

**UNITED STATES GENERAL SERVICES ADMINISTRATION**

\_\_\_\_\_  
)  
IN THE MATTER OF            )  
NHPA SECTION 106         )  
CONSULTATION             )  
RELATED TO                 )  
PAINTINGS IN ARIEL        )  
RIOS BUILDING              )  
\_\_\_\_\_)

**AFFIDAVIT OF ROBERT SMITH**

I, Robert Smith, under penalty of perjury, hereby state:

1. I am an enrolled member of the Oneida Nation of Wisconsin. I have been involved with efforts to remove the murals at issue since shortly after the Environmental Protection Agency (EPA) employees moved into the Ariel Rios building. I was a member of the American Indian Advisory Council (AIAC) at EPA and voiced one of the early objections to the exhibition of these murals at my workplace.

**Professional Experience**

2. I am currently employed by the EPA as a Program Analyst in the American Indian Environmental Office, Office of Water. I possess a BS degree in electronics from the University of California, Long Beach.

3. I have an extensive background in American Indian history and culture. My background in American Indian history includes my experience growing up on the Oneida reservation in Wisconsin. I worked for 10 years as the Director of the Oneida Nation Museum in Wisconsin and supervised the creation of the inaugural exhibits for the new museum. I supervised the training of tour guides and office staff in all phases of museum operations. I was a gubernatorial appointee to the State Historical Society where I served for four years on the Board of Curators that oversaw the management of six historical sites including the approval of their budgets. I was assigned to, and gave final approval of, the written text explaining the displayed exhibits at the Oneida Nation Museum. Additionally, after consulting with other American Indian museums in Wisconsin, I also gave final approval of the written text for the American Indian exhibits in the new Wisconsin State Museum.

4. In 1989, I was employed as a museum assistant at the National Museum of Natural History in Washington, D.C., where I was the curator of a temporary exhibit entitled "History of Iroquois Beadwork" that occupied six large cases in the North

American Indian Hall. I also worked with the museum docents and recruited American Indians for employment with the museum.

5. In 1995, I worked with the National Museum of the American Indian (NMAI) as a Special Assistant to the Director to oversee and coordinate the conceptual design of the new museum. The work involved coordination with the architect and the Mall Commission that oversees the construction of all facilities and buildings on the Mall. I also coordinated the repatriation of wampum and false face masks for the Iroquois in New York. Finally, I provided input into the master exhibit plan for NMAI's exhibits.

6. In 2002, I again worked at the National Museum of Natural History, where I was assigned the task of developing a catalogue of the museum's Iroquois collection. I surveyed all of the museum's American Indian collection, identifying those specimens that were Iroquois, and some specimens that were misidentified. I also researched and developed some tools that would assist researchers in their work such as, finding aids, classic motifs, styles, and types of construction that would aid in classifying specimens and objects.

7. In 2001, I was asked by the EPA Office of Civil Rights and AIAC to do an analysis and conduct research on the paintings that are the subject of this Section 106 consultation. In this capacity, I invited an academic anthropologist from the National Museum of Natural History to critique the paintings and provide some research advice. The anthropologist gave me direction on where to locate source material that might have been used by the artists as inspiration for the artwork.

8. Subsequently, I was asked by my Office Director to prepare a series of documents concerning the paintings that could be used to brief former Administrator Michael Leavitt on the paintings currently at issue. I was also asked to make a presentation to EPA's Tribal Operation Committee and draft an issue paper that was passed out to the membership regarding the offensiveness of these paintings. The Tribal Operation Committee is comprised of 19 tribal leaders or their environmental managers and members of EPA's senior leadership team. The Tribal Operation Committee ultimately objected to the display of these paintings in the workplace as they determined the paintings display negative stereotypes of American Indians.

### **Experience with Paintings in Ariel Rios Building**

9. I still remember my first reaction to the murals when I entered the Ariel Rios building. I was frustrated, disappointed and angered that American Indians were portrayed in such an offensive manner and that these paintings were part of my workplace. My feelings deepened as time passed and I learned more about the history of these paintings. I expressed my concerns to AIAC.

10. As a result of my concerns and similar concerns from other employees, AIAC sent several letters and memos to former EPA Administrators Carol Browner and

Christine Todd Whitman stating objections to the paintings and recommending that the offensive paintings be removed from public view because AIAC felt they were negative stereotypical images that created a hostile work environment for American Indian employees. See Exhibit A.

11. Many women have also found the paintings offensive, as they display women being sexually abused and in demeaning positions. These concerns were also forwarded to former Administrators of EPA.

12. Former EPA Administrator Carol Browner agreed with AIAC and many female EPA employees who complained, as she found the painting inappropriate for display in EPA's workplace. As a result of this determination, former Administrator Browner ordered the paintings covered and removed from public view in 2000. See Exhibit B. As a result of Administrator Browner's order, displays were put in front of some of the paintings to obscure them from view.

13. Shortly thereafter, the General Services Administration (GSA) removed the paintings for restoration. The paintings were then returned to their original display locations and uncovered during former Administrator Todd Whitman's term in office. Former Administrator Todd Whitman did not allow the paintings to be obscured from view.

14. Subsequent to the reinstallation of the paintings, I was invited to a meeting with EPA management and other American Indian employees at EPA Headquarters. During this meeting, we were informed that GSA had agreed to place a screen four feet from "Dangers of the Mail." Screens were not placed in front of the other paintings presently at issue. The stated intent of the screens was to hide "Dangers in the Mail" from view as people got off the elevator. Because AIAC had called for the removal or covering of all of the paintings at issue, the screen in front of "Dangers in the Mail" did not assuage AIAC's concerns.

15. Accordingly, in December 2003, AIAC drafted a series of questions relating to the paintings for both EPA and GSA to answer. Most of these questions were never answered by EPA. Also, although EPA management assured us that the questions were sent to GSA, GSA never answered our questions. Additionally, despite being assured by former Administrator Christine Todd Whitman that AIAC would be involved in the resolution of the murals issue, AIAC was not involved in any type of communication with GSA.

16. As a result, I sought legal advice and retained the Lawyers' Committee for Civil Rights under Law and Latham & Watkins LLP to represent myself and another EPA employee. Due to our efforts, in October 2004, the National Congress of American Indians, the oldest and largest American Indian advocacy organization, passed a resolution condemning the paintings at issue as offensive and calling for their removal. See Exhibit C.

### **Offensiveness of Paintings in Ariel Rios Building**

17. The violent images in the paintings at issue sicken me. The paintings not only promote deeply engrained racial stereotypes and depict interpretations that reek of prejudice and racism, but they are also historically inaccurate. I feel ashamed and embarrassed that this kind of hostile environment exists. The paintings deeply offend me, as I have to pass these demeaning and racist images each and every day.

18. The federal government has recognized its trust responsibility toward tribes; the President has issued Executive Orders to consult with tribes on a government-to-government basis; EPA has an Indian Policy in place, a National American Indian Advisory Council, and an American Indian Environmental Office. As a federal employee, I should not be exposed to such offensive depictions in the workplace.

20. Some art can be classified as historic art but these murals cannot be classified as such. Historic art can be used to educate and enhance our understanding of the subject matter. However, the paintings at issue depict racist stereotypes of American Indians. American Indians are portrayed as brutal half-naked savages, attacking innocent Caucasians. American Indian women are pictured half-naked with exaggerated breasts. When not shown in their savage state, American Indians are depicted as a beaten people giving up the land to the deserving Caucasians. These paintings show a discriminatory one-sided view of American Indians that only serves to perpetuate stereotypes of American Indians as an inferior and savage race.

21. It is my understanding that the National Historic Preservation Act was not intended to perpetuate and reinforce negative stereotypes of American Indians, maintain a hostile work environment and continue to humiliate and embarrass federal employees. Accordingly, the National Historic Preservation Act should not be used as a tool to perpetuate the display of these paintings in my workplace.

22. We are now entering the 21st Century where we have civil rights under the law, but some of us still cling to and are blinded and paralyzed by the kind of racial prejudice that is portrayed on EPA's walls. American Indians and also women of all heritages are working in a demeaning and hostile environment as we are forced to look at these paintings on a daily basis. This discrimination not only affects the Indian employee but his family and home life. I can't even take my daughter to "bring you daughter to work day" because I would be embarrassed to have to explain to my eight-year-old daughter the distorted and violent way our people are portrayed in these paintings.

23. Accordingly, I believe these paintings should be removed from my work place, by either covering the paintings or removing them from the building to a museum more suitable for their display.