

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION**

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**UNITED STATES OF AMERICA,**

Plaintiff,

v

**FREDERICK JAMES PAQUIN,**

Defendant.

File No: 2:10-cr-4

**Honorable R. Allan Edgar**  
Senior U.S. District Judge

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<p><b>DEFENDANT FREDERICK JAMES PAQUIN'S SENTENCING MEMORANDUM</b></p>
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Respectfully submitted,

Dated: 12/4/2010

/s/ Joseph P. Kwiatkowski

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## INTRODUCTION

The Defendant, Frederick James Paquin, presents himself for sentencing before this Honorable Court after accepting responsibility for the offense of Conspiracy to Defraud the U.S. by Dishonest Means, **18 U.S.C. § 371**, a 5 year felony. The essence of the conduct that the Defendant and his co-defendant, Office Manager, Hope Schlehuber, committed was the unlawful diversion of grant funds awarded to the Tribal Police Department. The Defendant's dishonest means primarily consisted of creating 'credits' with several vendors prior to the expiration of grants, thus, allowing the subsequent acquisition of goods outside the grant period as well as items not permitted by grants.<sup>1</sup> The Defendant also acknowledges his responsibility for allowing his daughter to be paid for hours she did not work.

While the conduct of Fred Paquin was wrong, the Court will discover that many people ultimately have and will for years benefit from his conduct, ironically just as if the defendant had followed the law. That is what makes this case somewhat unique from other 'financial or fraud' crimes. This is not a case where money was robbed from a bank, taken from an account or even money that ultimately went into the defendant's pocket or bank.

The Defendant is 53 years old, Native American, single [but best friends with his ex-wife] has two children and five grandchildren. Prior to his indictment Fred Paquin

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<sup>1</sup> It is acknowledged by the Government that the vast majority of the goods that were subsequently acquired outside the grant period were for items that would have been allowed under the grants. The Defendant submits that these items were grant approved, but outside the grant period and a clear violation of the grants.



was the Chief of the Tribal Police Department, on the Tribal Board and on the local Hospital Board. As a consequence of his actions Fred Paquin has lost a career in law enforcement, his position on the Tribal Board and resigned from the Hospital Board. Despite these events he has continued to work with his ex-wife in building a local business [bowling alley] and remained active in many community activities for youth, the elderly, homeless, animal shelter, cancer benefits and the poor.

All too often we see people who offend and lose virtually everything, including their freedom and then become a burden and reoffend. Fred Paquin, in the 11 months since his indictment and arrest, has demonstrated to the Court that he is truly remorseful. He has found alternative employment, he has continued to help others using his limited resources to raise money for disadvantaged children and adults as well as raise money for cancer victims and the local animal shelter. He has met with investigators and the U.S. Attorney's Office and cooperated with ongoing investigations.

'Justice' in this case cannot be reduced to a formula or a monetary scale in advisory guidelines. To blindly apply numbers in this case while ignoring the ultimate benefits that occurred together with the exemplary record of Fred Paquin would be unjust. That is why we pray that after weighing all of the considerations in this case the Court consider a sentence that includes probation and a short term of incarceration.

#### **PROFILE OF FRED PAQUIN**

Fred Paquin was born February 4, 1957, in St. Ignace, Michigan. His father, Frederick Earl Paquin worked for the Mackinac Bridge Authority until he retired in 1981. His father died 1 day after he retired. His mother Marianna worked as an aide for the



local schools. When Fred's mother became ill he took her into his home until her death in 2007. Fred has three siblings who all live in St. Ignace and they remain very close.

Fred attended St. Ignace schools and was an average student and was involved in football and other sports. He remembers that he wanted to be a police officer since he was a young boy as his grandfather was the Chief of Police for the City of St. Ignace. After high school he began his law enforcement career working as a reserve officer for the St. Ignace City Police Department.

On June 30, 1979, Fred married Wanda Peters and they had two children, Joseph Paquin<sup>2</sup> and Mary Cullen<sup>3</sup>. Although Fred and Wanda divorced in 1989, they remain close friends and work together in a local bowling alley that Wanda owns in St. Ignace.

Fred, following in his grandfather's footsteps has had [with the exception of this case] an exemplary law enforcement career. He graduated from the Kalamazoo Regional Police Academy in 1978. He was employed by the St. Ignace Police Department from 1977 until he retired as a Sergeant on December 6, 1997. His employment file is filled with commendations and letters of appreciation from community members and travelers passing through St. Ignace. He had no disciplinary issues. He was shot in the abdomen in 1980 on duty, he was struck on the head in

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<sup>2</sup> Joe Paquin is 30 years old, has 2 children and works for the Soo Tribe. He lives in St. Ignace.

<sup>3</sup> Mary is 28, a local school teacher who is married to a local police officer and together they have 3 children. Mary and her husband live in St. Ignace.



1984 by a suspect and he was hit by a fleeing criminal in a vehicle in 1984.

In 1997 until October 2008 Fred was employed by the Sault Tribe of Chippewa Indians as Chief of Police. The Defendant has held a number of civic positions in his community. He was involved on the Recreation Board for the City, on the Hospital Board for 8 years, on the Tribal Board [elected to three terms], he was appointed by Michigan Governor Jennifer Granholm to the Communications Board and he was on the Greek Town Casino Management Board. He was terminated by the Tribe as a result of this case. Since his discharge from the Tribe, Fred has worked 12-15 hours per day with his ex-wife Wanda building the local bowling alley and pub. As the Court will see he and Wanda have used the bowling alley to raise money for many worthy causes.

There have been several letters of support written by family, community leaders, colleagues and friends on Fred's behalf. These are a representation of the community support and admiration that a great many people have for Fred Paquin.

***Wanda Paquin, his ex-wife writes:*** ...after I graduated, I left the area and returned ... we seen each other in church and then at a hometown football game where he approached me and bought me a cup of coffee. From that time; marriage and two beautiful children and five granddaughters later I knew he was honest, sincere, dedicated and disciplined. His kindness to people and willingness to help others is his way of life. Fred never wanted to see anyone go without food or children without a present at Christmas. After we married Fred's dad died a few years later. He immediately stepped into looking after his mother ... Fred did the same for my mom even after our divorce.



**Wanda also makes this special note:** *We [her and Fred] started to do bowl-a-thons to help many organizations raise money...the need for toys in our community for children has grown due to the economy we do Christmas in July...last year Fred thought of doing a Christmas dinner for persons and family's in need. Fred got with DHS [Department of Human Services] and sent out invitations to family's as well as an ad in the paper for people that were alone. We got up early and went to prepare .. for the two hours we opened the doors there were 150 people that came and ate, some saying it was their only meal for the day. Presents were given to all the children...we were able to give every family a ham to take home along with the fixings.*

**Bruce Dodson, elected Mayor of St. Ignace for 22 years writes:** *Fred Paquin served as a leading member of the city Recreation Department Committee and was very instrumental in the building and fund raising for the Little Bear Arena and Community Center, at a cost of over 3 million dollars. This state of the art facility continues to serve the community and youth..thanks to Fred. Fred was responsible for Children's Christmas programs in St. Ignace and Mackinac Island, and now the program has fallen to lack of funding, because much of the funding came out of Fred's pocket. Fred continues to serve... recently holding a memorial service for an indigent lady, donating all the food and a place for the service. He also holds fund raising for Breast Cancer, Battered Children and other causes too numerous to list.*

**Timothy Matelski, former St. Ignace Police Chief writes:** *During Mr. Paquin's tenure on the Tribal Board, St. Ignace obtained a new fire truck, an ambulance, and plows for snow removal as the City was unable to fund such purchases on its own.*



Moreover, the land for the new Mackinac Straits Hospital was donated by the Tribe with Mr. Paquin on the Board. A juvenile detention center was built in the City which has provided employment for numerous young people. Mr. Paquin also started a Law Enforcement Youth Camp by obtaining a lease from the U.S. Forest Department and with volunteers two bunk houses were built. Mr. Paquin is also responsible for the annual Tribal Christmas party, often the only presents area youth receive on that holiday.

**Peter and Carol Beukema [business owners] write:** Fred's care, guidance and mentoring of children is evident and a prime example is securing from the U.S. Forest Service Boentena Bay Camp. He spent his own time and money to improve the camp. For 8 years tribal children went to summer camp for free ... the children had a wonderful experience ... his relentless pursuits of building a better community are widely recognized ... Little Bear Arena, Juvenile Detention Center, Kewadin Casino Hotel and Conference Center and most recently Mackinac Straits Health Facility.

**Stella Obeshaw [friend] writes:** Fred has personally delivered meals to our elderly persons who could not afford to pay for 'meals on wheels'. Fred donates his time, energy and business to aid our homeless animal shelter, he donates the food and gifts ... the shelter would have had to close without Fred's support. Fred has used his restaurant to raise money to help support Woman's Breast Cancer. Fred has bought Christmas presents for the Native-American children who come from poor families.

**Mrs. Sharon Wyers [community member] writes:** In 1987 my daughter suffered a seizure at her home in St. Ignace ... I called 911 ... the first to arrive was



*Officer Fred Paquin ... he was very helpful in calming me down and then turned his attention to my daughter. My daughter was transferred to our local hospital ... he stopped at the hospital ... he sat with us for a while on his own personal time. She was later transferred to a hospital in Petoskey ... Mr. Paquin came by our home at night approximately every other day to check on our daughter. Mr. Paquin truly saved two people that day, my daughter and myself.*

**Ms. Lesley Joann Bagbey [community member] writes:** *I remember a young family who were dealing with a young son dying. Fred gave so much of himself to support this family not only emotionally but financially. It was amazing. Every Christmas Holiday you will see Fred in the stores with baskets and baskets of toys to be given to the less fortunate kids of Mackinac County. I believe every community should have a 'Fred' he gives of himself not only to the youth but also to the elderly of this community. We are extremely fortunate to have him. I know of no one else that gives so much of themselves and asks nothing in return.*

**Cindy M. Rolston [community member] writes:** *... there really is a Saint in St. Ignace, for example on more than one occasion Harold and I had our Grandchildren living with us and we were going through some hard times at Christmas time. Mr. Paquin took it upon himself to go out and buy Christmas presents for our grandchildren whereas if he had not done so they would have had nothing under the tree whatsoever.*

**Les Therrian, Department of Public Works Director, St. Ignace writes:** *I have seen Mr. Paquin help the City receive money from Sault Tribe for snow plows and street paving, building a fitness room off the Little Bear Community Center. The biggest*



*and most important project ... is the water and sewer improvements for the housing and casino properties brought along by Mr. Paquin. These improvements saved the Sault Tribe a considerable amount of money ... Mr. Paquin also ran Christmas programs for City and Tribal children ...*

**Rodney M. Nelson, CEO, Mackinac Straits Health System writes:** *In 2007 the Sault Tribe ... donated 16 acres of land designated for the new Mackinac Straits Health System facility. That facility opened in April 2010 which consists of a 15 bed critical access hospital, a rural health clinic, Moses Dialysis Unity and the Sault Tribe Health Clinic. Mr. Paquin was instrumental during his time on the board facilitating a relationship with the Sault Tribe ... which is greatly benefiting our community.*

There are many more testimonies<sup>4</sup> demonstrating what an outstanding community leader and individual Fred Paquin has been and continues to be. Despite the stress of this case Fred has continued to provide of his time and talents to help from the young to the elderly, especially at this special time of the year – Christmas.

Fred Paquin is also an active member of his faith community and is a devout Catholic.

## **OFFENSE CONDUCT**

As Fred Paquin told the U.S. Probation Officer, Mr. Hechtman, 'the buck stops here'. He acknowledges that he was responsible for proper grant administration and



for those working for him. In addition he had a responsibility to use the grant funds as specifically required, in the time frame specified and for the items allowed. In this case he acknowledges he did not with respect to those items identified by the investigators.

To make it clear, while Fred may not have specific recollection of the amounts wrongfully diverted to 'credits' at the vendors as identified in paragraph 37 of the PSR<sup>5</sup>, he initiated and directed Ms. Schlehuder at the end of the grant period to spend the grants and thus create the 'credits' with the vendors. Fred Paquin acknowledges that he participated in creating the credits by: obtaining an invoice for items allowed in the grant, executing a disbursement voucher for the grant allowable items, paying the vendor and then either having the order canceled or not shipped, thus creating an unlawful credit.

This created 'credits' with the four vendors over several years totaling \$242,139.82.<sup>6</sup> When the investigation was initiated it was determined that there was a total of \$65,053.46<sup>7</sup> in credits remaining that were subsequently returned to the grant fiduciaries. The Government acknowledges that a significant portion of the balance of the 'credits' diverted [\$176,085.36] were ultimately used for legitimate or law enforcement purposes. Additionally, the 'credit' funds recovered by the investigators from vendors have also apparently been used pursuant to grant guidelines.

Fred Paquin also admits responsibility for the overpayment of items related to the

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<sup>4</sup> See attached letters organized as: Tab 1: Family and friends; Tab 2: Community Leaders .

<sup>5</sup> As Fred Paquin told Probation and investigators he was fully aware of the 'credits' but most of the time his Office Manager, Ms. Schlehuder, interacted with the vendors. While this was acknowledged by the investigators it does not diminish his responsibility.

<sup>6</sup> Please see the specific breakdown on page 14, paragraph 37 of the PSR.



police cars funded by the grants. Specifically, that there were 13 police cars lawfully purchased, however, the cost for markings and installation of equipment for each vehicle was approximately \$1,000.00 more per vehicle and \$3,000.00 was overpaid. This resulted in a credit of approximately \$2,000.00 per vehicle at the local Ford dealership. The majority of these 'credits' were then used for new tires or service on the police vehicles ,which was not permitted by the grant.

The Defendant also admits that he was directly involved in diversion of items authorized by the grants *to uses other than the exclusive use of the Tribal Police Department*. This included:

- AED's [automated external defibrillators] that were diverted from the police cars or department to the security booths of casinos,
- the purchase of uniform shirts and 18 radios for Casino Security Officers, and
- nine [9] .40 caliber handguns that were given to the Manistique Police Department.

By way of explanation, not legal justification, the AED's that were placed in the Casino Security Booths were placed in areas where the police or security officers [who were trained to use them] could benefit the most people. Particularly, when there were concerts with thousands of additional visitors to the Tribal Community.

Additionally, the Defendant provided the shirts to Casino Security Officers so that they would look more professional, appear to have greater authority and strengthen

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<sup>7</sup> Please see the specific breakdown on page 19, paragraph 59 of the PSR.



security at locations that had the most vulnerability. The 18 radios were also provided to Casino Security Officers so that they could communicate with the Tribal Police on their frequencies. As a result of the lessons learned from 9-11, where communication was woefully inadequate and cost lives, the Defendant wanted the Casino Security Officers to be able to communicate effectively with Tribal Police Officers. The Defendant acknowledges that while the grants provide that such items were allowable they were not for the exclusive use of the police department.

The nine handguns that were provided to the Manistique Police Department were pursuant to a mutual aid agreement. The Tribal Chairman actually approached Fred Paquin about providing the guns<sup>8</sup> and the Defendant believes that a legal opinion was sought from Tribal Legal Counsel. However, 'the buck stops here' and notwithstanding several people being involved in this unlawful use of grant items the Defendant, Fred Paquin acknowledges responsibility.

The Defendant, Paquin, also accepts responsibility for other relevant conduct that includes:

- the creation of a credit at Leitz Sports [created when an electronic device, allowable under the grant, was returned because it was defective] that was used to purchase an ATV that was raffled for Boedne Bay Junior Police Academy. Several members of the Tribe were aware of the 'swap' and subsequent use of Tribal fund to pay for the new electronics when it arrived,



- The payment of \$9,720 to the Straits Area Narcotic Enforcement Team, under the designation as training from grant funds.

The only disputed conduct involves an allegation that a treadmill was diverted to his daughter, Mary Cullen and that he applied a credit at Mackinac Sales to purchase a leased vehicle for a family member.

## THE APPLICATION OF THE FEDERAL SENTENCING GUIDELINES

**1. Base Offense Level.** The Defendant agrees that the offense being sentenced, 18 U.S.C. § 371 pursuant to U.S.S.G. § 2B1.1(a)(2) has a base level of six with a statutory maximum of five years.

**2. Loss Calculation.** The Defendant submits that the criteria for evaluating the appropriate loss in this case are addressed in the Commentary Application Notes to § 2B1.1, specifically 3(F) Special Rules, which provides:

“Notwithstanding subdivision (A). The following special rules shall be used to assist in determining loss in the cases indicated:

*(ii) Government Benefits. – In a case involving government benefits (e.g. grants, loans, entitlement program payments), loss shall be considered to be not less than the value of the benefits obtained by unintended recipients or diverted to unintended uses, as the case may be.*

The special rule section applies to our case involving government grants that were given to an intended recipient [Sault Tribe Law Enforcement]. This question then

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<sup>8</sup> The Manistique Police assisted Tribal Police and vice versa. The 9 handgun were provided and the Manistique department gave the Tribal Police Department training guns.



is what amount of said grant funds were **diverted to unintended uses**. While the PSR identifies the amount of grant funds that were sent to the vendors and then diverted to 'credits' the Government acknowledges that most of the 'credits' were eventually applied to legitimate grant allowed items – i.e. **intended uses**. Even the 'credits' discovered by investigators<sup>9</sup> were apparently applied to **intended uses**.

The Defendant submits that the only identifiable **unintended uses** that grant funds were diverted to as articulated in the PSR and/or investigation are as follows:

• overstated costs associated with STLE vehicles	\$26,000.00
• AEDs diverted to unintended users	20,722.83
• treadmill moved from STLE to private residence <sup>10</sup>	1,199.99
• estimated wages for Ms. Cullen	21,000.00
• Sig Arms to Manistique P.D.	6,950.00
• Motorola CT-250 radios	8,554.50
• Fictitious SANE training	9,720.00
• 2 Remington 12 gauge shotguns <sup>11</sup>	730.00
Total	<b>\$94,877.32</b>

Note: The AED's, Sig Arms, radios and shotguns are still either being used or available by STLE.

**3. Additional Loss Considerations.** The Government will argue that the loss includes the total of the grant allowed disbursement vouchers that were then converted

<sup>9</sup> PSR, page 19, paragraph 59 identifies \$65,053.46 in funds returned to grant fiduciaries – the STLE.

<sup>10</sup> This item is being disputed by the Defendant.



to 'credits'<sup>12</sup> because (1) it impermissibly extended the grant period and (2) made it *possible* for the Defendant to use grant funds on items not allowed or **unintended items**. Even if this Honorable Court accepted this theory and does not apply Special Rule (F) it would result in an unfair and disproportionate result because:

- Disbursement Vouchers #150990, 151008, 151019, 151021 and 151026 [totaling \$50,475.70] from 8-31-07 to 9-27-07 were drafted by co-defendant Schlehuder and all signed by Victor Mattson while defendant Paquin was suspended,
- when the investigators discovered the unlawful vendor 'credits' only \$65,053.46 remained which meant that the balance of \$176,085.36 in 'credits' were used primarily for **intended uses**<sup>13</sup>,
- the balance of the 'credits' has been transferred back to the STLE and presumably used for grant intended uses,
- the grant allowed AED's that were diverted to Casino Security Booths are still the property of STLE and are still in those locations and we understand have been used to save lives!,
- the majority of the grant funds that were overpaid to Mackinac Sales were either used for parts or labor for police cars [tires, oil, etc] or returned to STLE,

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<sup>11</sup> This item is being disputed as it is believed to be the property of the STLE at the Kinross station.

<sup>12</sup> PSR, pages 14, paragraph 37, totaling \$242,139.82.

<sup>13</sup> The Government acknowledges that the majority of the credits were so used although there has been no forensic accounting of the same.



- even the 9 handguns given with a mutual aid agreement to Manistique PD, the CT-250 radios provided to Casino Security and 2 shotguns to Kinross PD that were grant approved were used for law enforcement related activities and can all be returned to STLE for intended uses.

**4. Alternative Loss Calculation.** Alternatively, the Guidelines regarding loss calculation provide that: *The court shall use the gain that resulted from the offense as an alternative measure of loss only if there is a loss but it reasonably cannot be determined.* **§2B1.1, Commentary, Applications Notes: 3(B).** Since the credits that were diverted to 'unintended grant uses' cannot be measured then examining the loss from the pecuniary gain to the defendant may be required. Applying the pecuniary gain analysis the only identifiable items that defendant Paquin received as a gain are:

- \$21,000 in overpayment to Ms. Cullen,
  - \$1,199.99 for a treadmill [disputed],
  - \$2,457.00 for lease vehicle for relative [disputed],
- Total \$24,656.99, which is an upward adjustment of 4.

**5. Downward Departure Consideration Regarding Loss.** **§2B1.1, Commentary, Applications Notes: 19(C)** provides: *There may be cases in which the offense level determined under this guideline substantially overstates the seriousness of the offense. In such cases, a downward departure may be warranted.*

Because of the unique loss issues, the uncertainty of determining an actual pecuniary loss amount and impact on sentencing the alternative method [gain] or a downward departure are meritorious arguments. Depending on the method and/or the



application of the rules the adjustment could be as much as 4 or as much as 12, a difference of 8 levels on a 5 year economic crime for a defendant with no prior record. This would dramatically change the advisory guidelines from probation to prison when most of the grant money was ultimately used for public good.

**6. Governmental Agency Adjustment.** The Probation Department has also assessed two points in the offense pursuant to § 2B1.1(b)(8) because: "he was acting on behalf of a political organization or governmental agency" A Federally Recognized Indian Tribe is neither a political 'organization' or a federal agency as defined in § 2B1.1(b)(8), thus this provision is also not applicable.

**7. Additional Adjustments.**

**(a) Role in the Offense.** Probation has suggested adjustments for both § 3B1.1(c) – manager or supervisor and § 3B1.3 – abuse position of trust or use of special skill. The Defendant submits that one, but not both of these adjustments is warranted.

**(b) Acceptance of Responsibility.** Pursuant to § 3E1.1(a) based on Mr. Paquin's demonstration of responsibility and timely plea the Offense Level is adjusted downward two levels with an additional one level reduction pursuant to § 3E1.1(b) if the Court determines the level is 16 or greater.

**(c) Substantial Assistance to Authorities. §5K1.1.** The Defendant has met with and provide the government with information and continues to make himself available for that purpose. The defendant is respectfully asking the government to continue to assess the value of said assistance and make the appropriate motion for a



downward departure based on the same.

**(d) Guidelines Calculation.** The Defendant has no prior convictions.

Therefore, his criminal history category is I. The Defendant submits the appropriate guideline score is:

- Base Level 6
- Loss
  - (a) Special Rule(f) unintended use of grant funds (\$54,700) +6
  - (b) Gain Rule (\$24,656.99) +4 12 or 10
- Adjustments:
  - (a) Role in the offense (assuming both are scored) +4
  - (b) Acceptance of responsibility -2 or -3



Final Offense Level

- (a) Special Loss Rule (f) 13  
(16-3 for accepting responsibility)
- (b) Gain Rule 12  
(14-2 for accepting responsibility)

**CONCLUSION**

Your Honor, since he was a little boy, Fred Paquin, dreamed of following in his grandfather's footsteps and becoming a police officer. Since high school he pursued that dream and not only became a patrolman, but a sergeant and ultimately chief of police for the Tribe. Even as this case was indicted he was the leading candidate to be the Chief of Police for St. Ignace P.D., just as his grandfather did. But now, because of his criminal conduct, he has lost his career, his dream and his reputation.

However, he rescued his daughter, Mary, because his plea agreement provided that if he plead guilty his daughter would receive a pre-trial diversion. Thus, his daughter, a well respected school teacher, and mother of three children was spared felony charges and he took responsibility. Fred Paquin is grateful to the government!

Ironically, his criminal behavior largely consists of acts [unlawful grant action] that ultimately saved lives or helped other people. The vast majority of the unlawfully diverted grant funds [the vendor credits] were either used for grant intended purposes or returned to STLE for such purposes, i.e. to protect and serve the public. Even a majority of the grant funds that were wrongfully misappropriated or overpaid served an ultimate public benefit: i.e. parts and labor for police cars, AED's to save lives in areas



where there is a large gathering of people, guns to protect, radios to communicate effectively between agencies whose job it is to protect the public.

Not surprisingly, this has been the theme of Fred Paquin's life. The letters from community leaders, colleagues, the poor and helpless of his community, all who wrote to provide the court with the true decency of this man who cares far more for others than himself. What did he gain from this? A treadmill, \$2400 towards a lease car for someone else, overpayment of wages for his daughter? It is suggested that he gained power and political favor, nonsense! He was already the appointed Chief in a volatile Tribal Government, he was elected to the Board and none of the unlawfully diverted grant funds were necessary to hold these positions.

Fred Paquin did not spend hundreds of hours of his personal time and personal money [not derived from illegal grant activities] helping others, organizing Christmas for the poor and children, providing meals, providing benefits for Breast Cancer victims and animal shelters for himself. He didn't assist both his Tribal Community and St. Ignace in building the Little Bear Arena & Conference Center, the Straits Hospital, infrastructure that saved the Tribe hundreds of thousands of dollars – working and coordinating between these great communities [Indian and non-Indian] for himself. He did it for others so they could have a Merry Christmas, a warm meal, money to fight disease, money to help animals and a respectful burial.

We learned early in our legal training about the difference between crimes that are malum in se and malum prohibitum. I suggest that this is malum prohibitum and not an inherently 'evil' crime. Please understand that the rule of law is important and what



Fred Paquin did was wrong and violated grant guidelines. But Ogden Nash once wrote:

*"The law has gone from past tense to future tense because the law is so in love with itself it has forgotten common sense."*

When I was a prosecutor for 20 years I kept that saying inside my desk to remind me that there needs to be 'balance' in the justice system. That's why the scales of justice we so often see are equally balanced. Sending Fred Paquin to prison for his malum prohibitum criminal behavior would not be balance but unjust. Probation together with no greater than 12 months would be balance. The co-defendant received probation with 11 months of tether and that was fair. A lengthy prison term in this case would not. We respectfully pray a sentence that balances the extraordinary good that Fred Paquin has provided against the grant violations he committed.

Respectfully submitted,

Dated: 12/4/2010

/s/ Joseph P. Kwiatkowski

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CERTIFICATE OF SERVICE

The undersigned certifies that on December 8, 2010, he e-filed Sentencing Memorandum (w/attachments) and Certificate of Service on December 8, 2010 with the Clerk of the Court, Western District - Marquette for filing where the ECF will email copies upon Maarten Vermaat, US Attorney (Marquette), [Maarten.Vermaat@usdoj.gov](mailto:Maarten.Vermaat@usdoj.gov)

Dated: 12/8/2010

/s/ Joseph P. Kwiatkowski

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