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CLERK U.S. DISTRICT COURT
DISTRICT OF ARIZONA
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PUBLIC DISCLOSURE

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

United States of America,
Plaintiff,
v.
Evelyn James,
Defendant.

CR08-1035 PCT-FJM
(MHB)

INDICTMENT

VIO: 18 U.S.C. §§ 1001 and 2
(False Statements)
Count 1

18 U.S.C. §§ 641 and 2
(Theft of Public Money)
Count 2

18 U.S.C. §§ 1163 and 2
(Theft from Indian Tribal
Organization)
Counts 3-30

18 U.S.C. §§ 666(a)(1)(A) and 2
(Theft from Indian Tribal
Government Receiving Federal
Funds)
Counts 31-58

18 U.S.C. § 1957 and 2
(Monetary Transactions)
Counts 59-65

18 U.S.C. § 982(a)(1) and (3)
(Criminal Forfeiture)

THE GRAND JURY CHARGES:

Introduction

At times material to this Indictment:

1. Defendant EVELYN JAMES was a member of the San Juan Southern Paiute Tribe ("SJSPT"), and served as a member of its Tribal Council and was intermittently its Tribal

1 President. In her capacity as a council member and Tribal President, defendant JAMES was
2 compensated by the SJSPT with a regular salary and occasional bonus. In calendar year 2005,
3 defendant JAMES received compensation from the SJSPT of \$95,500.12, which was reflected
4 in an IRS Form W-2 for 2005. Of this amount in 2005, approximately \$58,583.70 was paid to
5 defendant JAMES in regular bi-weekly checks of approximately \$2440.00 per check, and this
6 compensation was paid in 24 checks to defendant JAMES between on or about January 1, 2005,
7 and November 23, 2005. In calendar year 2004, defendant JAMES received compensation from
8 the SJSPT of \$221,400.12, which was reflected in an IRS Form W-2 for 2004.

9 **San Juan Southern Paiute Tribe**

10 2. On or about December 11, 1989, the United States Department of the Interior, Bureau
11 of Indian Affairs, issued a Notice of Final Determination that the SJSPT existed as an Indian
12 Tribe. There were approximately 250 to 500 enrolled members of the Tribe.

13 3. The SJSPT did not have its own exclusive Reservation land. Most of the San Juan Paiute
14 tribal members resided in several distinct communities located on the Navajo Reservation. The
15 largest of these communities were located at Willow Springs, near Tuba City, Arizona, and at
16 Paiute Canyon/Navajo Mountain on the Arizona border with Utah.

17 4. The SJSPT was governed by a Tribal Council, and defendant JAMES, at various times
18 material to this Indictment, was President of the Tribal Council. The SJSPT Administrative
19 Tribal Office was in Tuba City, Arizona, and at various times, defendant JAMES signed
20 documents as an executive officer for the SJSPT in its governmental and law enforcement
21 affairs.

22 **Federal Benefits Received by the SJSPT**

23 5. In calendar years 2003-2005, the SJSPT received funds in excess of \$10,000.00 from
24 several Federal programs. The SJSPT received most of its Federal funds from the United States
25 Department of the Interior, Bureau of Indian Affairs ("BIA") and the United States Department
26 of Health and Human Services, through the Indian Health Service Program ("IHS").

1 6. The BIA provided Federal funds to the SJSPT for various administrative, vocational,
2 educational and agricultural programs. From on or about January 6, 2003, through on or about
3 December 1, 2003, the SJSPT received approximately eight (8) disbursements from the BIA
4 totaling approximately \$575,777.00. On or about January 30, 2004, the SJSPT received a
5 disbursement from the BIA of approximately \$215,715.00. On or about June 13, 2005, the
6 SJSPT received a disbursement from the BIA of approximately \$57,739.00.

7 7. IHS provided Federal funds to the SJSPT for various programs, functions, services, and
8 activities related to, among other things, community health projects and substance abuse
9 programs. From on or about March 14, 2003, through on or about September 29, 2003, the
10 SJSPT received approximately twenty (20) disbursements from IHS totaling approximately
11 \$592,997.00. From on or about February 20, 2004, through on or about October 20, 2004, the
12 SJSPT received approximately fourteen (14) disbursements from IHS totaling approximately
13 \$617,698.00. From on or about January 14, 2005, through on or about December 28, 2005, the
14 SJSPT received approximately twelve (12) disbursements from IHS totaling approximately
15 \$618,122.00.

16 **COPS Grant Program and the SJSPT**

17 8. The Community Oriented Policing Services ("COPS") program was administered by the
18 United States Department of Justice. The COPS program provided financial assistance to
19 eligible police departments to help improve community policing efforts. These community
20 policing programs were funded to reduce and deter crime in rural and urban neighborhoods, and
21 to help citizens feel safer in their communities. Indian tribal governments were eligible to
22 receive COPS grants.

23 9. On or about September 13, 1996, defendant EVELYN JAMES, as President of the
24 SJSPT, completed, signed and submitted a Universal Hiring Program Application Form for a
25 COPS grant. Within the Application, defendant JAMES requested \$300,000.00 in grant funds
26 to hire three (3) "full-time community peacekeepers." The Application provided, in part, that
27 the grant funds would be used in the following manner:

1 “[The] COPS Universal Hiring Program assistance requested here will enable
2 the Tribe to hire and train three Tribal peacekeepers who will focus on
3 providing a wide variety of community-specific policing services. The Tribe
4 will redirect existing resources to lease two used pick-up trucks with
 communications for the new peacekeepers, and to provide one emergency
 communications device for each SJSPT settlement.”

5 Each page of the application was signed by defendant JAMES, and was further executed in her
6 capacity as President, Law Enforcement Executive, and Government Executive. The COPS
7 program ordinarily required that applicants contributed twenty-five percent (25%) of the
8 projected project costs, which in this case was estimated to be \$75,000.00 (25% X \$300,000.00).
9 The \$75,000.00 was to come from the SJSPT. Defendant JAMES sought a waiver of this non-
10 Federal matching share, but this request was denied.

11 10. On or about September 26, 1997, the COPS program approved the SJSPT’s grant to hire
12 three (3) new officers for a total cost to the Federal government of approximately \$224,997.00.
13 The total project costs were estimated to be \$299,997.00, of which the SJSPT was obligated to
14 incur \$75,000.00 as its share of the projected costs.

15 11. On or about February 11, 1998, defendant JAMES signed the COPS “Universal Hiring
16 Award” form dated January 29, 1998, in which she acknowledged she accepted the “conditions
17 of the grant award, which specified that the award was for the salaries and fringe benefits for
18 three full-time police officers, and was not to be used for weapons, communications equipment,
19 or vehicles.” The award started on June 1, 1997, and ended on May 31, 2000.

20 12. On or about September 30, 1998, the \$224,997.00 in grant funds were placed in the
21 SJSPT’s grant account, and were now available for draw downs. On or about July 29, 1999, the
22 SJSPT submitted a COPS Officer Progress Report that stated no officers had been hired, but that
23 the SJSPT estimated an officer would be hired in three months.

24 13. On or about July 12, 2001, the SJSPT requested and received a \$50,000.00 draw down
25 on its COPS grant.

26 14. On or about October 14, 2003, defendant JAMES, as Tribal President, wrote a letter to
27 the COPS program, which stated, in part, the following:
28

1 “The San Juan Southern Paiute Tribe is submitting their final report for our
2 COPS Grant #1997UMWX1382. The period covered is June 1, 1997 through
3 May 31, 2000. Our program has incurred total expenses of \$344,695.00
4 during this period for the hiring of three police officers. The tribe’s share of
5 these expenses is \$119,698.00 and the federal share is \$224,997.00. Of this
6 total federal share, our program has drawn down \$50,000.00 and would
7 request the release of the remaining federal share in the amount of
8 \$174,997.00, to be drawn down by our program.”

9 Accompanying this letter was a Financial Status Report that supported defendant JAMES’
10 request to draw down the remaining COPS grant funds. This Financial Status Report was signed
11 by defendant JAMES as Tribal President.

12 15. On or about October 22, 2003, the remaining \$174,997.00 in COPS grant funds was
13 drawn down into a SJSPT bank account. On or about November 24, 2003, the draw down
14 transfer was reversed for technical banking reasons, but was later disbursed again to a tribal
15 account on or about December 9, 2003.

16 **Gaming Agreements by the SJSPT**

17 16. The United States Congress passed the Indian Gaming Regulatory Act (“IGRA”), and
18 it was signed into law in 1988. IGRA provided the framework for State and Tribal governments
19 to enter gaming compacts regarding the nature, size, scope, and conduct of casino-style gaming.

20 17. The State of Arizona began entering gaming compacts with Indian Tribes beginning in
21 1992. The compacts provided Tribes exclusive gaming rights in exchange for allowing joint
22 Tribal-State regulation of Class III (casino) gaming and monitoring compact compliance. The
23 original gaming compacts did not authorize any transfer of gaming devices.

24 18. With the original compacts set to expire, Arizona voters approved Proposition 202 in
25 November, 2003. This authorized a new standard form compact (“Compact”) for every Arizona
26 Tribe regardless of whether they operated a casino. The Compact provided exclusive rights for
27 Tribes to operate slot machines and other casino style gaming in exchange for compact
28 compliance monitoring and tribal monetary contributions to the State of Arizona.

 19. The Compact set forth restrictions on the maximum number of devices and number of
facilities that can be operated by each Tribe. However, Section 3(d) of the Compact authorized

1 the transfer of gaming devices from one Tribe to one or more other Tribes. A Tribe transferring
2 its gaming device operating rights could do so regardless of whether it operated or planned to
3 operate a casino.

4 20. The acquisition or transfer of gaming device operating rights was subject to the
5 following conditions: each Tribe that was a party to a transfer agreement was required to have
6 a valid Compact; and if the Tribe entered into an agreement to transfer some or all of its gaming
7 device operating rights, it had to execute a forbearance agreement with the State. The
8 forbearance agreement required a waiver of rights by the Tribe to operate the gaming devices
9 during the term of the transfer agreement, and to reduce its gaming facility allocation during the
10 term of the transfer agreement.

11 21. A gaming device transfer agreement needed to include provisions regarding the number
12 of devices transferred, the term of the agreement, the consideration to be paid by the Tribe
13 acquiring the gaming device operating rights, and dispute resolution procedures. Tribes were
14 prohibited from using brokers to transfer gaming device operating rights and no person was
15 authorized to receive a share of any financial interest from the transfer agreement or its proceeds.
16 Tribes were required to include the proceeds from the transfer agreement in an annual audit and
17 make that information available to the State.

18 22. On or about May 30, 2003, the SJSPT signed a Compact with the State of Arizona. The
19 Compact was approved by the Department of Interior on or about August 26, 2003. The
20 Compact provided that the San Juan Southern Paiute tribe was allocated 475 gaming devices and
21 was authorized to operate two (2) gaming facilities.

22 23. Section 3(s) of the Compact provided that any third-party financing, extended or
23 guaranteed for the gaming operation and gaming facilities, must be disclosed to the State gaming
24 agency, and any person extending such financing must be certified by the State gaming agency,
25 unless such person was an agency of the United States or a lending institution licensed and
26 regulated by the United States. The State gaming agency had no record of any disclosure of third
27

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1 party financing provided to the SJSPT, and no vendor had been certified by the State gaming
2 agency to provide such financing.

3 24. On or about December, 2004, defendant JAMES, on behalf of the SJSPT, negotiated
4 a loan from the Mashantucket Pequot Tribe of Ledyard, Connecticut. The Mashantucket Pequot
5 Tribe owned and operated the Foxwoods Casino in Connecticut. The purpose of the loan was
6 for the SJSPT to build its own casino, which would be managed for many years by Foxwoods
7 Casino, and would entail a revenue sharing arrangement between the two tribes. The loan was
8 secured by 58 acres of land owned by the SJSPT in the Bellemont area of Coconino County,
9 Arizona, which was acquired by the SJSPT just prior to closing on the loan.

10 25. A loan agreement was reached in the amount of \$2,316,406.60, which was distributed
11 to the SJSPT in two (2) installments. On or about December 22, 2004, the Mashantucket Pequot
12 Tribe wired the first loan disbursement of \$1,000,000.00 to the SJSPT's Wells Fargo bank
13 account numbered XXXXXX9136. On or about February 5, 2005, the second installment of
14 \$1,316,406.60 was wired to the same SJSPT bank account.

15 **COUNT 1**

16 **(False Statements)**

17 26. The factual allegations in paragraphs 1 through 15 of the Indictment are incorporated
18 by reference and realleged as though set forth fully herein.

19 27. On or about October 14, 2003, in the District of Arizona and elsewhere, defendant
20 EVELYN JAMES, in a matter within the jurisdiction of the United States Department of Justice,
21 a governmental agency of the United States of America, did knowingly and willfully make
22 materially false, fictitious, and fraudulent statements and representations, in a signed cover letter
23 and enclosed Financial Status Report to the Community Oriented Policing Services ("COPS")
24 program, that the San Juan Southern Paiute Tribe: (1) hired, trained and paid three police
25 officers, (2) incurred payroll-related expenses of approximately \$344,695.00, and (3) was
26 entitled to the remaining unused grant funds of approximately \$174,997.00.

27 In violation of Title 18, United States Code, Sections 1001 and 2.
28

COUNT 2

(Theft of Public Money)

28. The factual allegation in paragraphs 1 through 15 of the Indictment are incorporated by reference and realleged as though set forth fully herein.

29. In and between on or about October 14, 2003, through on or about December 9, 2003, in the District of Arizona and elsewhere, defendant EVELYN JAMES, willfully and knowingly stole, purloined and converted to her own use or the use of another, without authority, money and property of the United States Department of Justice, a department or agency of the United States of America, valued at approximately \$174,997.00, by making false statements and representations in correspondence and reports to the Department of Justice regarding the SJSPT's expenditure of funds to receive a draw down of funds awarded to the SJSPT pursuant to a COPS grant.

In violation of Title 18, United States Code, Sections 641 and 2.

COUNTS 3 THROUGH 30

(Theft From Indian Tribal Organization)

30. The factual allegation in paragraphs 1 through 25 of the Indictment are incorporated by reference and realleged as though set forth fully herein.

31. On or about the dates set forth below, each such instance being a separate count of this Indictment, defendant EVELYN JAMES, in her capacity as Tribal President of the SJSPT, and in excess of the compensation paid to her by SJSPT, in the District of Arizona and elsewhere, did knowingly and willfully embezzle, steal and convert, from the SJSPT's Wells Fargo Bank Account No. XXXXXX9136, to her own use or the use of another, moneys, funds, assets and other property, belonging to the SJSPT, an Indian tribal organization, and entrusted to the custody and care of any officer, employee and agent of the SJSPT, as follows:

Ct.	Check Date	Check Number	Payee	Amount
3	01/03/2005	1987	Evelyn James	\$5,000.00
4	01/10/2005	1023	Evelyn James	\$8238.90
5	01/24/2005	1046	Evelyn James	\$23,000.00
6	01/24/2005	1050	Evelyn James	\$21,000.00
7	01/31/2005	1070	Evelyn James	\$5,000.00
8	02/01/2005	1080	Evelyn James	\$5,000.00
9	02/01/2005	1078	Evelyn James	\$15,000.00
10	02/06/2005	1092	Evelyn James	\$10,000.00
11	03/01/2005	1129	Evelyn James	\$15,000.00
12	04/05/2005	1196	Evelyn James	\$5,000.00
13	04/21/2005	1223	Evelyn James	\$8,595.76
14	05/16/2005	1313	Evelyn James	\$5,000.00
15	05/23/2005	1321	Evelyn James	\$10,000.00

1	16	06/12/2005	1425	Evelyn James	\$5,000.00
2					
3	17	06/13/2005	1436	Evelyn James	\$10,000.00
4					
5	18	06/26/2005	1475	Evelyn James	\$10,000.00
6					
7	19	06/28/2005	1488	Evelyn James	\$26,549.11
8					
9	20	07/05/2005	1497	Evelyn James	\$10,000.00
10					
11	21	07/08/2005	1096	Evelyn James	\$5,000.00
12					
13	22	07/19/2005	2021	Evelyn James	\$10,000.00
14					
15	23	08/01/2005	2036	Evelyn James	\$5,000.00
16					
17	24	08/10/2005	2070	Evelyn James	\$5,000.00
18					
19	25	08/19/2005	2117	Evelyn James	\$5,000.00
20					
21	26	09/03/2005	2131	Evelyn James	\$10,000.00
22					
23	27	09/14/2005	2237	Evelyn James	\$5,000.00
24					
25	28	09/26/2005	2281	Evelyn James	\$19,453.97
26					
27	29	10/05/2005	2300	Evelyn James	\$17,871.27
28					

30	10/11/2005	2349	Evelyn James	\$10,000.00
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In violation of Title 18, United States Code, Sections 1163 and 2.

COUNTS 31 THROUGH 58

(Theft From Indian Tribal Government Receiving Federal Funds)

32. The factual allegation in paragraphs 1 through 25 of the Indictment are incorporated by reference and realleged as though set forth fully herein.

33. On or about the dates set forth below, each such instance being a separate count of this Indictment, defendant EVELYN JAMES, in her capacity as Tribal President of the SJSPT, an Indian tribal government that received in the preceding year before the date of each occurrence set forth in the counts listed below, in excess of \$10,000.00 under a Federal program, grant contract, subsidy or other form of Federal assistance, in this case the Bureau of Indian Affairs ("BIA") and Indian Health Service ("IHS"), in the District of Arizona and elsewhere, knowingly and willfully embezzled, stole, converted and misapplied, from the SJSPT's Wells Fargo Bank Account No. XXXXXX9136, to her own use, property, belonging to the SJSPT, an Indian tribal organization, and entrusted to the custody and care of any officer, employee and agent of the SJSPT, each such instance being valued at \$5,000.00 or more, as follows:

Ct.	Check Date	Check Number	Payee	Amount
31	01/03/2005	1987	Evelyn James	\$5,000.00
32	01/10/2005	1023	Evelyn James	\$8238.90
33	01/24/2005	1046	Evelyn James	\$23,000.00
34	01/24/2005	1050	Evelyn James	\$21,000.00

1	35	01/31/2005	1070	Evelyn James	\$5,000.00
2					
3	36	02/01/2005	1080	Evelyn James	\$5,000.00
4					
5	37	02/01/2005	1078	Evelyn James	\$15,000.00
6					
7	38	02/06/2005	1092	Evelyn James	\$10,000.00
8					
9	39	03/01/2005	1129	Evelyn James	\$15,000.00
10					
11	40	04/05/2005	1196	Evelyn James	\$5,000.00
12					
13	41	04/21/2005	1223	Evelyn James	\$8,595.76
14					
15	42	05/16/2005	1313	Evelyn James	\$5,000.00
16					
17	43	05/23/2005	1321	Evelyn James	\$10,000.00
18					
19	44	06/12/2005	1425	Evelyn James	\$5,000.00
20					
21	45	06/13/2005	1436	Evelyn James	\$10,000.00
22					
23	46	06/26/2005	1475	Evelyn James	\$10,000.00
24					
25	47	06/28/2005	1488	Evelyn James	\$26,549.11
26					
27	48	07/05/2005	1497	Evelyn James	\$10,000.00
28					

1	49	07/08/2005	1096	Evelyn James	\$5,000.00
2					
3	50	07/19/2005	2021	Evelyn James	\$10,000.00
4					
5	51	08/01/2005	2036	Evelyn James	\$5,000.00
6					
7	52	08/10/2005	2070	Evelyn James	\$5,000.00
8					
9	53	08/19/2005	2117	Evelyn James	\$5,000.00
10					
11	54	09/03/2005	2131	Evelyn James	\$10,000.00
12					
13	55	09/14/2005	2237	Evelyn James	\$5,000.00
14					
15	56	09/26/2005	2281	Evelyn James	\$19,453.97
16					
17	57	10/05/2005	2300	Evelyn James	\$17,871.27
18					
19	58	10/11/2005	2349	Evelyn James	\$10,000.00

20 In violation of Title 18, United States Code, Sections 666(a)(1)(A) and 2.

21 **COUNTS 59 THROUGH 65**

22 **(Monetary Transactions)**

23 34. The factual allegations in paragraphs 1 through 25 and 33 of the Indictment are
24 incorporated by reference and realleged as though set forth fully herein.

25 35. On or about the dates set forth below, each such instance being a separate count of this
26 Indictment, defendant EVELYN JAMES, within the United States, knowingly engaged in
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1 monetary transactions at a financial institution in the District of Arizona, as set forth below, in
 2 criminally derived property of a value greater than \$10,000.00, and which was derived from
 3 specified unlawful activity, namely violations for Theft From an Indian Tribal Government
 4 Receiving Federal Funds, in violation of Title 18, United States Code, Section 666(a)(1)(A), as
 5 alleged in Counts 31 through 58 of the Indictment:

Ct.	Check Number (Date)	Payee	Amount	Bank Accounts (Date)
59	1046 (01/24/2005)	Evelyn James	\$23,000.00	XXXXXX9599 (WF) XXXXXX1064 (WF) XXXXXX6030 (WF) (02/02/2005)
60	1050 (01/24/2005)	Evelyn James	\$21,000.00	XXXXXX9599 (WF) XXXXXX1064 (WF) (02/03/2005)
61	1078 (02/01/2005)	Evelyn James	\$15,000.00	XXXXXX9599 (WF) XXXXXX1064 (WF) (02/07/2005)
62	1129 (03/01/2005)	Evelyn James	\$15,000.00	XXXXXX9599 (WF) XXXXXX1064 (WF) XXXXXX6030 (WF) (03/03/2005)
63	1488 (06/28/2005)	Evelyn James	\$26,549.11	XXXXXX9599 (WF) XXXXXX6030 (WF) (06/29/2005)
64	2281 (09/26/2005)	Evelyn James	\$19,453.97	XXXXXX9599 (WF) XXXXXX1064 (WF) XXXXXX6030 (WF) (09/27/2005)
65	2300 (10/05/2005)	Evelyn James	\$17,871.27	XXXXXX9599 (WF) XXXXXX1064 (WF) (10/06/2005)

22 All in violation of Title 18, United States Code, Sections 1957 and 2.

23 **FORFEITURE ALLEGATIONS**

24 36. The factual allegations in paragraphs 1-25, 33, and 35 of the Indictment are incorporated
 25 by reference and realleged as though set forth fully herein.
 26
 27
 28

1 37. Pursuant to 18 U.S.C. § 982(a)(3), as a result of committing one or more offenses of
2 Theft From an Indian Tribal Government Receiving Federal Funds, in violation of 18 U.S.C. §
3 666(a)(1)(A), in Counts 31 through 58, upon conviction, the Court shall order the defendant so
4 convicted to forfeit to the United States, any real or personal property:

5 (A) used or intended to be used to commit, facilitate, or promote the commission of this
6 offense; and

7 (B) constituting, derived from, or traceable to the gross proceeds obtained directly or
8 indirectly as a result of the offense.

9 38. Pursuant to 18 U.S.C. § 982, as a result of committing one or more of the Money
10 Laundering (18 U.S.C. § 1957) offenses, in Counts 59 through 65, the Court shall order that
11 the defendant so convicted forfeit to the United States, any property, real or personal,
12 involved in such offense, or any property traceable to such property.

13 39. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title
14 18, United States Code, Section 982(b), the defendant shall forfeit substitute property, up to
15 the value of the amount described above, if by any act or omission of the defendant, the
16 property described above, or any portion thereof, cannot be located upon the exercise of due
17 diligence; has been transferred, sold to, or deposited with a third party; has been placed
18 beyond the jurisdiction of the court; has been substantially diminished in value; or has been
19 commingled with other property which cannot be divided without difficulty.

20 40. All in accordance with Title 18, United States Code, Sections 982(a)(1) and (3), and
21 Rule 32.2(a), Federal Rules of Criminal Procedure.

22 A TRUE BILL

23 /S/
24 FOREPERSON OF THE GRAND JURY
Date: September 9, 2008

25 DIANE J. HUMETEWA
United States Attorney
District of Arizona

26 /S/
27 PETER SEXTON
MARK BRNOVICH
28 Assistant U.S. Attorneys