

## Delegation being sent to inspect Lower Brule financial records

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Michael Jandreau (Photo: Elisha Page - Argus Leader)

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The Bureau of Indian Affairs is sending a delegation to the Lower Brule Sioux Reservation this week to inspect financial records amid an ongoing power struggle and accusations of malfeasance.

The struggle between Vice Chairman Kevin Wright and his allies against the friends and family of former Chairman Michael Jandreau, who died April 3, has paralyzed the tribal government. Two of Jandreau's supporters on the tribal council have sued to have Wright and his two supporters on the council removed from office. Wright, meanwhile, has asked the BIA to suspend federal funds to the tribe until the council can provide oversight on how they are spent.

In a letter to Wright announcing the BIA's upcoming visit this week, Regional Director Tim LaPointe wrote: "The BIA is closely monitoring the events at the tribe and we share your concerns."

The events on Lower Brule reach beyond the reservation, and the struggle over the tribe's leadership could have repercussions for those who do business with the tribe. When he assumed control after Jandreau's death, Wright fired the lawyers who had represented Lower Brule, including Marshall Matz, a longtime Washington lawyer and lobbyist who was officially the tribe's ambassador to the United States.

In a tribal court filing, Jandreau's allies on the council – Orville Landeau and John McCauley Sr. – claim that the firing of Matz, lawyer Tara Adamski and tribal administrative officer Scott Jones was unlawful. Jones is Jandreau's half-brother.

Wright, however, said he believes the politically-connected Matz is helping to fuel the dispute. As evidence, he points to an April 23 meeting with Brendan Johnson, the former U.S. attorney and son of Sen. Tim Johnson.

Wright says that Johnson offered a deal that centered on rehiring Matz and Adamski. If that didn't happen, Johnson predicted that Wright's position would be challenged in court, which happened a week after the meeting.

"He kind of bulldogged his way in there," Wright said. "He had the upper hand. He is who he is. I give him credit for that. To me, he kind of strong-armed a little old Indian boy from nowhere."

Johnson disputes Wright's account of the meeting. While the prospect of rehiring Matz, a family friend, did come up, Johnson said he only suggested it as one of several scenarios under which the two factions could find a way to reach an agreement and govern the tribe.

"What I said is, 'Look, both sides need to compromise, and that can happen a lot of different ways,'" Johnson said.

"There's a dozen different ways to skin a cat," he added. "The idea was not, 'You have to hire back those lawyers.'"

Matz, meanwhile, says Johnson was not there at his behest. And he said that his firm, Olsson Frank & Weeda, serves at the pleasure of the tribe.

"I'm not looking to stir the pot," he said. "I'm hoping they can work it out. That's the hope. It's a small tribe that's done some special things because it's been united and had consistent leadership. I'm rooting for Lower Brule."

Even before Jandreau's death, the Lower Brule Tribal Council had been paralyzed. Jandreau barely won re-election last fall in a contest that also saw Wright and two other reformers elected to the six-member council. Then came a report in January from Human Rights Watch which alleged that millions of dollars had been misappropriated over the last several years during Jandreau's leadership. The report also documented the tribe's acquisition of a failed Wall Street brokerage with a \$22.5 million loan guarantee from the BIA.

Lower Brule stood out in Indian country because Jandreau's tenure as leader lasted for more than three decades. Matz credits Jandreau for creating economic development programs meant to lift the tribe out of poverty.

But when a leadership change occurs on a tribe, it's also possible that the law firm that represented the tribe can change, said Matthew Fletcher, a law professor and director of the Indigenous Law and Policy Center at Michigan State University. No firm, he added, is entitled to be retained.

"What I'm seeing around Indian country is more and more firms and lawyers worried about losing business due to tribal leadership changes taking borderline unethical actions to create leadership disputes that extend a firm or lawyer's tenure with a tribal client," Fletcher said in an email. "I hope that's not what is happening here, but I think it's fair to say that behind every tribal leadership dispute is a lawyer or law firm that is profiting or hoping to profit from the dispute."

Matz was first hired by the tribe two decades ago. Since 1998, the tribe paid as much as \$540,000 in lobbying fees to Olsson Frank & Weeda, an amount that has tapered off in the last few years, according to lobbying reports compiled by the Center for Responsive

Politics. Matz said the firm was never involved in the tribe's internal affairs, and that its focus was in lobbying for Lower Brule.

His relationship with Lower Brule dates back almost 45 years, well before his lobbying career started.

In 1971, Bill Janklow, who was then the Legal Services director in South Dakota, hired the East Coast educated Matz after Matz graduated from law school. Matz had an office at Fort Thompson on the Crow Creek Reservation, where his primary responsibility was representing clients on Crow Creek and Lower Brule.

Matz fortified his ties to South Dakota when he joined the Senate Agriculture Committee as counsel under Sen. George McGovern. As the counsel to the Select Committee on Nutrition, Matz helped the committee create the modern food stamp program. He was there seven years, before starting a legal and lobbying career. He joined Olsson Frank & Weeda in 1992.

Over the years, he was a familiar presence in the offices of South Dakota's congressional delegation, where he specialized in lobbying on agriculture, nutrition and Native American issues. His friends included former Sens. Tom Daschle and Tim Johnson.

In 2009, President Obama nominated his Matz's wife, Debbie Matz, to serve as chairman of the National Credit Union Administration, a post she holds today. During her confirmation hearing at the Senate Banking Committee, Johnson called her an "honorary South Dakotan" in what the *Credit Union Times* described as "part love fest."

Following the loss of her House seat, Stephanie Herseth Sandlin joined the firm for a brief period, and McGovern was also a member of the firm until his death in 2012. More recently, the firm hired Nancy Nord, a Sioux Falls native who served as a commissioner on the Consumer Product Safety Commission under President George W. Bush.

Matz frequently returned to South Dakota, and he counted Jandreau as a close friend.

Over the years, Matz had lobbied to secure funding for various Native American projects. More recently, the firm began representing about 500 Native American plaintiffs – known as the Great Plains Contingent – in a federal court action known as the Keepseagle case.

In 2011, the United States Department of Agriculture settled a lawsuit that alleged the department had discriminated against Native American farmers and ranchers. The department agreed to pay \$680 million to settle the case.

But only 3,601 Indians filed successful claims to get money from the settlement, a number far less than expected. There is still \$380 million left in the settlement.

The USDA has agreed to a change in the settlement that would allow most of the leftover money to be put into a trust. The money would be distributed over the next 20 years to Native American nonprofit groups that specialize in agriculture.

The Great Plains Contingent, which included Jandreau and others from Lower Brule, argues the remaining money should be dispersed in another round of payments to successful claimants. Joe Sellers, the class counsel, said that USDA won't agree to another round of direct payments.

Last summer, there were eight hearings held across the country to discuss using the leftover Keepseagle money to form a trust. The vast majority of Indians who attended the meetings opposed forming a trust. The meeting that took place in Rapid City was the most raucous of the eight, and a lawyer for Olsson Frank & Weeda was seen there and at

a session in Bismarck soliciting business from the Indians. At the Bismarck meeting, one participant suggested that the firm be appointed as the new class counsel.

Sellers said that Olsson Frank & Weeda had not previously been a part of the litigation, which started in 1999, and that the firm appeared “out of the blue.”

“We’d had no dealings with them whatsoever,” Sellers said.

Matz, however, says his firm is involved because the Native Americans would be best served by dispersing the \$380 million, and not the creation of a trust.

“That’s the type of stuff we do,” Matz said. “We represent Indian people. It was my first job after law school. There’s clearly a sentimental feeling to it.”

But his future with Lower Brule is in doubt, and it will depend on which faction emerges to lead the tribe. Matz has a business card that identifies him as Lower Brule’s ambassador to the United States. Yes, he said, it’s a fanciful title, but it conveys the significance that Lower Brule is a sovereign nation – one he hopes to continue to represent in Washington.

“We were their lobbyists,” he said. “That’s the word for it, except we were called their ambassador to America.”