

MAY 27 2015

UNITED STATES DISTRICT COURT  
 DISTRICT OF SOUTH DAKOTA  
 SOUTHERN DIVISION

*[Signature]*  
 CLERK  
 15-4097

Lower Brule Sioux Tribal Council \* Federal Court Plaintiffs were defendants (*and members*  
 members, acting Chairman Kevin Wright, \*of *TRIBE Term 2014-2016* ) in Lower Brule Sioux Tribal  
 Sonny Ziegler and Desiree LaRoche \* Court lawsuit Civ14-12-0119 also in the Tribal Appellate  
 Plaintiffs \*Court; have "*exhausted their tribal court remedies*"and  
 vs. \* now file their lawsuit in federal court against two named  
 L.B.Sioux Tribal Council members \* Federal Court Defendants who are members of the  
 Orville (*Red*) Langdeau and John McCauley Sr., \* Tribal Council and were two of the original three  
 and Sally Jewell the Secretary of DOI \* Tribal plaintiffs called *TRIBE term 2014-2016*.  
Head of Agency for the Government Officials \*The Federal Court Plaintiffs argue that  
Bureau of Indian Affairs Lower Brule Agency Superintendent \* the Federal Distinct Court now has  
James Two Bull in his official capacity and Aberdeen Area \* proper jurisdiction over their action by  
BIA Director Tim Lapointe in his official capacity \*28 USC Sec 1331 Arising under Federal  
 Defendants \*Question and by the Federal Administrative  
 \* Procedure Act 5 USC 5551-59.

- The two government officials have been added as defendants in this lawsuit in their official capacity based on the issue of federal funds in the amount of 24 million plus dollars; that were allotted to the previous Lower Brule Sioux Tribal Council that two named defendants Orville (*Red*) Langdeau and John McCauley Sr., were part of. Now as tribal council members for term 2014-2016 they have not and/or refused to accounted for the missing federal funds when requested to do so by federal plaintiffs who are tribal council members for term 2014-2016. The two BIA Officials in their official capacity have not ensured the missing federal funds were used for the purpose allotted for. The missing federal funds was a issue raised by both parties in tribal court.

Comes Now, are the three named federal court Plaintiffs consisting of the Lower Brule Sioux Tribal Council members; [P.i] Vice Chairman elect and Acting Chairman Kevin Wright, et al (*due to recent unforeseen death of elected Chairman*) Tribal Council members; [P.ii] Sonny Ziegler [P.iii] and Desiree LaRoche and proceeding pro-se (*due to fact the plaintiffs do not have funds available to hire legal counsel and have been defending their rights pro-se since the tribal court special judge allowed an amended pleading in the related tribal lawsuit date May 1<sup>st</sup> 2015* ) who argue that their complaint is

"non-frivolous" as it contains arguable basis in fact or law that they reasonable believe to be actionable this federal jurisdiction. The federal question appears on the face of the plaintiff's complaint/lawsuit as the missing federal funds of over 24 million dollars and/or unaccountable at this time.

STATEMENT OF BACKGROUND FACTS FOR THIS CASE

The missing or unaccountable federal funds was a issue raised by both parties in prior litigation in the tribal courts and now is the plaintiffs' main cause of action and claim in this federal lawsuit. The federal defendants then tribal plaintiffs through their attorney Terry Pechota in their May 1<sup>st</sup> 2015 amended pleading in their **third claim at paragraph number 23** raised the issue of them asking the special judge to stop the acting tribal chairman Kevin Wright from trying to inquiry or find out about the **missing or unaccountable federal funds in amount over 24 million dollars**. Kevin Wright as acting chairman had requested that the head of the Bureau of Indian Affairs Kevin Washburn stop any current federal funds from being dispersed to the Lower Brule Sioux Tribe. The acting chairman's request was so that the **missing or unaccountable federal funds in amount over 24 million dollars** would be separated from any current federal funding and thereby creating a clear divide from the tribal council term 2012-2014 actions in regard to the missing federal funds and the federal plaintiffs' actions as tribal council members for term 2014-2016 in regards to any more allotted federal funds. The federal plaintiffs then tribal defendants raised the issue of the **missing or unaccountable federal funds in amount of 24 million plus** in both their Petition for Extraordinary Writ of Mandamus requesting that the appellate court judges order the then tribal plaintiffs to account for these missing federal funds immediately; and Interlocutory Appeal arguing that the trial court special judge abused his discretion or erred in his application of law in accordance with standard law by granting the federal defendants then tribal plaintiffs' request for a restraining order by extending the Temporary Restraining Order for a indefinite period of time. The TRO was preventing the federal plaintiffs then tribal defendants from pursuing their affirmative defense of attempt to find out what happened to the **missing or**

**unaccountable federal funds** as was their duty as elected tribal council members. Sonny Ziegler (*now federal plaintiff*) as tribal court defendant filed pro-se his answer to the tribal plaintiffs' (*now named federal defendants*) original tribal lawsuit wherein he raised the fact that his actions (*and also his co-defendants' action*) in the Dec 12<sup>th</sup> 2014 special tribal council meeting was an attempt to hold the tribal court plaintiffs now federal defendants **accountable for the missing or unaccountable federal funds** and other questionable actions involving tribal farm operations and the tribal council of term 2012-2014. Also for the fraudulent appointment of a chief tribal judge who had lost out in the primary election in the tribal election for the chief judge for term 2014-2018; thereby the Federal defendants had interfered with a tribal election for the chief judge position. The sitting chief judge appointed a special judge to hear the the tribal plaintiffs (*now named federal defendants*) tribal lawsuit Civ14-12-0119 that some how the tribal paid attorney Tara Adamski filed stating a lawsuit that the plaintiff was "TRIBE". This lawsuit was clearly filed on behalf of the two federal defendants and the then elected Tribal Chairman who has since passed away on April 3<sup>rd</sup> 2015. The tribal court defendants now federal plaintiffs (*Pro-Se tribal defendant Sonny Ziegler joined the other two tribal co-defendants*) hired their own attorney with their own private funds for defense against the lawsuit filed against them in which the federal defendants then tribal plaintiffs requested to have the tribal court remove them (*Kevin Wright, Sonny Ziegler and Desiree LaRoche*) from their duly elected tribal council positions. The special judge in his February 16<sup>th</sup> 2015 Judgment and Order made a part neutral judgment wherein he found that the federal plaintiffs then tribal defendants attempted to remove the two Federal defendants and then elected chairman as invalid according to Tribal Constitution; because there was no written notice issued for the proposed removal action; the special judge also denied the tribal plaintiffs now federal defendants' motion for the tribal court to remove the federal plaintiffs then tribal defendants. There was a very confusing part in which the special judge stated he had found the attempted removal of the tribal plaintiffs (*for walking out of a the Dec 2014 regular tribal council meeting when Vice Chairman Kevin Wright had the floor and was requesting what happened to the*

missing federal funds the questionable appointment of a chief judge who had lost in the primary election for this position and other issues like the tribal farm operations) and the then elected tribal chairman as a Ex-parte Young action. This finding allowed the special judge to grant the federal defendants then tribal plaintiffs motion for a restraining order but labeled in a Temporary Restraining Order (TRO) that had no definite end-time or no finality on which the plaintiffs then tribal defendants could file an appeal to the Lower Brule Appellate court for relief. These very questionable holding allowed the special tribal judge to exert his control over tribal defendants (now federal plaintiffs) as council members indefinitely. The elected tribal chairman had been incapacitated by a sudden illness and was admitted by the emergency in the hospital for a time period of over a week in which time no tribal council business was taken care of. The vice-chairman Kevn Wright by virtue of his vice-chairman responsibilities and duties and by the Tribal Constitution then assumed the chairman position in an acting capacity due to the emergency brought on by the unexpected illness of the elected chairman. After the vice-chairman assumed the chairman duties and responsibility in acting capacity the elected tribal chairman passed away on April 3<sup>rd</sup> 2015. The two Tribal Council members now named federal court defendant Orville (Red) Langdeau and federal defendant John Cauley Sr., through their new attorney filed a motion for the special judge to allow them to amend their original complaint or lawsuit on the date of May 1<sup>st</sup> 2015 this was granted. The federal plaintiffs then tribal defendants immediately filed to the Lower Brule Appellate Court their Petition for Extraordinary Writ of Mandamus and Interlocutory Appeal. The Lower Brule Appellate Court is made up of three judges. The federal plaintiffs expected any ruling would contain all three names of the appellate judges and have written signatures of the judges.

**EXHAUSTION OF NOW FEDERAL PLAINTIFFS' TRIBAL COURT REMEDIES**

The federal plaintiff then tribal defendant Kevin Wright on date May 22<sup>nd</sup> 2015 did receive notice in regular US postal mail from John Jacobsen's law office in the form of a fax copy from the Appellate

Court with the Appellate Judge John Jacobsen's name typed on top of fax dated May 21<sup>st</sup> 2015 at time 16:27 or 4:27 pm. The document read it was a “ Remand Order with emphasis on the jurisdictional question” for the special judge to revisit his order allowing the named federal defendants also the true tribal plaintiffs to be called intervenors by realignment of parties with both sides continue to identify themselves as “TRIBE.” The remand order was unsigned by any of the three appellate judges and lack the names, even typed of the other appellate judges. The three federal plaintiffs then tribal defendants state that going back into tribal court under the special judge by the authority of a very questionable TRO without any definite ending is not suitable for them. Lacking better legal terms the now federal plaintiffs use a layman saying that of, “ the appellate court's unsigned remand order back to regular tribal court under the special judge is like putting the fox back in the chicken coop.” The plaintiffs now argue to federal court that it is useless for them to return to the tribal court under the special judge where the in-Justice to them occurred ; the violation of their tribal sovereign as TRIBE.; violation of due process and equal protection by being placed under a Temporary Restraining Order (TRO) that goes on forever with no end insight; which allowed the Federal defendants through their new attorney Terry Pechota to file an amended pleading of their original tribal lawsuit. The plaintiffs (*originally tribal defendants*) now argue to the federal district court that they now properly bring their claims and defenses ( *they defended and raised in counter-claims in tribal courts*) to the federal court after exhausting their tribal court remedies. See the Benchmark cases on exhaustion of tribal remedies of: National Farmer's Union Insurance Co. v. Crow Tribe, 471 U.S. 845 (1985) and Iowa Mutual Insurance Co. v. LaPlante, 480 U.S. 9 (1987);

JURISDICTION STATEMENT

The three Plaintiffs in this lawsuit argue that the Federal Distinct Court now has proper jurisdiction over all parties listed and the plaintiffs' claims and issues and the subject matter jurisdiction over the facts of plaintiffs' case that support their claims in this lawsuit (*of finding the missing federal funds or*

*requiring accounting for the missing federal funds allotted to now named two federal defendants who are tribal council members and for the two federal defendants who are BIA officials to assist in accounting for the missing federal funds as it is their fiduciary duty do so. );*

[i] by 28 USC Section 1331 Arising under Federal Question

[ii]and by the Federal Administrative Procedure Act 5 USC 5551-59;

[iii] after the three federal plaintiff have exhausted their tribal court remedies.

[iv] The three Plaintiffs in this lawsuit argue that the Federal Distinct Court now has proper jurisdiction over their causes of action and/or claims of non-federal question or non-Administrative Procedure Act (*that may be purely tribal*) by virtue of these claim and issues being related to the defendants' actions in relationship to the federal question or APA claims in this lawsuit; under the "Supplemental jurisdiction by federal statute 28 USC 1367" that is a consolidation of all claims both federal and non-federal that arise out of the same common nucleus of operative facts.

[v]Based upon facts and arguments the plaintiffs' complaint/lawsuit does state a claim upon which relief can be granted. The claim or cause of action is the two Tribal council member now named federal defendants had access to federal funds of over 24 million dollars and they will not disclose to federal plaintiffs also tribal council members where this money is or where it is at. The relief that can be granted by Federal Distinct Court is that this court can order that the two aforementioned defendants to account publicly to just where is the missing federal funds and/or what was it used for.

#### PROCEDURAL HISTORY STATEMENT OF THIS CASE

The tribal paid attorney Tara Adamski on date December 15<sup>th</sup> 2014 filed a lawsuit in Lower Brule Sioux Tribal Court stating that the plaintiff was "TRIBE." This lawsuit was clearly filed on behalf of

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the two federal defendants Orville (*Red*) Langdeau and John McCauley Sr., and the then elected Tribal Chairman Michael Jandreau who has since passed away on April 3<sup>rd</sup> 2015.

The tribal court defendants now federal plaintiffs ( *tribal defendant Sonny Ziegler had file his answer and motions to dismiss Pro-Se but now joined the other two tribal co-defendants*) also claimed that they were TRIBE and had to hired their own attorney Matt Rappold; with their own private funds for defense against the lawsuit filed against them in which the federal defendants then tribal plaintiffs requested to have the tribal court remove them (*Kevin Wright, Sonny Ziegler and Desiree LaRoche*) from their duly elected tribal council positions; The Lower Brule Sioux Tribal Code at Chapter 11 section 2: states that the TRIBE cannot be sued. TRIBE claims sovereign immunity from lawsuit filed in tribal court against it. The tribal court defendants now federal plaintiffs also argued for dismissal stating that as members of TRIBE they were protected by sovereign immunity: and that the tribal paid attorney Tara Adamski by bringing a lawsuit against them had violated her tribal contract and also her obligations and ethical responsibility of her licensing board. The two Tribal council member now named as federal defendants and the then elected Tribal Chairman Michael Jandreau after federal plaintiffs then tribal defendants filed their answers and motions ; the special judge allowed B.J. Jones let this tribal plaintiff party be called intervenors in their own action against the then three tribal defendants now federal plaintiffs.

A hearing was held in tribal court on date of Feb 13<sup>th</sup> 2015 and the special judge made his very questionable judgment dated Feb 16<sup>th</sup> 2015 wherein he found the TRIBE was an association and grounds for a ex-parte like violation that had to be the equivalent of a federal law property rights violation for ex-parte young to apply against a elected tribal official; and the special judge made an order for indefinite TRO against tribal defendants now federal plaintiffs.

The elected Tribal Chairman Michael Jandreau around March 27<sup>th</sup> 2015 fell ill unexpected and was

admitted by emergency to the hospital in Sioux Falls SD.

Around morning of date April 3<sup>rd</sup> 2015 elected Vice-Chairman Kevin Wright by virtue of the emergency with no tribal businesses getting done and by the rights of his elected vice-chairman position assumed the chairman position duty and responsibly in acting capacity.

Tribal Chairman Michael Jandreau passed away on April 3<sup>rd</sup> 2015 in the afternoon.

The two federal defendants Orville (*Red*) Langdeau and John McCauley Sr., through their new attorney Pechota filed for leave to amend their original lawsuit and the special judge granted them this leave.

Acting Chairman Kevin Wright, Sonny Ziegler and Desiree LaRoche.

STATEMENT OF ISSUES IN THIS LAWSUIT

The over 24 million plus missing federal funds or unaccounted for was a issue raised by both parties in tribal courts and is now the number one main issue and claim in this federal lawsuit and is the arising under federal question that gives the federal court its jurisdiction over this lawsuit. Issue number two in this action is the Lower Brule Sioux Tribal Council term 2012-2014 involvement by **investing federal funds** (*the arising under federal question*) with the dissolved investment firm “West Rock” located in New York state that the two named federal defendants Orville (*Red*) Langdeau and John McCauley Sr., were involved in. The third issue is brought in this lawsuit is the tribal farms operations records that the two named federal defendants Orville (*Red*) Langdeau and John McCauley Sr., seek to kept from the three federal plaintiffs;. The federal court can hear this issue by, “Supplemental jurisdiction by federal statute 28 USC 1367”a; this is the authority of United States federal courts to hear additional claims substantially related to the original claim (*arising under federal question*) even though the federal court would lack the subject matter jurisdiction to hear the additional



claims independently. This a codification of the US Supreme Court's rulings on ancillary jurisdiction *Owen Equipment & Erection Co. v. Kroger* 437 U.S. 365 (1978) and pendent jurisdiction *United Mine Workers of America v. Gibbs* 383,U.S. 715 (9166) and a superseding of the Court's treatment o Pendent Party Jurisdiction see *Finely v. United States* 490 U.S. 545 (1989)

PLAINTIFFS' STATEMENT OF CLAIMS

The plaintiffs now file and number their claims; first against the federal court named defendants [.i] Orville (*Red*) Langdeau [ii.] and John McCauley Sr., who are current members of the Lower Brule Sioux Tribal Council term 2014-2016 and then secondly the federal court Plaintiffs file and number their claims against the federal court named defendants of [iii] James Two Bull and BIA who are government officials sued in their official capacity.

Claims filed against defendants [.i] Orville (*Red*) Langdeau [ii.] and John McCauley Sr., and federal government officials [iii] James Two Bull and [iv] Tim LaPointe.

PLAINTIFFS' CLAIM NUMBER ONE: INVOLVES THE FEDERAL QUESTION

1. The three plaintiffs' cause of action in this federal lawsuit that being the, “ arising federal question” appears on the face of the plaintiffs' complaint/lawsuit as the missing or unaccounted for federal funds of over 24 million dollars; that the defendants in this federal case [.i] Orville (*Red*) Langdeau [ii.] and John McCauley Sr., have not accounted for the missing federal funds to the plaintiffs for.

2. The plaintiff Kevin Wright by virtue of his elected vice-chairman position by which he inherited the acting chairman positions' duty and responsibility due to unforeseen circumstances of the elected chairman passing away is authorize to conduct day to day business for the TRIBE.

3.The three plaintiffs' in this federal case and/lawsuit acting Chairman Kevin Wright, Sonny Ziegler

and Desiree LaRoche are all duly elected Lower Brule Sioux Tribal Council members for Term 2014-2016 and are therefore "TRIBE " by their elected positions and enjoy the TRIBE's sovereign immunity protection from lawsuit and complaints brought against them in Lower Brule Sioux tribal court.

4. The Arising Under Federal Question of the missing 24 million plus of federal funds and/or that is unaccountable for at this time; was deeply embedded in the three now federal plaintiffs' defense as tribal defendants in Lower Brule Sioux Tribal Lawsuit Court lawsuit Civ14-12-0119 brought in trial court against them by the defendants in this federal case [.i] Orville (Red) Langdeau [ii.] and John McCauley Sr.

5. The three plaintiffs' as members of the term 2014-2016 Lower Brule Sioux Tribal Council have a duty by their elected positions to account for all funding both federal and non-federal that the tribe receives and had received in prior terms.

6. The named federal defendants [.i] Orville (Red) Langdeau [ii.] and John McCauley Sr., were part of the prior Lower Brule Sioux Tribal Council that received the allotted federal funds of over 24 million dollars, therefore they both have knowledge where the missing funds are at or what they were used for.

PLAINTIFFS' CLAIM NUMBER TWO: INVOLVES ANOTHER FEDERAL QUESTION

7. The plaintiffs stated to the federal court that two named Federals Officials defendants are sued in their official government capacity consisting of the Bureau of Indian Affairs Lower Brule Agency Superintendent [iii] James Two Bull and Aberdeen Area BIA Director [iv] Tim LaPointe had and still do have a fiduciary duty to hold the other two defendants in this federal case [.i] Orville (Red) Langdeau [ii.] and John McCauley Sr., ,accountable for the missing federal funds;

8. The plaintiffs argue to the federal court that this court has personal and subject matter jurisdiction by the Federal Administrative Procedure Act 5 USC 5551-59; over the two named Federal Officials defendants that are sued in their official government capacity

PLAINTIFFS' CLAIM NUMBER THREE : INVOLVES NON- FEDERAL QUESTION

9. The plaintiffs argue to the federal court that it has personal and subject matter jurisdiction by the Supplemental jurisdiction by 28 USC 1367 [a] over all non-federal issues& claims in tribal action civ12-14-0119 that are directly related to the federal questions including the TRO.

10. The plaintiffs argue to the federal court that this court has jurisdiction over the Lower Brule Sioux Tribal farm operations' financial records and all other documents that comprise the farms operation day to day business records and all other farm operation special records.

.11. The plaintiffs argue to the federal court that acting Chairman Kevin Wright, Sonny Ziegler and Desiree LaRoche are all duly elected Lower Brule Sioux Tribal Council members for Term 2014-2016 and are therefore "TRIBE " by their elected positions are entitled to review and oversee Tribal farm operations' financial records and all other documents that comprise the farms operation day to day business records and all other farm operation special records.

PLAINTIFFS' PRAYER FOR RELIEF

Plaintiffs' request (s) for relief, from the federal district court;

[ I] to order the federal defendants Orville (Red) Langdeau and John McCauley Sr., who are current members of the Lower Brule Sioux Tribal Council term 2014-2016 to openly account to the plaintiff as elected tribal council members for the missing or unaccountable federal funds over 24 million plus dollars;

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[II] for relief, from the federal district court to order the federal defendants Lower Brule Agency Superintendent James Two Bull and Aberdeen Area BIA Director Tim LaPointe to enforce their fiduciary duties to hold the two above named defendant Orville (*Red*) Langdeau and John McCauley Sr., to account for the missing federal funds.

[III] for relief, from the federal district court to order the federal defendants Orville (*Red*) Langdeau and John McCauley Sr., by transparency of opening up the Lower Brule Tribal farm operations' financial records and all other documents that comprise the farms operation day to day business records and all other farm operation special records; so that the plaintiffs can have open access to them for review and oversight.

[IV] for relief, from the federal district court to order the Lower Brule Tribal Courts regular and appellate to stay all pending action until such time as the Federal District the federal jurisdiction question over this plaintiffs complaint and lawsuit and to dismiss the TRO against palitnffs.

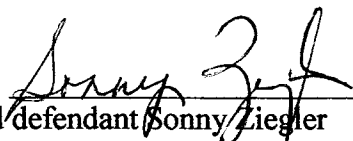
END OF CLAIMS

Date: May 21 2015

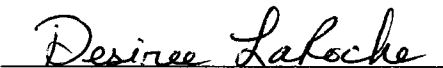
Defendants are Proceeding Pro-Se at this point in litigation:

  
\_\_\_\_\_

Signature of listed Defendant Kevin Wright et al  
Address PO Box 57 Lower Brule SD 57548

  
\_\_\_\_\_

Signature of listed defendant Sonny Ziegler  
PO Box 295 Lower Brule SD 57548

  
\_\_\_\_\_

Signature of listed defendant Desiree LaRoche  
PO Box 448 Lower Brule SD 57548

CERTIFICATE OF SERVICE

I, Charles LaRoche Process server for the three plaintiffs (consisting of Kevin Wright et al., Sonny Ziegler and Desiree LaRoche) in this federal lawsuit/complaint \_\_\_\_\_ hereby certify that on the date of May 2015 by personal service I have caused to be served plaintiffs complaint /lawsuit \_\_\_\_\_ upon clerk of courts Joseph Haas  for the Federal district court of South Dakota at federal court house in Sioux Falls South Dakota (57104) 400 S Phillips Ave Room 128. And I have caused to be served by 1<sup>st</sup> class mail on date of May 2015, the document of plaintiffs complaint /lawsuit \_\_\_\_\_ and summons for two BIA official defendants James Two Bull and Tim LaPointe sued in their official capacity upon [ ] Loretta E. Lynch the Attorney General for the United States (on behalf of Head of agency Sally Jewell and the two BIA government defendants ) at her address below and also upon [ ] US Attorney for District of South Dakota Randy Seiler, at the below addresses on date \_\_\_\_\_ 2015 by personal service at his federal law office in Sioux Falls SD or upon his clerk [ ].. I by personal service have caused to be served documents of plaintiffs Kevin Wright, Sonny Ziegler and Desiree LaRoche complaint /lawsuit and summons upon the two non-federal defendants [ ] Orville (Red) Langdeau on date of \_\_\_\_\_ 2015 in Lower Brule SD and John McCauley Sr., on date of \_\_\_\_\_ 2015 in Lower Brule SD.

*made personal service upon clerk of court at federal ct.*  
Charles LaRoche *Charles LaRoche*

~~Wright~~ Process server for Pro-Se Plaintiff Kevin Wright et al, Sonny Ziegler, Desiree LaRoche  
PO Box 57 Lower Brule SD 57548

I certify that I am over 18 years old and registered to vote in state of SD elections.

[1] US District Court/District of South Dakota Joseph Haas  
Office of the Clerk 400 S Phillips Ave Room 128 Sioux Falls SD 57104-6851

[2] US Attorney for District of South Dakota Randy Seiler, *For Head of Agency and 2 BIA Employees*  
at the US Attorney Office at P.O. Box 2638 in Sioux Falls SD 57101.

[3] Loretta E. Lynch the Attorney General for the United States at address U.S. Department of Justice  
950 Pennsylvania Avenue, NW Washington, DC 20530-0001  
*For Head of Agency and 2 BIA Employees*