

JA/AR

KEWEENAW BAY INDIAN COMMUNITY

Keweenaw Bay Tribal Center
16429 Beartown Road
Baraga, Michigan 49908
Phone (906) 353-6623
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2015 TRIBAL COUNCIL

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July 9, 2015

David Tarler, Training, Civil Enforcement, and Regulations
National NAGPRA Program
1201 Eye Street, NW
8th Floor (2253)
Washington, D.C. 20005

754871

Re: Andover Newton Theological School NAGPRA Non-Compliance

Dear Mr. Tarler,

It has come to the attention of the Keweenaw Bay Indian Community (KBIC) that the Board of the Andover Newton Theological School (ANTS), which is located in Newton Center, Massachusetts, which is a non-profit organization dedicated to training individuals to serve as Christian spiritual leaders, is attempting to sell their collection of Native American art and Associated Funerary Objects (AFOs).

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EXECUTIVE DIRECTOR

The ANTS collection includes 1,100 objects, including more than 125 works of Native American art representing 52 tribes in the U.S. and Canada, as well as, at least, 2 admitted AFOs. The collection was originally formed in the 19th century by the American Board of Commissioners for Foreign Missions. It was eventually transferred to ANTS and later to the Peabody Essex Museum for stewardship and preservation. The Trustees of ANTS recognized that their stewardship responsibilities for the ANTS collection of Native American art for more than a century by keeping the collection in public hands and assuring accessibility to the collection by generations of Native Americans, scholars, and the general public through the auspices and support of the Peabody Essex Museum.

Through the KBIC's Tribal Historic Preservation Office, we respectfully request that an investigation be undertaken, immediately, to forestall the sale of any object until a determination can be made if ANTS has fully complied with the Native American Graves Protection and Repatriation Act. ANTS receives and/or processes FAFSA funds.

Should the collection go into private hands, an important part of the artistic, cultural, and spiritual heritage of Native Americans will be lost. Not to mention the illegal sale of AFOs will have been

condoned. We are grateful that ANTS proclaimed its public commitments to assure sound and responsible stewardship of the materials and other resources under their control. However, the sale of Native American art is in direct contradiction with its avowed stewardship commitments and its pledge to support and respect the diverse people and cultures. Also, the sale of Associated Funerary Objects is a violation of NAGPRA under "104 STAT. 3052 PUBLIC LAW 101-601—NOV.16,1990 (Sec.4): 1170 ILLEGAL TRAFFICKING". Treating the Native American Collection as an asset and selling it for financial gain constitutes a fundamental disrespect and disregard for heritage, history, and spiritual traditions of Native Americans. It is perceivable that the proposed sale of the Native American Collection conveys the message that the only spiritual and cultural traditions the ANTS respect are its own spiritual and cultural traditions notwithstanding the claims they assert in their Mission Statement and Core Values to the contrary.

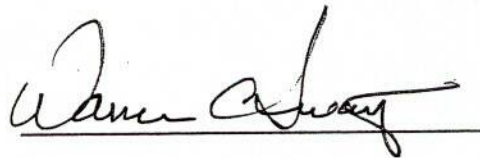
One would assume that ANTS would act accordingly with their stated values, separate but similar to NAGPRA, and reject the past philosophies of Native American spiritual beliefs. Unfortunately, by the ANTS Board of Trustees announcing their intention of making financial gains from sacred objects, which their predecessors have labeled as "sin", yet had no problem gathering for themselves and from which they now stand to profit. It is unfortunate, but not unexpected, that Native Americans must initiate political and legal action to stop the sale of the ANTS collection to protect our spiritual, cultural and traditional objects.

Please keep the Keweenaw Bay Indian Community advised on any action you intend to initiate in regards to the request that an investigation be initiated to determine if ANTS has complied with NAGPRA.

Sincerely,



Gary F. Loonsfoot, Jr.
KBIC Director of Cultural Resources
NAGPRA Designee



Warren C. Swartz, Jr.
KBIC President

cc: ANTS Board Members
Congressman Benishek
Senator Peters
Senator Stabenow
State Representative Dianda

Secretary of the Interior

Assistant Secretary – Indian Affairs

National Congress of the American Indians

Michigan Anishnaabek Cultural Preservation and Repatriation Alliance

Indian Country Today

AAR American Academy of Religion

World Parliament of Religions



SEALASKA HERITAGE

754601

RECEIVED

2015 JUL -2 AM 10: 25

OFFICE OF THE
EXECUTIVE SECRETARY

June 22, 2015

David Tarler, Training, Civil Enforcement, and Regulations
National NAGPRA Program
1201 Eye Street, NW
8th Floor (2253)
Washington, D.C. 20005

Re: Andover Newton Theological School NAGPRA Compliance Determination

Dear Mr. Tarler,

I have learned that the Board of the Andover Newton Theological School (ANTS), which is located in Newton Center, Massachusetts, and which is a non-profit organization dedicated to training individuals to serve as Christian spiritual leaders, is moving to sell all or part of its collection of Native American art.

The ANTS collection includes 1,100 objects, including more than 125 works of Native American art representing fifty-two tribes in the United States and Canada. The collection was originally formed in the 19th century by the American Board of Commissioners for Foreign Missions. It was subsequently transferred to ANTS and later to the Peabody Essex Museum for stewardship and preservation. The Trustees of ANTS recognized their stewardship responsibilities for the ANTS collection of Native American art for more than a century by keeping the collection in public hands and, for many decades, assuring it was accessible to Native people, scholars, and the public through the auspices and support of the Peabody Essex Museum.

I respectfully request that an investigation be undertaken immediately to forestall the sale of any object until a determination can be made if ANTS has fully complied with the Native American Graves Protection and Repatriation Act. ANTS receives and/or processes federal student aid funds.

Should the collection go into private hands, an important part of the artistic, cultural, and spiritual heritage of Native Americans will be lost. We are grateful that ANTS proclaimed its public commitments to assure sound and responsible stewardship of the materials and other resources under their control. However, the sale of Native American art is completely in contradiction with its avowed stewardship commitments and its pledge to support and respect diverse people and cultures. Treating the Native American Collection as an asset and selling it for financial gain constitutes a fundamental disrespect and disregard for the heritage, history, and spiritual traditions of Native Americans. I regret to say that the proposed sale of the Native American

collection conveys the message that the only spiritual and cultural traditions this organization appears to respect are its own spiritual and cultural traditions notwithstanding the claims they assert in their Mission Statement and Core Values to the contrary.

We would hope that ANTS would act on its own volition independent of NAGPRA and comply with its stated values to support people and cultures and to reject past philosophies and action to eradicate Native American spiritual beliefs. Ironically and unfathomable to myself, the ANTS Board of Trustees is seeking to make financial gains from our sacred objects that their predecessors labeled as our sins, but yet gathered for themselves and from which they now stand to profit. It will be unfortunate to tar their history and record if Native Americans must initiate political and legal action--whether it be an injunction or a national public campaign--to stop the sale of the ANTS collection to protect our spiritual and cultural objects.

Will you please advise me of any action you intend to initiate in regards to the request that an investigation be initiated to determine if ANTS has complied with NAGPRA.

Sincerely yours,



Rosita Worl, Ph.D., President
Sealaska Heritage Institute

cc: Board Members ANTS
Senator Murkowski
Senator Sullivan
Congressman Young
Secretary of the Interior
Assistant Secretary - Indian Affairs
National Congress of American Indians
Alaska Federation of Natives
Central Council of Tlingit & Haida Indians of Alaska
Indian Country Today
AAR American Academy of Religion
World Parliament of Religions





United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

SEP 29 2015

Martin B. Copenhaver
President
Andover Newton Theological School
210 Herrick Road
Newton Centre, MA 02459-2243

Dear President Copenhaver:

Pursuant to 25 U.S.C. 3007 and 43 C.F.R. 10.12 (e), this letter serves as notice to Andover Newton Theological School (Andover Newton) that an allegation concerning the failure of Andover Newton to comply with the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA) was filed with the Department of the Interior. I have determined that the alleged failure to comply has been substantiated. Additionally, the Department of the Interior wishes to advise you that the National NAGPRA Program is ready to assist Andover Newton in achieving NAGPRA compliance.

On June 26, 2015, Rosita Worl, President of the Sealaska Heritage Institute, alleged that:

1. Andover Newton has possession or control of a collection that may include Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony.
2. To date, Andover Newton has not completed a summary of this collection, which omission constitutes a failure to comply with the requirements of NAGPRA, as set forth at 43 C.F.R. 10.12 (b)(1)(ii).

The investigation found that:

1. Andover Newton Theological School (Andover Newton) is a postsecondary institution of higher learning.
2. The U.S. Department of Education (ED), a Federal agency, as the term "Federal agency" is defined in the regulations implementing the Native American Graves Protection and Repatriation Act (NAGPRA; 43 C.F.R. 10.2 (a)(1)), has confirmed that:
 - Andover Newton is a participant in Federal Student Aid programs of ED;
 - As a participant in Federal Student Aid programs of ED, Andover Newton is an entity to whom scholarships, loans, grants, wages, or other funds are extended by ED under Title IV of the Higher Education Act of 1965 (Pub. L. 89-329, 79 Stat. 1219, 20 U.S.C. 1001 et seq.), as amended (Title IV), for payment to or on behalf of

- students admitted to Andover Newton, or extended directly to such students for payment to Andover Newton; and
- Andover Newton is documented as having continuously participated in Federal Student Aid programs of ED since the Department began keeping records on Title IV Federal Student Aid Program participation, in academic year 1996-97.
3. As Andover Newton is an entity to whom scholarships, loans, grants, wages, or other funds are extended by ED under Title IV, Andover Newton is a recipient of Federal financial assistance in the form of funds.
 4. Andover Newton has had control of an object in the custody of the Peabody Essex Museum, in Salem Massachusetts, identified as E53450 or “Fishhook, early- to mid-19th century,” continuously from November 16, 1990 to the present.
 5. On July 22, 2015, David Katzeek, whose Tlingit name is Kingeisti, subscribed, swore to, and acknowledged before Sandra S. Jack, Notary Public, State of Alaska, the following:
 - He is a member of the Central Council of Tlingit & Haida Indian Tribes, which is a native entity within the State of Alaska recognized and eligible to receive services from the United States Bureau of Indian Affairs;
 - He is a traditional religious leader, as the term “traditional religious leader” is defined in the regulations implementing NAGPRA (43 C.F.R. 10.2 (d)(3));
 - The item identified as E53450 or “Fishhook, early- to mid-19th century” is known as *Gooch Kuyéik Náxw*, or Halibut Hook with Wolf Spirit;
 - The *Gooch Kuyéik Náxw* is used in a religious ceremony performed during halibut fishing;
 - The *Gooch Kuyéik Náxw* is needed by traditional religious leaders from the Kaagwaantaan (Wolf) Clan of the Central Council of Tlingit & Haida Indian Tribes for traditional religious practices related to halibut fishing;
 - The *Gooch Kuyéik Náxw* is carved in the form of a wolf, which is the crest of the Kaagwaantaan (Wolf) Clan and is a wolf “spirit”; and
 - Clan crests and spirit designs are *at.óow*, which are highly valued clan possessions that cannot be alienated by an individual.
 6. To date, Andover Newton has not completed a summary of its collection that contains the *Gooch Kuyéik Náxw*, or Halibut Hook with Wolf Spirit (E53450 or “Fishhook, early- to mid-19th century”), and has not provided a summary to any Indian tribe or Native Hawaiian organization that is, or is likely to be, culturally affiliated with items in the collection.

Based on the above findings, I have made the following determination with respect to the alleged failure to comply:

1504 ANDOVER NEWTON THEOLOGICAL SCHOOL. As a recipient of Federal financial assistance through the Federal Student Aid program, Andover Newton is an institution that receives Federal funds under NAGPRA, as the term "receives Federal funds" is defined in the regulations implementing the Act (43 C.F.R. 10.2 (a)(3)(iii)). Since November 16, 1990, Andover Newton has had control of at least one NAGPRA cultural item, the *Gooch Kuyéik Náxw*, which is an object that is both a sacred object and an object of cultural patrimony, as the terms “sacred objects” and “cultural patrimony” are defined under

the Act (25 U.S.C. 3001 (3)(C) & (D), respectively). Consequently, Andover Newton is a "museum" under NAGPRA and its implementing regulations (25 U.S.C. 3001 (8) and 43 C.F.R. 10.2 (a)(3)). Assuming that Andover Newton first received Federal funds in the 1996-97 academic year, Andover Newton would have been required to complete a summary of its collection and provide it to any Indian tribe or Native Hawaiian organization that is, or is likely to be, culturally affiliated with items in the collection no later than April 20, 2010 (43 C.F.R. 10.13 (d)(1)). The failure of Andover Newton to complete a summary of its collection constitutes a failure to comply with the requirements of NAGPRA, as set forth at 43 C.F.R. 10.12 (b)(1)(ii).

Pursuant to 43 C.F.R. 10.12 (f), upon receipt of this notice of failure to comply, you may:

1. Within 45 days of the date of service, seek informal discussion with the Secretary of the Interior's designee by contacting NAGPRA Enforcement Coordinator David Tarler (david_tarler@nps.gov); and/or
2. Within 45 days of the date of service, request a hearing to contest this finding; or
3. Take no action and await my notice of assessment.

Procedures for requesting a hearing are set forth at 43 C.F.R. 10.12 (j). The current address for filing a hearing request is **Departmental Cases Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 351 South West Temple, Suite 6.300, Salt Lake City, UT 84101**. The current address for serving a copy of the hearing request on the Solicitor of the Department of the Interior is **U.S. Department of the Interior, Office of the Solicitor, 1849 C Street NW, Mail Stop 6415, Attn: DPW, Washington, DC 20240-0001**. Failure to file a written request for a hearing within 45 days of the date of service waives your right to a hearing. After 45 days from the date of service, and if no hearing is requested, I am authorized under 43 C.F.R. 10.12 (h) to assess a civil penalty against Andover Newton Theological School for failure to comply with the requirements of NAGPRA. Andover Newton Theological School has the right to seek judicial review of any final administrative decision assessing a civil penalty.

More information on NAGPRA, as well as the civil penalty hearing and appeal process, can be found in the enclosed copies of 25 U.S.C. 3001-3013 and 43 C.F.R. Part 10. If you have any questions, or would like to initiate an informal discussion of this matter, you may contact NAGPRA Enforcement Coordinator David Tarler. Alternatively, if you take no action, you may hear from this office in approximately eight weeks. If you seek technical assistance on NAGPRA compliance, you may contact the National NAGPRA Program, at nagpra_info@nps.gov.

Sincerely,



Michael Bean
Principal Deputy Assistant Secretary for Fish
and Wildlife and Parks