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## Feds Sue 2 of Chumash Tribe's Accountants Over Alleged Tax Scam

**The pair are accused of running a fraudulent tax avoidance scheme. Tribal officials did not endorse the program.**

By Glenn F. Bunting  
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Federal prosecutors are suing two accountants for allegedly running a fraudulent scheme that has enabled nearly three dozen Chumash Indians in Santa Barbara County to claim bogus tax deductions on millions of dollars in casino gambling profits.

The accountants — Kenneth Sorenson of Buellton and Stephen Drake of Arizona — received more than \$2 million in fees from members of the Santa Ynez Band of Chumash Indians who participated in the alleged scam, according to a lawsuit filed Wednesday in U.S. District Court in Los Angeles.

"We do not believe there is any truth to the allegations being made by the government," Drake said in an e-mail. He and Sorenson declined to be interviewed.

The Chumash Casino Resort in Santa Ynez is one of the most profitable gambling operations in the state. Court documents in the case show that each of the 152 enrolled members of the Chumash tribe was paid \$428,969 in casino profits last year, a 26% increase over the \$340,704 they received in 2004.

In California, Native American tribal members who live on a reservation are exempt from state income taxes and some sales and property taxes. But they are required to pay federal income taxes.

The complaint, filed by the U.S. Department of Justice, said that 32 Chumash Indians saved millions of dollars in tax obligations by claiming deductions for "sham" management fees.

The lawsuit seeks a permanent order to halt Drake and Sorenson from continuing to execute their tax plan. Since 2001, the Justice Department has obtained injunctions against more than 195 tax preparers.

A Justice Department official declined to say whether federal prosecutors are considering criminal charges in the Chumash case. "We're not going to be commenting on this," spokesman Charles Miller said. "Obviously, this is an ongoing effort."

The accountants are officers of Benecorp LLC, a company devoted exclusively to providing financial counseling to Native American tribes and members.

The complicated tax plan, which they called CapNet 7, had been the subject of contentious debate among Chumash members since the accountants began promoting it to the tribe in July 2003.

At a monthly general council meeting April 13, 2004, experts retained by the Chumash warned members that the program "is being administered in a way that is not authorized under current IRS laws," according to internal tribal records.

The Justice Department complaint states that the federal Indian Gaming Regulatory Act prohibits Native Americans from enrolling in a tax plan unless it is approved and implemented by their tribal government.

Chairman Vincent Armenta said the tribe refused to adopt the plan.

"Our attorneys did not believe it was a program that should be tribally sponsored, and we discouraged our membership from getting involved," Armenta said in a statement. He noted that the tribe could not prevent individual members from participating.

Armenta said the Chumash band had fully cooperated with the IRS and paid \$4 million in taxes that Benecorp had not properly withheld from tribal members' casino income.

Many of the 32 participants now face the prospect of having to pay the government delinquent taxes, interest and penalties.

Several Chumash members were actively involved in promoting the tax avoidance plan at trade shows and to other tribes. It is not known how many members of other California tribes participated in the plan.

Drake, the founder and president of Benecorp, promoted his tax-reduction plan in articles written for Indian Gaming magazine and at trade shows in Las Vegas and Palm Springs. He is listed as a "silver member" of the California Nations Indian Gaming Assn.

Sorenson, Benecorp's vice president, had served as an accountant for the Chumash tribe since 1997. He was the tribe's certified public accountant until two years ago and continued to process monthly per-capita income checks and prepare taxes for individual Chumash members.

On Thursday, the Chumash tribe severed all ties with Sorenson.

Benecorp's "Tribal Per Capita Maximization Plan" is touted on its website as "a legal and highly beneficial" deferred income program that allows tribal members to increase their current income by 10% to 15% and provide \$500,000 to \$10 million in family benefits without paying any out-of-pocket expenses.

Chumash Indians who participated in the program "couldn't be happier, for obvious reasons," Drake said in an interview in 2004. He added that the reaction by many Chumash members who learned about the program was, "It's too good to be true."

Unfortunately for the tribal members, that may turn out to be the case.

The Justice Department lawsuit states that the Benecorp scheme used "sham entities and sham transactions" to create a circular flow of funds.

According to the complaint, the scheme allegedly worked as follows:

The accountants formed an individual limited liability company, or LLC, for each tribal participant. The Chumash members then assigned their distribution of monthly casino profits from the tribe's general account to the LLC bank accounts, which were set up by Sorenson.

As the tribe's accountant, Sorenson properly withheld federal income tax for the casino distributions to most Chumash members. But he stopped withholding most of the federal taxes required for Chumash members who participated in the scheme.

The full amount of the monthly deposit — \$29,744 in late 2004 — was then transferred to Benecorp with part of it "disguised" as a consulting fee.

The LLCs also entered into an agreement with an entity known as "Native American Members Services" or NAMS, which purported to lend money to the LLCs. The line of credit was secured by a life insurance policy for the tribal member, who named NAMS or Benecorp as the beneficiary. NAMS is managed and controlled by Drake and uses the same business address as Benecorp.

In reality, the loans were simply transfers of the tribal members' monthly casino income back to themselves, prosecutors allege.

In 2004, the participating tribal members' LLCs transferred \$9.4 million in casino profits to Benecorp's bank account. Of that amount, Drake and Sorenson retained \$2.26 million in fees.