfully solicited a political contribution from the tribes for an entity Landow called the "Tennessee Victory Fund."

On January 21, 1997, Surveyor and Grellner met with Landow and Copperthite over breakfast at the Willard Hotel in Washington. They again discussed Fort Reno and the nature of compensation to be paid to Landow and Knight. Landow once again, according to the tribes, indicated that Knight's fee would be \$100,000 up front and \$10,000 per month. According to Copperthite, Surveyor indicated that because the tribal business committee would have to vote out payments to Knight, it might be easier simply to pay one lump sum up front, to which Landow replied, "well, then, make it a quarter of a million dollars so they can get the ball rolling."⁵⁷ They also discussed Landow's fees. At this meeting (and perhaps in subsequent phone conversations with Grellner), Landow solicited the tribes one more time for a political contribution.

⁵⁶ Copperthite deposition, Aug. 27, 1997, p. 40.

⁵⁷ Id. at p. 44.

Copperthite has testified that at the close of the meeting, Landow told the tribes they should be ready to sign contracts with Landow and Knight's firm and have a check in hand to pay Knight's firm when everyone next met. Landow explained that Knight was "filling up with clients," and thus it was urgent to retain Knight soon.⁵⁸

A meeting was held on February 4, 1997, at Knight's office. The tribes understood that the purpose of the meeting was to execute agreements for Knight and Landow, and for the tribes to make an initial payment to Knight. Landow, Knight, Grellner, Copperthite, and Trapasso all attended. Surveyor was supposed to attend but did not, which became a matter of contention.

Copperthite and Grellner arrived at the offices and waited for approximately 45 minutes while Knight, Landow, and Trapasso met privately. That group then joined Copperthite and Grellner. Grellner apologized for Surveyor's absence, and informed the group that while the tribes remained very willing to retain Knight, no tribal resolution had yet been passed approving the representation. Grellner also asked for more specifics about Landow and Knight's compensation.

The fact that the tribes were not ready to consummate a deal with Landow and Knight's firm incensed Landow. He asked Knight and Trapasso to leave the room and then ripped Grellner and Copperthite for not having Surveyor present, for not having a check to pay to Knight's firm, and for not being able to sign a deal that day. Grellner and Copperthite both recollect an abusive, profanity-strewn tirade from Landow, one Copperthite described as "Teamster-esque."⁵⁹ Grellner and Copperthite then recount two things happening. First, Landow "dictated" the terms

⁵⁸ Id. at p. 45.

⁵⁹ Id. at p. 57.

of a contract, which Grellner wrote down, later preparing a draft based on what Landow required. The contract addressed compensation for both Knight's firm and Landow.⁶⁰ The terms dictated by Landow included: \$100,000 up front to Knight's firm, with \$10,000 monthly payments; and for Landow, 10% of any settlement price for development of the land and 10% of any revenue from gas or oil extraction.

Second, Landow threatened the C/A. He told Grellner and Copperthite that if they failed to reach an agreement as specified by Landow, he would make sure the tribes never obtained the Fort Reno lands. At one point, according to both Copperthite and Grellner, Landow told them something like, "If you don't do this deal, I will fuck you."⁶¹

It should be noted that Landow takes issue with at least some of Copperthite and Grellner's characterization of his meeting with them on February 4, 1997. Landow concedes that he expressed anger at Copperthite and Grellner because Landow thought the purpose of the meeting was to reduce to writing agreements involving Landow, the tribes, and the Wunder, Diefenderfer firm regarding Fort Reno.⁶² Landow also concedes that he "suggested" terms and conditions for an agreement between him and the tribes,⁶³ but he denies threatening them.⁶⁴

⁶⁰ Id. at pp. 54-61.

⁶¹ Id. at p. 61.

⁶² Landow deposition, pp. 79-80, 88.

⁶³ Id. at pp. 84-85.

⁶⁴ Id. at p. 88.

Whatever impression Landow thought he left, Grellner sent him on February 14, 1997 a proposed “Consulting Services Agreement” to be signed by the tribes, Landow, and Knight.⁶⁵ The draft agreement reflected Grellner’s understanding of what Landow dictated during the February 4 meeting. It provided that Knight and Wunder, Diefenderfer would represent the tribes in pursuing the Fort Reno lands and that the firm would be paid \$100,000 in advance and \$10,000 per month for its services. It also granted Landow a “contingency” fee of 10% of the settlement price on any real estate development on the property, and a 10% “net working interest” in any oil and gas production developed.⁶⁶ Several days later, Landow sent Surveyor a revised agreement that contained essentially identical compensation terms but modified other terms of the agreement. Landow indicated the tribes would need to contract separately with Knight’s firm.⁶⁷

Landow disclaimed having any role in negotiating the terms of a representation agreement between Wunder, Diefenderfer and the tribes.⁶⁸ However, Landow had several discussions in early 1997 with two attorneys at Knight’s firm, Ken Levine and Jody Trapasso, about the firm representing the tribes, and he admits being “made aware” of the fee arrangement under

⁶⁵ Consulting Services Agreement, undated (Ex. 19).

⁶⁶ Id. The press has reported that Fort Reno sits atop oil and gas reserves worth millions of dollars. Don Van Natta, “Where Tribes Saw Promise, Democrats Saw Pledge,” *The New York Times*, Aug. 12, 1997, p. A1.

⁶⁷ Letter from Nathan Landow to Charles Surveyor, March 4, 1997 (with enclosed “Cheyenne Arapaho-Landow Consulting Agreement”)(Ex. 20).

⁶⁸ Landow deposition, pp. 52-53.

negotiation.⁶⁹ Landow and Levine also sent each other copies of the proposed agreements they sent the tribes in response to the February 14, 1997 draft.⁷⁰

Curiously, Knight told the Committee that by the February 4, 1997 meeting, he had decided not to represent the tribes and assumed Trapasso had relayed that decision to Landow.⁷¹ Knight, however, noted that other firm attorneys (Trapasso and Levine) were continuing to discuss the possibility of representing the tribes. Moreover, as late as March 4, 1997, Levine was still indicating that Knight would be involved in the firm's representation.⁷²

Landow did not speak with the tribes again after sending his March 4 proposal. The Washington Post ran an unflattering story on March 10, 1997 about Landow's dealings with the tribes,⁷³ a development that ended the proposed consulting arrangement. The tribal representatives told the Committee that while they were serious about the terms of the proposed Wunder, Diefenderfer representation, Surveyor would never have agreed to the consulting terms proposed by Landow, which Surveyor considered excessive.⁷⁴

⁶⁹ Id. at pp. 54, 78, 96.

⁷⁰ Id. at pp. 111-12.

⁷¹ Deposition of Peter Knight, Sept. 17, 1997, p. 171.

⁷² Letter from Kenneth Levine to Charles Surveyor, Mar. 4, 1997 (Ex. 21).

⁷³ Not long after negative press stories broke, Landow wrote an apology to Knight. Letter from Nathan Landow to Peter and Gail Knight, Mar. 21, 1997 (Ex. 22).

⁷⁴ As a postscript, the C/A business committee secretary, Archie Hoffman, noted during an early visit to Landow's office that Landow possessed a Sioux war bonnet containing golden eagle feathers, an apparent violation of federal laws prohibiting such possession. Hoffman reported Landow to the U.S. Fish and Wildlife Service, which commenced an investigation. See Richard Tapscott, "Maryland Developer to Donate Indian Headdress to Museum," *Washington Post*,

Cody Shearer

Several weeks after completing their dealings with Landow and Knight, the C/A encountered another figure whose interest in them they would come to regret. In the spring of 1997, an acquaintance of Tyler Todd's, Al Cilella, offered to put the C/A in touch with someone in Washington named Cody Shearer, whom Cilella said could help them. Through Cilella, several tribal representatives -- Todd, Hoffman, Surveyor, Grellner, and Bob Musgrove -- first met Shearer on May 8, 1997.

In his Committee deposition, Shearer describes himself as a freelance journalist. He has also touted himself in a Website as having been "involved in a series of backchannel operations for President Clinton," including brokering the peace in Bosnia and opening negotiations between Syria and Israel.⁷⁵ Nevertheless, Shearer says that it was only his journalistic interest, not an interest in helping the Clinton administration, that drew him to meet with the tribes. Cilella, an occasional source of news tips for Shearer, simply informed him that the C/A had an interesting story, and according to Shearer, all Shearer did was follow up.⁷⁶

The initial May 8, 1997 meeting took place at lunch in a Capitol Hill restaurant. Although Shearer testified that his journalistic interest quickly abated when he sized up the tribal

Dec. 3, 1997, p.C3.

⁷⁵ Webpage for Institute for International Mediation and Conflict Resolution, undated (Ex. 23). After posting these claims on the Web for 18 months, Shearer has edited them out in a revised webpage. He indicated the claims were false in his Committee deposition. Deposition of Cody Shearer, Sept. 16, 1997, pp. 61-64.

⁷⁶ Shearer deposition, pp. 11-13.

representatives at lunch, he nevertheless invited them to his house later that day.⁷⁷ Shearer recounted politely hearing the tribes out and being anxious to shoo them from his house. In contrast, the tribes recall Shearer bragging about his ties to the Clinton administration⁷⁸ and indicating that he could take the tribes's plight "to the top," meaning President Clinton. According to the tribes, Shearer played them a videotape greeting to Shearer's parents from President Clinton and the First Lady. According to the tribes, Shearer also said that he would mention the Fort Reno matter directly to President Clinton or the First Lady over the upcoming Memorial Day weekend. Shearer recalls making no such offer.⁷⁹

The tribes related their anger about Senator Nickles's opposition to Fort Reno reverting to the C/A, so Shearer suggested that the tribe contact an investigator acquaintance of his, Terry Lenzner of the Investigative Group International (IGI). Shearer recommended that the tribes retain IGI to try and locate unfavorable information on Senator Nickles to use as possible leverage in the future.

Shearer arranged a meeting the next day, May 8, 1997, at IGI. Lenzner and a colleague attended. The tribes stated their suspicions that Senator Nickles' opposition to giving Fort Reno

⁷⁷ Id. at pp. 16-17.

⁷⁸ Shearer's brother in law is Strobe Talbott, the Undersecretary of State; his brother is Derek Shearer, the U.S. Ambassador to Finland; Shearer's sister, Brooke, is a political appointee at the Interior Department. Id. at pp. 8-9.

⁷⁹ Id. at pp. 31-32, p. 73.

to the C/A might involve oil and gas interests.⁸⁰ Lenzner offered to investigate Nickles, his wife, and family businesses, and a proposed investigative work plan was sent to the tribes.⁸¹

Both Majority and Minority Members observed what an outrageous proposal this was. When Lenzner attempted to liken the proposed investigation to campaign-related “opposition research” (itself a troubling manifestation of modern politics), Members had this to say:

Senator Specter: [Senator Nickles] was not a candidate here. You were doing this in order to have some effect on his attitude about the return of the Indian land . . . to find information on Senator Nickles which, to put it mildly, would try to pressure him or persuade him to change his position.⁸²

* * *

Senator Lieberman: [Lenzner’s proposal] seems to be . . . an attempt to investigate the personal lives of Members of Congress as a way to affect their votes here, and that is really an outrageous intrusion into the system.⁸³

Ultimately, the tribes decided not to hire Lenzner. As with Landow, the tribes’ dealings with Lenzner ended when unflattering media stories appeared⁸⁴ regarding the Shearer/Lenzner involvement.

⁸⁰ The tribes have never offered any proof of this, and the Committee has seen none whatsoever.

⁸¹ Letter from Terry Lenzner to Richard Grellner, May 12, 1997 (Ex. 24). In addition to having been hired by the DNC (see above), Lenzner was also retained by the Presidential Legal Expense Trust (“PLET”) to investigate the source of Charlie Trie’s PLET contributions. See section of the report regarding PLET.

⁸² Hearing Transcript, July 31, 1997, p. 62.

⁸³ Id. at p. 76.

⁸⁴ See Michael Isikoff, “The Dark Side of the Money Trail,” *Newsweek*, Aug. 4, 1997, p. 6.

In interviews with Committee staff, tribal representatives have related their misgivings about Shearer, their suspicion of his motives, and their belief that he was trying to silence them while he made vague efforts to “help.” Shearer has denied most of this, but nevertheless there are parts of his story that the Committee finds suspicious. First, Shearer testified that he had almost no contact with any tribal representatives after May 9, 1997. He testified that he had no personal meetings with them after that time and that he had only three phone conversations with them, all of which were brief and related only to media stories.⁸⁵ Tribal representatives, however, have told to Committee staff that Shearer had frequent contact with them after May 1997, especially with Tyler Todd, and discussed the substance of their land claims.

Second, Shearer told the Committee that he never told the tribes he would, and never in fact did, speak with anyone in the Clinton administration or the DNC regarding the tribes’ land claims.⁸⁶ Shearer further recounted that he has never told the tribes that he would assist them in anyway, including helping them obtain drug and alcohol treatment facilities.⁸⁷ However, Shearer’s version of events varies sharply from what the Committee has learned from the tribes’s attorney and another witness. In a discussion with Committee staff, Grellner indicated that Shearer told Todd, as recently as late August 1997, that if the tribes would “cooperate” -- meaning protect the Administration during the Committee’s investigation -- Shearer would help arrange for the tribes to receive a drug and alcohol rehabilitation facility at the tribal complex in Oklahoma.⁸⁸

⁸⁵ Shearer deposition, pp. 53-54.

⁸⁶ Id. at pp. 60-64.

⁸⁷ Id. at pp. 54, 74.

⁸⁸ Interviews of Richard Grellner, Sept. 2 & 10, 1997.

Grellner and other tribal representatives have apparently related similar information to Copperthite. In his Committee deposition, Copperthite testified: “Rick Grellner . . . told me that Mr. Shearer had called last week and said that if the tribe remained silent through their [Committee] testimony or depositions because there was an article about them being deposed in an Oklahoma paper, they would get an alcohol and drug rehabilitation center.”⁸⁹

Finally, Shearer testified that he had one brief conversation with Peter Knight about the tribes in which while discussing an unrelated topic, he inquired simply whether Knight had an opinion about the tribes.⁹⁰ Knight’s version of the conversation differs: “[Mr. Shearer] came in and told me basically that the Indians were out to get the Vice President and me. And he said that he told them, ‘That would be a dumb thing if you’re interested in getting your land back.’”⁹¹

Conclusion

It is difficult to imagine a more cynical political exploitation than that visited upon the tribes by the collection of Democratic fund-raisers and operatives they encountered in 1996 and 1997. In contrast to wealthy tribes with successful gambling enterprises -- whose access to the highest reaches of the administration is vividly demonstrated in the Hudson casino story -- the C/A were fleeced, unsuccessfully re-fleeced, and then abandoned. They have nothing to show for their \$107,000 in contributions, except memories of a Presidential luncheon and the hollow echoes of “encouragement” to contribute given them along the way. The administration and its

⁸⁹ Copperthite deposition, Sept. 3, 1997, p. 192.

⁹⁰ Shearer deposition, pp. 29-31.

⁹¹ Knight deposition, p. 178.

hangers-on pursued donations from these poor and vulnerable tribes without shame or, apparently, remorse.