

## MEMORANDUM

January 15, 2021

TO: Shivwits Band Council, Shivwits Band of Paiutes

FROM: Mark Echo Hawk

RE: Summary of Convenience Store Investigation and Current Status

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As requested by the Shivwits Band Council, the following is a summary of the investigation into the mismanagement of the Shivwits Convenience Store, including a procedural overview, outline of the hearings and findings, and update describing results and current status.

### **I. Procedural Overview**

#### **A. Initiation of Investigation**

After noticing problems in the financial statements, the Shivwits Band Corporation (SBC) Board of Directors directed SBC's Economic Development Coordinator Cameron Echo Hawk (EDC) to review the financial statements of SBC in order to determine the financial health and trends of the Corporation. The EDC's initial review of the Store's financial statements revealed that profits had decreased dramatically, from \$729,187 in 2018 to \$256,655 in 2019. This constituted a decrease of \$472,532 (64%) in one year's time. This finding prompted the SBC Board to direct the EDC and the SBC Board Treasurer to conduct an informal audit of the Store, in order to determine the cause of the decreased profitability.

The scope of the informal audit included research and analysis of bank statements and documentation provided by Store management for the period of January 2019 through July 2020. This informal audit was conducted by members of the SBC Board and the EDC. The review and analysis of the documents during this period found two major contributing factors for the Store's poor financial performance. The first factor was general mismanagement, including disproportionate spending on perishable inventory, which increased by over \$1.4 million dollars (54%) from 2018 to 2019. The other factor identified was inappropriate suspect transactions. A review of the suspect transactions identified three individuals involved in the suspect transactions: Manager Winter Grayman (Grayman), Assistant Manager Marquitta Bushhead (Bushhead), and SBC Board Secretary Sabrina Redfoot (Redfoot).

#### **B. Administrative Leave and Removal Charges**

The SBC Board and Shivwits Band Council met to discuss these findings and made the decision to place Grayman, Bushhead on administrative leave from Store employment and Redfoot on administrative leave from the SBC Board, pending continued

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investigation. The Shivwits Band Council prepared and approved Interim Financial Policies for implementation in the Store during the investigation. These actions were memorialized by Shivwits Band Resolution 2020-10. On Monday, September 7, 2020, the Band Chairperson hand-delivered Notices of Administrative Leave and Investigation to Grayman and Bushhead, setting hearings for September 15 in which Grayman and Bushhead would have opportunity to present information and/or documentation regarding the suspect transactions. SBC Board Member Redfoot received a Notice of Investigation and Hearing from the SBC Board via email setting a hearing for September 16 at 10:00 a.m., as well as Notice of Removal Charges and Investigation from the Band Council which set a hearing for September 16, 2020 at 5:30 p.m wherein Redfoot would have opportunity to present information and/or documentation regarding the suspect transactions.

## **II. Hearings and Findings**

### **A. Grayman – SBC Hearing**

Grayman chose not to attend the scheduled hearing of the SBC Board (September 15, 2020 at 9:00 a.m.) or provide any information or documentation in response to her Notice of Administrative Leave. At Grayman’s hearing, evidence was presented and the SBC Board members present (Tina Gonzales, Sabrina Redfoot, Alexis Ortega-Trevizo, and Brianna Wero) voted unanimously (4-0) to terminate the employment of Grayman for mismanagement and misconduct in connection with Grayman’s employment, without eligibility for rehire. SBC Board member Elizabeth Pete was absent from the hearing. Shareholder representatives/ex officio Board members Carmen Clark, Glenn Rogers, and Sherwin Tillahash were in attendance.

Instances of confirmed stealing in which Grayman was involved include: Winter admitted to the Department of Workforce Services that she used the store financial transaction card to purchase gas for her personal vehicle in March for travel to a conference while also receiving a per diem check for the same travel that she did not return after it in fact cleared. Winter used the store card to purchase hotel rooms at the Sycuan Casino Resort Hotel in October 2019 without authority—two transactions for \$160.92 and \$182.52 on October 29, 2019. Winter used store funds without authority to extend “loans” to individuals of her choosing. Evidence of one of the loan is attached—Clint McFee \$750 on July 22, 2019.

### **B. Bushhead – SBC Hearing**

Bushhead attended the scheduled hearing of the SBC Board on September 15, 2020 at 10:00 a.m. and was placed under oath. Bushhead discussed the suspect transactions and other documentation with the SBC Board, and admitted to stealing. The SBC Board members present (Tina Gonzales, Alexis Ortega-Trevizo, and Brianna Wero) voted unanimously (3-0) to terminate the employment of Markuitta Bushhead for mismanagement and misconduct in connection with her employment, without eligibility for rehire. SBC Board Member Elizabeth Pete was absent. SBC Board member Sabrina Redfoot was excused from the hearing due to her conflict of interest

(as Bushhead is Redfoot's daughter). Shareholder representative/ex officio Board member Carmen Clark was in attendance.

Bushhead admitted to using the store financial transaction card to purchase gas for her personal vehicle while at the same time receiving a per diem check for the same travel. She also used the card to purchase gas for her personal vehicle on multiple occasions even though a store car was available and she was on the insurance policy. Although there was a period of time when the store car was not available and when she was not on the insurance policy, even after those circumstances changed Bushhead continued to use the store card to purchase gas for her personal vehicle. She also obtained approval from the Store Manager to purchase a phone, case, screen protector and phone cards, even though it is not permitted by the Workplace Behavior Policy, and she admitted her phone was not used exclusively for store business. She admitted being aware of loans made by Grayman to individuals for non-store purposes using store funds but failed to report the loans.

### **C. Redfoot – SBC Hearing**

Redfoot attended the scheduled hearing with the SBC Board (September 16, 2020 at 10:00 a.m.) and was placed under oath. Redfoot discussed the suspect transactions and her responsive documentation with the SBC Board. The SBC Board members present (Tina Gonzales, Alexis Ortega-Trevizo, and Brianna Wero) voted unanimously (3-0) to recommend the removal of Redfoot from the SBC Board for cause as set forth in the SBC Charter Article XI (N), effective as of September 17, 2020. Shareholder representatives/ex officio Board members Carmen Clark, Glenn Rogers, and Sherwin Tillahash were in attendance.

### **D. Redfoot – Shivwits Band Council Hearing**

Redfoot attended the scheduled hearing (September 16, 2020 at 5:30 p.m.) with Band Council and was placed under oath. The Band Council accepted evidence into the record without objection, including the record of Redfoot's removal proceeding before the SBC held on September 16, 2020 at 10:00 a.m., Redfoot's submissions to the SBC in response to the notice of removal (comprised of two emails, one response .doc explanatory document, and approximately twelve images of receipts and reimbursement forms). The Council also accepted all the exhibits presented to Redfoot in the SBC removal hearing, including State Bank of Southern Utah (SBSU) bank statements, receipts for transactions on the account, copies of checks, payroll information from Hinton & Burdick, job descriptions, management concern summary documents, exhibits presented in the personnel hearing for Markuitta Bushhead, (Redfoot's daughter), etc. Redfoot offered no evidentiary objections but did offer explanations of the material she submitted and other matters.

The Band Council conducted the hearing, questioning Redfoot under oath directly and through Band legal counsel acting as a hearing officer, for approximately one hour and thirty-four minutes, after which the Council deliberated (with Redfoot excused).

The Band Council considered the standards and relevant provisions of the PITU Constitution, Shivwits Bylaws, SBC Charter, SBC Bylaws, personnel manuals, and job descriptions.

Upon review of the above-referenced documents, sworn testimony of Markuitta Bushhead, and Redfoot's admissions and testimony regarding the documents, the Band Council made the following findings:

- Under oath Sabrina acknowledged the following:
  - o Receiving a duplicate payment for two months of her phone expense in 2019 from the Store;
  - o Failing to report the duplicate payments to the Board or Council;
  - o Failing to return the duplicate payments;
  - o Being aware of Markuitta using store property at her house and failing to report it;
  - o Signing checks from an old checkbook for Angka' Kaiva drawing on Store funds and not reviewing checks properly before signing;
  - o Dealing with Store management issues with Markuitta directly, instead of engaging the Board;
  - o Signing checks to family members Sage and Markuitta;
  - o Not following up on questionable practices involving Markuitta at the store or reporting them to the Board;
  - o Being involved in a possible duplicate payroll payment to some Store employees; and,
  - o Preferential treatment of Markuitta as an employee.
- Redfoot engaged in misconduct reflecting on the dignity and integrity of the Band government due to violations of the Shivwits Band Bylaws, SBC Charter, and Band Council Administration Ordinance.

Based on these and related findings the Band Council found cause for removal from the Band Council, and voted unanimously to remove Redfoot from the Band Council.

### **III. Results and Current Status**

#### **A. Investigation**

The Federal Bureau of Investigation is currently working with the Shivwits Band Council to perform a formal investigation of the misconduct pertaining to the Store and Store operations.

#### **B. Store Performance**

After the termination of Grayman and Bushhead's employment from the Convenience Store, the Band Council elected to keep the Store open. The Store's average daily revenue through September, October, and November was \$11,371.96. Had the Store closed for three weeks until a manager was hired, the Band would have lost

\$238,811.31 in revenue. By remaining open, the Band Council avoided that consequence.

Under the leadership of new Store Manager Tina Gonzales, the Convenience Store had its most profitable month ever. The Store earned \$193,648.83 in September and has generated an average monthly profit of \$100,041.54 during September, October, and November. Because the Store has been performing so well under the new Store Manager and SBC Board, Shivwits Band members received Christmas bonuses in 2020.

The strong financial performance for the Convenience Store is expected to continue. The Convenience Store is expected to have its most profitable year yet in 2021. Conservative estimates project profits of about \$800,000 in 2021, while more optimistic estimates project profits exceeding \$1,000,000. Store Manager Tina Gonzales and EDC are implementing several changes to increase the Store's profitability, and will continue to do so.