

DNC EFFORTS TO RAISE MONEY IN THE INDIAN GAMING COMMUNITY

Introduction

The Committee examined in depth two different DNC fund-raising stories relating to Native Americans: the Hudson, Wisconsin casino, and the Cheyenne/Arapaho tribes. To provide context to these stories, what follows first is an introduction to DNC efforts generally to raise money from Indian tribes. Although, in the case of the Cheyenne/Arapaho tribes of Oklahoma, the DNC was certainly not adverse to accepting money from the impoverished tribes, naturally the DNC's labors focused on wealthy tribes.

Wealthy tribes -- tribes able to make large political contributions -- are all tribes with successful gambling casinos. In examining DNC fund-raising in this area, is it important to bear in mind an increasing reality of Indian country. The advent of gambling (also called "gaming" somewhat euphemistically) facilities owned by tribes, which the federal government permits as a means of tribal economic self-sufficiency, has made a few tribes very wealthy, while leaving the poverty of most tribes untouched. If a tribe lives in a state that allows tribes to operate gambling casinos, possesses land located near a decent-sized city, and receives permission to run a casino, such a tribe is virtually guaranteed wealth.

The transformation that obtaining a successful gaming facility has wrought for the few fortunate tribes is staggering and in that sense, the law that created this, the Indian Gaming Regulatory Act,¹ has worked successfully. However, the law has also created a perfect recipe for the solicitation of political contributions because the federal government is a sine qua non participant in Indian gambling. Tribes frequently need federal government action to open new

¹ 25 U.S.C. section 2701 *et seq.*

casinos or expand existing ones. Moreover, tribes with existing gaming operations possess what amount to franchises, and the federal government, by accepting or rejecting applications for new casinos from potential competitors, can protect or harm those franchises. In addition, by its authority to impose a tax on gaming revenues (there is no gaming tax now) or alter the provisions of the Gaming Act, the government controls such gaming completely.

Documents received by the Committee reveal just how heavily the DNC focused on raising money in the Indian gaming community. Since many of the documents were received after the Committee completed its depositions of DNC personnel,² the Committee has limited testimony on the subject. Nevertheless, the documents speak for themselves. They show a concentrated effort on behalf of certain wealthy tribes, and an overall effort to assist the Indian gaming community. There is also a clear recognition that assistance to the gaming tribes would result in increased contributions to the DNC. Moreover, several of the largest contributors to the DNC received favorable action from the Department of the Interior. While the Committee was unable to investigate fully these decisions to see if there was any connection between the financial support to the Democratic Party and the Interior decisions, the circumstances, at a minimum, provide troubling coincidences.

The Mashantucket Pequots

Since the federal government formally recognized the Pequot tribe in 1983, the Pequots have steadily increased their economic standing. The tribe currently operates the Foxwoods Resort casino in Ledyard, Connecticut. Foxwoods is the one of the world's largest casinos, with

² See the section of the report on DNC document production.

approximately 50,000 customers per day and estimated annual revenues of \$1 billion.³ In the fall of 1993, the Pequots, led by their chairman Richard “Skip” Hayward, donated \$100,000 to the DNC. According to a DNC memo, “this contribution marked the [Pequot] Nation’s commitment to get involved.”⁴ Though unstated in the memorandum, the contribution also marked the DNC’s involvement in working on behalf of Pequot issues. In February 1994, for instance, the Pequots asked for help from the DNC on an issue at the Department of Health and Human Services.⁵ The tribe also asked for a meeting with then-DNC Chairman David Wilhelm.⁶ Wilhelm apparently met with the tribe, as handwritten notes on his letterhead stationery describe a variety of Pequot issues, including what appears to be some land acquisition matters.⁷

President Clinton took a personal interest in the Pequots. In October 1994, DNC Finance officials included Hayward on a call sheet for President Clinton. The call sheet noted that Hayward had already contributed \$650,000 to the DNC that year.⁸ While never admitting that President Clinton actually spoke to Hayward, the White House has confirmed that on October 18, 1994, there was a call made from the White House Residence to Hayward’s office.⁹ According to

³ Lyn Bixby, “Baccarat, Blackjack and Luxury,” *The Hartford Courant*, Nov. 23, 1997, p. E2; Robert Hamilton, “East Side, West Side: Casino on the Thames,” *New York Times*, June 18, 1995, Section 13CN, p. 1.

⁴ Briefing Paper for David Wilhelm and handwritten notes, undated (Ex. 1).

⁵ Memorandum from Bob Kearney to Laura Hartigan, Feb. 18, 1994 (Ex. 2).

⁶ *Id.*

⁷ Ex. 1.

⁸ Memorandum from Terrance McAuliffe to Harold Ickes, Oct. 18, 1994 (Ex. 3).

⁹ Letter from Charles Ruff to Michael Madigan, Oct. 21, 1997 (with attachments)(Ex. 4).

White House telephone records, the call to Mystic, Connecticut lasted 13 minutes.¹⁰ Hayward's attorney confirmed that Hayward had been called by the President in October 1994 but stated that the President did not specifically ask for contributions to the DNC, and instead talked about his health care initiative.¹¹ FEC records indicate that the Pequots made three separate \$50,000 contributions to the DNC around the time of the President's call -- on October 17, November 4, and November 21 of 1994. Hayward's attorney offered no explanation for those contributions.¹²

The Pequots' generosity to the Democratic party assured them special attention from the DNC. According to a DNC memo, then-DNC head Don Fowler was scheduled to meet with Hayward, the Pequot chairman, on November 13, 1995. In a briefing memorandum for the meeting, Fowler was encouraged by DNC staff to ask the Pequots to contribute "at least" \$250,000 to the DNC.¹³ The memo notes that an issue of special significance for the Pequots was a provision in the 1995 budget bill that proposed a 35% tax on Indian gaming revenues. Inasmuch as the Foxwoods Resort casino has yearly revenues of approximately \$1 billion, such a tax would have had a huge impact on the tribe. The provision was removed, and, according to the memo, Fowler "played an active role in expressing" tribal opposition regarding the tax to the

¹⁰ *Id.*

¹¹ Staff interview of Jackson King, Nov. 1997.

¹² *Id.*

¹³ Memorandum from Alejandra Castillo to Don Fowler, Nov. 13, 1995 (Ex. 5).

Administration and Congress.¹⁴ The memo exhorts Fowler to “take credit” for that and other pro-tribal achievements.¹⁵

The Pequots applied to the Interior Department on two occasions for permission to take land into trust in order to expand their Foxwood resort. Since at least 1993, residents of three neighboring towns had “bitterly opposed” the expansion of the casino.¹⁶ Nevertheless, Interior approved one of the Pequot applications in May 1995 and reapproved the other in August 1996. It is unknown if the DNC assisted the Pequots in convincing Interior to rule in their favor. Between 1993 and 1996, the Pequots donated at least \$475,000 to the DNC and other Democratic campaigns.¹⁷

The Sault Ste. Marie Tribe of Chippewas

The Sault Ste. Marie Chippewa tribe is located in northern Michigan. In August 1993, they applied to the Interior Department for permission to open a casino in the Greektown area of downtown Detroit. One year later, in August 1994, Interior approved the application and, pursuant to Section 20 of the Indian Gaming Regulatory Act, forwarded the application to the

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Robert Hamilton, “East Side, West Side: Casino on the Thames,” *New York Times*, June 18, 1995, Section 13CN, p. 1. *See also* David Lightman and Hilary Waldham, “U.S. Approves Pequots’ Bid to Annex Land,” *The Hartford Courant*, May 2, 1995, p. A1.

¹⁷ Printout from FEC Data Access Program, Jan. 16, 1998 (Ex. 6). FEC records do not capture all of the possible donations. Thus, a DNC memorandum indicates that by October 1994, the Pequots had already contributed nearly \$200,000 more than the \$475,000 total reflected in FEC records for all of 1993-96. *See* Ex. 3, p. 5.

Governor of Michigan for his concurrence. However, because Governor Engler of Michigan exercised his veto power, the casino never opened.

During the 1996 election cycle, the Sault Ste. Marie Chippewas made large contributions to the Democratic Party. The contributions were coordinated by the DNC, although the actual contributions went to a variety of Democratic state parties. Mark Thomann, a DNC finance staffer, testified that the tribe made a \$250,000 commitment to the DNC, but then gave much of the money to various states because of “privacy” concerns.¹⁸ Thomann explained that the tribe participated on both the Republican and Democratic sides, and “by giving too much to one side may upset their friends on the other side.”¹⁹ According to a DNC document, the Sault Ste. Marie Chippewas contributed a total of \$282,500 to twelve different state Democratic parties.²⁰ The largest contribution, which was for \$71,500, went to Tennessee. Other significant contributions were \$60,000 to Illinois, \$44,000 to Oregon, and \$30,000 to Maine.²¹

It is clear that the St. Sault Marie Chippewas believed their close ties to the DNC would bring them access to government officials. Thomann testified that in April or May 1996 the tribe asked him to contact someone in the administration on their behalf. He was hazy on the specifics, though he recalled that the tribe “needed help with some sort of -- I don’t know what you’d call it

¹⁸ Deposition of Mark Thomann, September 23, 1997, pp. 118-120.

¹⁹ *Id.* at 119.

²⁰ List of DDD Contributions [title derived], undated (Ex. 7). The document is captioned “DDD,” a likely reference to the DNC’s directed donor program.

²¹ *Id.*

-- trust or -- it's an issue involving Native Americans.”²² Thomann explained that he relayed the request to Sullivan and was not involved further.²³

June 1995 Meetings at the White House

In mid-1995, finance officials at the DNC and Clinton Gore were targeting various Indian tribes for contributions. For instance, DNC staffer Adam Crain wrote a May 24, 1995 memorandum requesting that Chairman Fowler solicit Mark Nichols, the chief financial officer of the Cabazon Tribe of Mission Indians.²⁴ Crain also sent the memo to the leadership of the DNC finance division -- Richard Sullivan, Ari Swiller, and David Mercer. After noting Nichols had already committed to raise \$100,000 for the Clinton/Gore campaign, Crain suggested that Fowler ask him to contribute \$100,000 and become a DNC Managing Trustee. The memorandum confirms the close ties between the Interior Department and the DNC. Crain wrote that Nichols is “close to [then-nominee to be Interior Deputy Secretary] John Garamendi,” and that “Garamendi suggested . . . that we reach out to Mark [Nichols].”²⁵ FEC records indicate that the Cabazons donated approximately \$125,000 to the DNC and other federal Democratic campaigns in 1995-96.²⁶ Nichols became a DNC trustee later in 1995.

²² Thomann deposition, p. 115.

²³ *Id.*, pp. 115, 118.

²⁴ Memorandum from Adam Crain to Chairman Fowler, et al, May 24, 1995 (Ex. 8)

²⁵ *Id.*

²⁶ Printout from FEC Data Access Program, Jan. 13, 1998 (Ex. 9).

Crain reported further in his memo, “In his conversation with John Garamendi’s assistant Pam Neifert, Mark was receptive to the DNC Trustee/Managing Trustee Councils.”²⁷ Garamendi, who is now the Deputy Secretary of the Interior, at the time had been nominated but not yet confirmed for his Interior position. According to an Interior official, Garamendi ran unsuccessfully for governor of California in 1994, and was in the process during 1995 of retiring his gubernatorial campaign debt.²⁸ He was being assisted in that regard by Pam Neifert. Although neither Neifert nor Garamendi were Interior Department officials at the time, and thus the Hatch Act’s prohibitions on soliciting political contributions would have been inapplicable, the Committee finds unseemly Garamendi’s apparent participation in fund-raising, particularly since it involved a group -- an Indian tribe -- over whom he would soon exert enormous power in his new position.

On May 26, 1995, Richard Sullivan, DNC Finance Director, asked Harold Ickes to meet with various Indian leaders coming to Washington D.C.²⁹ The meeting was set for June 21, 1995.³⁰ Demonstrating the important role that the finance staffs of the DNC and Clinton/Gore ‘96 had in coordinating the meeting, a list of tribal leaders expected to attend was sent to Sullivan and Terry McAuliffe, Clinton/Gore Finance Director.³¹ Mark Nichols of the Cabazon and Skip

²⁷ Ex. 8.

²⁸ Staff conversations with Melanie Beller, Director of Legislative Affairs, Department of the Interior, Jan. 13-14, 1998.

²⁹ Memorandum from Richard Sullivan to Harold Ickes, May 26, 1995 (Ex. 10).

³⁰ Memorandum from Bonnie McNair to Terry McAuliffe, et al, June 13, 1995 (Ex. 11).

³¹ *Id.*

Hayward of the Pequots are among the listed attendees. Coincidentally, another listed attendee is Marge Anderson, Chair of the Mille Lacs Tribe, one of the tribes that opposed the Hudson casino application.³²

A memorandum to White House political directors from lawyers representing Indian interests suggested that the administration needed to start treating its Indian supporters more favorably.³³ In advising the White House about the meeting with Indian leaders, the lawyers offered, “When it comes to politics, though, you should embrace your friends and keep your adversaries at a distance. Your 1992 supporters have yet to be singled out for special attention by the President or anyone else.”³⁴ Later on, they pointed out that “there is a lot of money in Indian country,” and “the tribes have poured hundreds of thousands of dollars into the DNC and Democratic campaigns in the last four years.”³⁵ The co-author of this rather blunt political appraisal? Kevin Gover, who was sworn in as the Assistant Secretary for Indian Affairs in November 1997.

DNC Activities in the Fall of 1995

³² *Id.* The DNC produced this document to the Committee on October 31, 1997, one day after the Committee conducted a hearing on the Hudson matter.

³³ Memorandum from Kevin Gover and Cate Stetson to Craig Smith and Judy DeAtley, June 19, 1995 (Ex. 12).

³⁴ *Id.*, at p. 2 (emphasis in original).

³⁵ *Id.*, at pp. 2 & 5.

Documentary evidence shows that DNC officials, especially Chairman Fowler, were active on behalf of Indian tribes in the fall of 1995. Adam Crain, from the Finance staff, apparently took the lead as the liaison between the tribes and the DNC. Besides acting as an advocate for the tribal issues and setting up meetings for the tribes, the DNC solicited the tribes for contributions.

By memorandum dated August 28, 1995, for instance, Crain reported to Fowler about developments at the Native Indian Gaming Association (NIGA) Convention in Milwaukee.³⁶ A few weeks later, in early September, Fowler met twice with tribal leaders. A briefing memorandum prepared for Fowler before a September 7, 1995 meeting noted that “in the last two weeks, working with Adam Crane [sic], the Native Americans have raised \$100,000 for the DNC.”³⁷ The memorandum also notes that possible attendees at the September 7th meeting included Debra Doxtator and Marjorie Anderson, both of whom represented tribes that successfully defeated the Hudson application.³⁸ In a September 9, 1995 memorandum, Crain indicated the specific Indian constituency the DNC was targeting when he wrote that Fowler would be attending an upcoming Vice-Presidential dinner with “seven Indian gaming tribal leaders.”³⁹ Fowler also met with Indian leaders on September 12, 1995. At that meeting, according to a memo from Crain, the tribal leaders expressed their opposition to cuts in the

³⁶ Memorandum from Adam Crain to Chairman Fowler, Aug. 28, 1995 (Ex. 13).

³⁷ Memorandum from Judy DeAtley to Chairman Fowler, Sept. 7, 1995 (Ex. 14).

³⁸ *Id.*

³⁹ Memorandum from Adam Crain to Chairman Fowler, Sept. 9, 1995 (emphasis added) (Ex. 15). The memo warns that unless President Clinton threatened to veto a cut in BIA funding, Democrats would lose “significant pledges of support for the Committee to Re-elect and the DNC.”

Bureau of Indian Affairs budget and to amendments to the Indian Gaming Regulatory Act, which would have increased the ability of states to limit Indian gaming.⁴⁰ Crain also summarized that the Indian leaders had asked that calls be made to Ickes and White House Chief of Staff Leon Panetta, and that “the political and financial stakes be emphasized.”⁴¹

The DNC was already well aware of the financial stakes. In another memorandum, Crain briefed Fowler on an upcoming meeting, apparently the one held on September 12, 1995.⁴² After imploring Fowler to read the memo before the meeting, Crain declares, “You should ask them to commit \$250k together as a type of ‘PAC’ to the DNC.”⁴³ Crain then explained what the tribes wanted in return, foremost of which was opposition to the proposed tax on Indian gaming. The leaders requested a meeting with Senator Moynihan to talk about the tax provision and also requested a public statement from the White House opposing the tax.⁴⁴ Finally, Crain noted that the leaders are “big supporters of John Garamendi, who is currently Deputy Secretary at Interior.”⁴⁵

Meanwhile, Crain continued to keep Deputy Secretary Garamendi informed about what was happening with the Indian leaders. In a September 7, 1995 memorandum to Garamendi and his fund-raising assistant, Neifert, Crain listed the schedule of meetings between the tribal leaders

⁴⁰ Memorandum from Adam Crain to Chairman Fowler, Sept. 15, 1995 (Ex. 16).

⁴¹ *Id.*

⁴² Memorandum from Adam Crain to Chairman Fowler, undated (Ex. 17).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

and administration officials, including Garamendi.⁴⁶ Two of the listed attendees for a Vice-Presidential dinner on September 11 were leaders of the Oneida and Mille Lacs, tribes that opposed the Hudson application. At the end of his memo, Crain explained that certain tribal leaders were “contemplating writing 30K” and that a call from Neifert “asking them to write more would be very helpful.”⁴⁷

The fact that Garamendi received a memo from a DNC official requesting Garamendi’s attendance at an event and asking Garamendi’s former fund-raising assistant to solicit contributions from a tribal representatives is, at a minimum, questionable. Garamendi was a high ranking Interior official at the time, and the Hatch Act barred him from soliciting political contributions. Although the memorandum stops short of asking Garamendi directly to violate the Hatch Act, it places him squarely in the path of the DNC, Garamendi’s fund-raising assistant, and a proposed solicitation. It raises concerns about Garamendi’s involvement in fund-raising at Interior.

In any event, the DNC followed through on the Indian requests, contacting the White House and Congress. According to a Crain memorandum dated October 11, 1995, Fowler had already called Senator Moynihan’s office and had a discussion with Bruce Lindsey at the White House.⁴⁸ A few days later, Fowler followed up his conversation with Lindsey with a

⁴⁶ Memorandum from Adam Crain to John Garamendi and Pam Neifert, Sept. 7, 1995 (Ex. 18).

⁴⁷ *Id.*

⁴⁸ Memorandum from Adam Crain to Chairman Fowler, Oct. 11, 1995 (Ex. 19).

memorandum specifically setting forth the Indian tribes' "highest priority concerns."⁴⁹ Fowler also wanted the Indian leaders to know what he had done. Accordingly, Crain drafted a memorandum from Fowler to the tribes. After declaring that Fowler had communicated the tribal concerns to the President, the memorandum concluded:

My staff at the Democratic National Committee and I will continue to closely monitor these situations and will continue to communicate your concerns to both the Administration and the Congress. It is also important that we continue our dialogue. Please do not hesitate to call my office at any time.⁵⁰

Any doubt that one of the DNC's motives in working with the tribes was securing contributions is put to rest by another memorandum from Crain to Fowler.⁵¹ On November 9, 1995, after this flurry of activity on behalf of the Indian gaming tribes, Crain informed Fowler of the DNC's take. Crain wrote that over the last three months, the DNC had received \$110,000 from certain tribes. In listing the contributors, Crain explained that "there are several tribes that are currently considering supporting the DNC."⁵²

In April 1996, Fowler weighed in on behalf of Indian tribes regarding a pension matter. In a letter to Treasury Secretary Robert Rubin, Fowler asked Treasury to examine what Fowler characterized as a recent Treasury ruling that employees of Indian tribes were not eligible to

⁴⁹ Memorandum from Donald Fowler to Bruce Lindsey, Oct. 16, 1995 (Ex. 20).

⁵⁰ See Ex. 19.

⁵¹ Memorandum from Adam Crain to Chairman Fowler, Nov. 9, 1995 (Ex. 21). Three contributing tribes listed -- the Minnesota Mille Lacs, Wisconsin Oneida, and Wisconsin St. Croix -- all lobbied successfully against the Hudson casino earlier in 1995.

⁵² *Id.*

participate in Section 401(k) pension programs.⁵³ After claiming that the ruling would impose “unfair costs” on American Indians, Fowler concluded, “Please take appropriate action to ensure that Indian tribes are treated fairly”⁵⁴

Fowler’s letter caused a stir at Treasury. The Acting Assistant Secretary for Tax Policy wrote to Secretary Rubin that the pension plan issue was already under consideration by Treasury: “Given that the issue is currently under review as it affects a particular Indian tribe, we do not recommend that the response address Mr. Fowler’s request for administrative action allowing Indian tribes to sponsor 401(k) plans. Because of Mr. Fowler’s position, and the FOIA disclosure of a response, we believe it would be more appropriate for someone other than the Secretary of Treasury to sign the response.”⁵⁵ At the same time, Treasury General Counsel Edward Knight communicated his concern about this letter (and about another letter from Fowler) to DNC General Counsel Joe Sandler. Knight told Committee staff that he told Sandler that the letters were “inappropriate” and that he “wanted them to stop.”⁵⁶ According to Knight, Sandler agreed with him.⁵⁷

⁵³ Letter from Donald Fowler to The Honorable Robert Rubin, Apr. 8, 1996 (Ex. 22).

⁵⁴ *Id.*

⁵⁵ Memorandum from Donald Lubick to Secretary Rubin, June 20, 1996 (Ex. 23). Treasury Chief of Staff Sylvia Mathews responded to Fowler on July 24, 1996. Letter from Sylvia Mathews to Donald Fowler, July 24, 1996 (Ex. 24).

⁵⁶ Memorandum of Interview of Edward Knight, May 2, 1997.

⁵⁷ *Id.*

Conclusion

It is clear that access to the DNC resulted in increased access to administration officials for tribes. And the way to get access to the DNC was to make political contributions. This is demonstrated not only by memoranda giving updates of tribal contributions, but by the simple fact that the liaison to the tribes was someone from the DNC's Finance Division. The tribes with greater resources had many more doors opened to them. DNC officials were eager to advocate the interests of wealthy donor tribes before government agencies and the White House, even to the point of making administration officials uneasy, as demonstrated by the episode involving pension funds and the Treasury Department.

But not all tribes were afforded the luxury of guaranteed access. George Newago, Chairman of the Red Cliff Band of Chippewas, one of the impoverished Wisconsin tribes that lost out in the Hudson application, explained the distinction to the Committee. In contrast to the leaders of wealthy tribes who are stroked by the DNC and the Clinton administration, Newago observed that the city of Washington D.C. doesn't see Indians like him -- "that the people there don't even know we exist."⁵⁸

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Staff Interview of George Newago, Oct. 24, 1997.