

KEEP THE PROMISE ACT

HON. PAUL A. GOSAR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 2015

Mr. GOSAR. Mr. Speaker, for several years, I have been actively involved in a troubling off-reservation gaming issue in my home state of Arizona involving the Tohono O'odham Nation. The tribe has been attempting to move from their ancestral lands in Tucson, into another tribe's former reservation in the Phoenix metro area, for the sole purpose of building a Las Vegas style casino.

This comes after Tohono O'odham and 16 other Arizona tribes adopted a compact, approved by Arizona voters, which expressly promised there would be no additional casinos or gaming in the Phoenix metro area until 2027. In exchange for this promise, the voters granted the tribes a statewide monopoly on gaming and other tribes gave up significant rights.

H.R. 308 was introduced to ensure that the promise of no additional casinos in the Phoenix area is kept until the existing tribal-state gaming compacts expire, without interfering in the trust acquisition itself.

Let me explain how this legislation came to be and why it must be enacted into law. In return for exclusivity in Arizona, the tribes agreed to a cap on the number of casinos in the state and in the Phoenix metro area, to restrict the number of machines in the state and to share machine revenue with rural non-gaming tribes so they could benefit from the compact.

Every urban tribe, except for Tohono O'odham, agreed to this limitation. Tohono refused, citing the need for a new casino in Tucson or on the rural part of the tribe's reservation. The state and other tribes finally agreed to the restrictions on gaming being pushed by Arizona's Governor and others, but also yielded to Tohono's stated need.

After the agreement was reached, the tribes and state promoted their model compact by saturating the airwaves and newspapers with the clear message that under the compact there will be no additional casinos in Phoenix and only the possibility for Tohono O'odham to build one more facility in the Tucson area. Tohono O'odham alone spent \$1.8 million dollars urging Arizona voters to rely on this limitation.

Tohono had begun efforts to find land in the Phoenix area to open their fourth casino.

The voters approved the tribal state compact in November 2002 and rejected two competing propositions. The first would have allowed unrestricted tribal gaming without any revenue sharing for rural non-gaming tribes; the second would have allowed for full commercial gaming without restriction.

Shockingly, a few months after the voters approved the compact, Tohono finalized a multiyear effort to purchase land in Glendale for a casino and used a shell corporation to conceal its identity.

Tohono's dismissal of their promise to build no additional casinos in Phoenix is not something that Congress can ignore when the result will be so harmful to what had been a national model.

Furthermore, Tohono has falsely been claiming a victory in court relative to their less-

than-honest dealings with other tribes and the State of Arizona.

This sentiment is factually wrong and morally indefensible. The Tohono "won" nothing based on the merits. Rather, the case was dismissed on the draconian doctrine of sovereign immunity. In other words, the court ruled that the tribe cannot be sued in court because . . . It can't be sued in court.

In fact, the Court made a statement that it would have likely ruled against Tohono had it not been for sovereign immunity. Mr. Speaker, I submit evidence obtained from underlying litigation discovery in *State of Arizona v. Tohono O'odham* in order to supplement the record on H.R. 308. The opponents of this bill falsely claim that the Tohono O'odham Nation (Tohono O'odham, TO or the Nation) "won" in court relative to TO's less-than-honest dealings with other tribes and the State of Arizona. Indeed, one Member of the House publicly stated that the bill circumvents a court ruling.

This sentiment is factually wrong and morally indefensible. The TO "won" nothing on the merits. Rather, the case was dismissed on the draconian doctrine of sovereign immunity. In other words, the court ruled that the tribe cannot be sued in court because . . . It can't be sued in court. That circular logic is pretty much the extent of the victory. The merits of the case were never addressed, and that is why Congress' oversight in these matters is so important.

As it turned out, discovery in *State of Arizona v. Tohono O'odham* revealed that the TO Nation was secretly looking to purchase land in the Phoenix metropolitan area during the last 18 months of the compact negotiations and during the entire referendum process when the tribes were actively seeking support from Arizona voters on the basis that the model compact would not permit additional casinos in the Phoenix area. Evidence of these secret plans were primarily obtained from Viki Kam Doag Industries (VDI), a Tohono O'odham chartered and owned corporation. Below are quotations from meeting transcripts and minutes:

5/18/01: VDI meeting notes including a description of a presentation delivered by Mark Curry, Tohono O'odham's lead negotiator in compact negotiations. The notes reflect "107th Avenue-Stadium," "gaming compact—unsure what will happen," "put in a shell company—need to keep it quiet especially when negotiations of compact at stake."

6/26/01: VDI meeting with Tohono O'odham's San Lucy District Council. "We are also looking at another project . . . based on discussions we had and continue to have about a casino on the west end of Phoenix. And part of that discussion that we've had was that—we didn't want to publicize that because of the confidentiality in terms of that issue . . . Now, in the meeting we had last summer—with the task force and Jim had met with the casino people in their—in their environment. And the understanding is that it is a good opportunity again depending on what happens with the big compact. . . You have a situation with a confidentiality issue. And that's how we're holding it, as confidential, because we don't want, you know, people to know we are seriously considering this. Because if you do, I'm sure that there's going to be a lot of resistance from, you know, the general public." p. 25:5-20.

8/26/01: San Lucy District Meeting: "[Male Voice]—but that is why the Buckeye prop-

erty has been identified as a casino-feasible area. And that's really why we focused on that. There—there is some county islands closer in to Phoenix that we have looked at." p. 24:10-15.

8/22/02: VDI meeting transcript discussing the West Phoenix casino project, whether Governor Hull's successor would also oppose additional Phoenix area casinos, and the importance is confidentiality ahead of the vote on Proposition 202. "Max: Because if that's going to be the position of the State, they don't want any more casinos around the Phoenix area, then they're going to fight it, whoever the new governor is, (inaudible), if he's going to go along—he or she go along with Jane Hull regarding taking a position. Jim: Which is why we really want to wait until the initiative passes before its gets out." TON0116093-94.

9/19/02: VDI meeting transcript discussing a possible leak of information related to the West Phoenix project. "Jim: So there is some type of information going out or a leak or—they didn't Jonathan and Mark [two in-house Tohono O'odham attorneys] didn't seem too concerned, is what they had got it wasn't up at the governor's level or at the negotiating level . . . but it's still a concern out there, especially prior to the propositions coming up for election. . . . So, we just need to be careful about, you know, things getting out and spoiling it" p. 14:18-15:6.

10/25/02: VDI meeting transcript discussing the upcoming Prop 202 vote. "Male Voice: We are . . . a week and a half, two weeks away from the vote. And that's going to clarify a lot also on what we can do. And, you know, assuming that it is 202 that passes, then, you know, we'll proceed in how we need to make that project develop." p. 2:7-3:24.

This evidence, attached hereto, establishes the fraudulent intent by the TO to deceive the state, the public and other tribes. Proposition 202, which authorized the existing tribal-state compacts, was approved by voters on November 5, 2002, less than two weeks after VDI discussed waiting for voter approval before moving forward with the West Phoenix casino plans.

In addition to the above, additional transcripts underscore the same double-dealing after the vote:

2/10/03: VDI meeting transcript discussing VDI's meetings with the Tohono O'odham Gaming Authority. "And I think that's coming about because the agreement has been signed, the compact has been signed, and so there are no more real concerns that might jeopardize our chances on this discussion. So I think they're ready to move forward." p. 3:2-4:5.

2/23/03: VDI meeting transcript discussing the Glendale plan. "Through 99-503 [Gila Bend Act] we could have a casino built, it allows it, but politically we might have problems. If we decide to, we need to put it in escrow and it needs to be kept confidential for the time being." p. 17:22-18:14.

2/23/03: VDI meeting transcript discussing potential political problems with the proposal. "Male Voice: I just hope that . . . in terms of the political (inaudible) that's going to be coming (inaudible), that some of the metro tribes over there don't come back and jump on us too. . . . Male Voice: Might Gila River and Salt River indicate that it's a violation of the 202 (inaudible) metro area? Male Voice: Well, that's what I said in terms of political impact, is that even—even those metro tribes, particularly those three that are right there, might—might say something. But that's a big question mark. That's all." p. 48:21-50:23.

In March 2013, Tohono O'odham created Rainer Resources, Inc. and incorporated the

company in Delaware as an attempt to keep the land purchase confidential. Rainer Resources then purchased the Glendale parcel in August 2013. Rainer Resources and Tohono O'odham kept their plan secret until April 2009, when the Nation submitted its fee-to-trust application to the Department of the Interior and finally disclosed its scheme to its sister tribes.

These statements were uncovered during discovery in *State of Arizona v. Tohono O'odham* and revealed the depth of Tohono O'odham's conscious effort to mislead and defraud voters, as well as its State and tribal partners. Unfortunately, the U.S. District Court dismissed the State of Arizona's fraud and misrepresentation claims not on the merits, but because Tohono O'odham refused to waive its sovereign immunity from suit. With regard to the State of Arizona's "promissory estoppel" claim, which alleged that Tohono O'odham made false promises that induced the parties to enter into the compact to their disadvantage thus creating an enforceable promise, the court found on May 7, 2013, that the evidence supported the claim but that Tohono O'odham's sovereign immunity nevertheless barred its review of those allegations. Although Congress, through IGRA, waived tribal sovereign immunity for claims arising from executed compacts, the court determined Congress had not done so with regard to actions that preceded a compact's execution such as those that gave rise to the fraud, misrepresentation, and promissory estoppel claims in *State of Arizona v. Tohono O'odham*. The legal conclusion is dubious as it promotes fraud and sharp dealings long since rejected in modern commerce and illegal in many contexts.

H.R. 308, the Keep the Promise Act, is narrowly crafted to address those claims that are shielded by Tohono O'odham's assertion of sovereign immunity.

I believe it is important for the truth to be known. The tribe acted immorally and covertly against its fellow tribes, the State and the general public. This incident and breach of trust has proven that TO cannot be trusted in the future relative to business dealings, tribal matters and commercial relations. I urge Congress to resolve this issue and reaffirm its authority by providing proper oversight of commerce amongst tribes.

An identical bill, H.R. 1410, passed overwhelmingly out of the Natural Resources passed the House last Congress by voice vote on September 17, 2013. This legislation has already passed the full Natural Resources Committee by unanimous consent in the 114th Congress.

I urge immediate adoption of this common-sense legislation once again by the House of Representatives.

RECOGNIZING THE SEVENTH ANNIVERSARY OF THE IMPRISONMENT OF THE SEVEN BAHÁ'Í LEADERS IN IRAN

HON. LYNN JENKINS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 2015

Ms. JENKINS of Kansas. Mr. Speaker, in this country, we often take for granted our

ability to worship whatever faith we want without fear of government persecution. Yet, for those of the Bahá'í faith in Iran, this basic human right does not exist. Simply being Bahá'í in Iran makes you a target for frequent discrimination. The Iranian regime's appalling human rights record is full of cases of horrific treatment of anyone who stands up for their religious beliefs.

Take the case of Saeid Rezaei, the Bahá'í prisoner of conscience I adopted a few years ago as part of the Defending Freedoms Project. Arrested on false charges, he remains imprisoned on a 20 year sentence that would see him only released when the teenage son he left outside has already turned 31 years old. Rarely is outrage as justified as it is in this case of state-sponsored discrimination against members of the Bahá'í faith.

Today, on the seventh anniversary of the imprisonment of the seven Bahá'í leaders in Iran, let us join together to highlight the ongoing injustices rampant throughout the actions of the Iranian regime and continue to stand up for the freedom of religion and beliefs across the world.

TRIBUTE TO DONALD C. "DANNY" DANIELSON

HON. TODD ROKITA

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 2015

Mr. ROKITA. Mr. Speaker, as you know the words spoken on the Floor of this House in many ways become the official record of our great Nation, as each word spoken here is made part of the official House RECORD.

As such, I rise today to honor a great American, philanthropist, my Sigma Chi brother and good friend, Donald Danielson. Danny was widely known for his nearly 40-year career at City Securities, one of Indianapolis' oldest investment firms. He was the former president of New Castle-based Modernfold, the company whose accordion-fold door helped change the way businesses, schools and churches utilized interior space.

As a Sigma Chi, Danny was devoted to the ideals of the White Cross we wear. To all he came to know, his friendship was enduring; his generosity were large; and his life was an inspiration. He loved his Fraternity, but he knew that its helpfulness and sympathies were meant to broaden more than the bounds of an organization. To that end, his loyalty was grounded in the faith that fraternalism stands for better citizenship, for a more noble civilization, and for the higher ideals of life in its service to man and reverence to God. And in that, Mr. Speaker, we have found in Mr. Danielson not only the ideals of Sigma Chi, but the essence of America.

He was accepted to Indiana University on a baseball scholarship, graduated and became one of the longest-serving trustees on record at the University, serving as its president for 11 of his 22 years of service. He helped create IU's Wells Scholar program and in 1994 was awarded an honorary doctor of laws degree.

After graduation, Danny served his Country in the U.S. Navy in both the Pacific and Atlantic theaters of World War II being discharged in 1946 with a rank of Lieutenant. He married

his wife Patricia in 1947 and though being signed to play professional baseball by the Brooklyn Dodgers, decided to take a job at the IU Alumni Association instead.

In 2009, Danielson received the Sachem award, the highest honor given by the state of Indiana. He received several Sagamore of the Wabash awards from Indiana Governors, and in 2014, the Indiana Historical Society named him a Living Legend. He was inducted into the Junior Achievement of Central Indiana Business Hall of Fame in 2010, and was appointed by President George H.W. Bush to the Credit Standards Advisory Committee.

Preceded in death by his beloved wife Patti, Danny leaves three daughters, Mary, Susie and Amy, eight cherished grandchildren and 13 great-grandchildren. On behalf of many Hoosiers, I offer to all of them, their extended families, and all those who share the grief of his loss, my sincerest condolences.

TRIBUTE TO THE HONOR FLIGHT OF EASTERN AND PORTLAND OREGON

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 2015

Mr. WALDEN. Mr. Speaker, I rise to recognize the 48 World War II veterans from Oregon who will be visiting their memorial this Friday in Washington, D.C. through Bend Heroes Foundation. On behalf of a grateful state and country, we welcome these heroes to our nation's capital.

The veterans on this flight from Oregon are: Joe DeMarsh, Army; Harry Galloway, Army; Donald Hoyt, Army; Robert Hughley, Army; Shige Imai, Army; Fred Krieger, Army; Steve Lund, Army; Roger Mockford, Army; Andy Riener, Army; Bud Simonis, Army; Jim Starr, Army; Bill Stewart, Army; Jack Tavener, Army; Rodger Barber, Army Air Force; Les Barnhart, Army Air Force; Don Bennett, Army Air Force; Tom Bessonette, Army Air Force; Ralph Butterworth, Army Air Force; Nick Cassinelli, Army Air Force; Dick Ford, Army Air Force; Fred Forsythe, Army Air Force; Ed Miller, Army Air Force; Jim Murphy, Army Air Force; Sandy Porter, Army Air Force; Kenny Arnold, Navy; Betty Ashford, Navy; Don Bower, Navy; Gib Branstetter, Navy; Mike Brant, Navy; Frankie Carling, Navy; Paul Clayton, Navy; Dalton Fox, Navy; Bob Grills, Navy; Carroll Heckenlively, Navy; Cal Husbands, Navy; Royce Irby, Navy; Vern Kube, Navy; Harry Kuhlmann, Navy; Ken Larsen, Navy; Ernie McCabe, Navy; Donald McLaughlin, Navy; Lloyd McNary, Navy; Alice Tatone, Navy; Al Walters, Navy; Fred Warner, Navy; George Griffith, Marine Corps; Irv Kaplan, Marine Corps; Ted Carlson, USCG Merchant Marine.

These 48 heroes join more than 138,000 veterans from across the country who, since 2005, have journeyed from their home states to Washington, D.C. to reflect at the memorials built in honor of our nation's veterans.

Mr. Speaker, each of us is humbled by the courage of these brave Americans who put themselves in harm's way for our country and way of life. As a nation, we can never fully repay the debt of gratitude owed to them for their honor, commitment, and sacrifice in defense of the freedoms we have today.