

**In the United States Court of Federal Claims**

\*\*\*\*\*  
 \*  
 JESSIE SHORT, ET AL., \*  
 \*  
 Plaintiffs, \*  
 v. \*  
 \*  
 THE UNITED STATES, \*  
 \*  
 Defendant, \*  
 and \*  
 \*  
 HOOPA VALLEY TRIBE, \*  
 \*  
 Defendant-Intervenor. \*  
 \*  
 \*\*\*\*\*

No. 102-63C  
 (Filed: June 19, 2012)

**ORDER**

The Court has considered plaintiffs’ motion to approve the Jessie Short Educational Foundation, an irrevocable trust, to receive any remaining monies in the Jessie Short Judgment Trust following termination of the United States Court of Federal Claims’ supervision and any responses thereto.

**GOOD CAUSE APPEARING THEREFORE, IT IS HEREBY ORDERED:**

Plaintiffs’ request is granted; the Jessie Short Educational Foundation, an irrevocable trust is approved to be administered by the Yurok Tribal Court Chief Judge, to receive the remaining funds in the Jessie Short Judgment Trust upon resolution of this case.

s/Lawrence S. Margolis  
 LAWRENCE S. MARGOLIS  
 Senior Judge, U.S. Court of Federal Claims

# EXHIBIT A

JESSIE SHORT EDUCATIONAL FOUNDATION, AN IRREVOCABLE  
TRUST

This agreement is made between the YUOK TRIBE and MORGAN STANLEY TRUST, N.A. (“Trustee”).

ARTICLE ONE  
CREATION OF TRUST

- A. The Trust shall consist of such funds as may be transferred by the United States Court of Federal Claims or the Yurok Tribal Court.
- B. All property subject to this Trust from time to time is referred to as the Trust Estate and shall be held, administered and distributed according to this instrument.
- C. Name of Trust: This Trust may be referred to as the JESSIE SHORT EDUCATIONAL FOUNDATION, AN IRREVOCABLE TRUST.
- D. Additions to Trust: Other property acceptable to the Trustee may be added to this Trust by any person or entity.
- E. Irrevocability of Trust: This Trust is irrevocable, and the Settlor has no powers of amendment.

END OF ARTICLE

ARTICLE TWO  
DISTRIBUTIONS

A. Beneficiary Class: The Beneficiary Class of this Trust, hereafter referred to as the “Class Members,” are Plaintiffs, or the lineal descendants of Plaintiffs, entitled to award under the judgments in the following cases: Jesse Short et al. v. United States, (Cl. Ct. No. 102-63); Charlene Ackley v. United States, (Cl. Ct. No. 460-78); Bret Aanstadt v. United States, (Cl. Ct. No. 146-85L); and Norman Giffen v. United States, (Cl. Ct. No. 746-85L.) The burden shall be on the individual claiming Class Member status to prove their decendency from a Plaintiff in the above cases.

END OF ARTICLE

ARTICLE THREE  
TRUSTEE POWERS

A. The Trustee is specifically authorized to retain, indefinitely, any investments and to invest and reinvest in any and all stocks, bonds, mutual funds, notes, securities and/or other property constituting the Trust fund, all of which may be done at the discretion of Trustee.

B. The Trustee is specifically authorized to engage financial or investment professionals to provide custodial or brokerage services, investment advice and/or manage the investment of all or a portion of the Trust fund, including affiliates of the Trustee. If the Trustee hires affiliated professionals, it is specifically acknowledged that the Trustee and its affiliates may receive compensation for these services and the receipt of such compensation by the Trustee and its affiliates in addition to trustee fees is specifically authorized. If the Trustee retains and exercises investment discretion with respect to all or a portion of the account, the Trustee shall be entitled to a fee for such services in addition to trustee fees.

C. The Trustee is specifically authorized to invest assets of the Trust in mutual funds, exchange traded funds or separately managed accounts for which affiliates of the Trustee may act as investment advisor, manager, administrator, transfer agent, principal underwriter and/or distributor and/or for which the Trustee and/or its affiliates may provide services. It is specifically acknowledged that the Trustee and its affiliates may receive compensation for these services and the receipt of such compensation by the Trustee and its affiliates in addition to trustee fees is specifically authorized. However, the Trust's account will be reimbursed any 12b-1 or other distribution fees otherwise payable to affiliates of the Trustee with respect to such investments.

D. The Trustee is specifically authorized to invest all free credit balances, including cash balances, in sweep investments of its choice, including in any bank deposit program or money market fund established or serviced by an affiliate of the Trustee. It is specifically acknowledged that Trustee's affiliates may be paid fees for providing services to such sweep investment vehicles, and such fees will be in addition to trustee fees.

E. The Trustee is specifically authorized to execute securities transactions without providing written contemporaneous confirmation thereof to any beneficiary and to execute securities transactions through any broker/dealer, including an affiliate of the Trustee. Confirmation of such transactions may be provided in the periodic statement for the Trust account.

F. The Trustee is specifically authorized to vote directly or by proxy at any election or stockholders' meeting, any shares of stock held hereunder including shares of any mutual fund for which the Trustee, or any of its affiliates, is advisor or otherwise provides services for compensation.

G. The Trustee is specifically authorized to hold any or all securities or property in Trustee's name, or as Trustee, or in the name of a nominee or nominee of an affiliate of the Trustee, and in

accounts or deposits administered in any location by Trustee or any affiliate of Trustee. In the event the same are held in its own name or in the name of its nominee or nominees, suitable designation is to be made upon the books and records of Trustee that such securities or property are so held as part of any trusts hereunder.

H. The Trustee is specifically authorized to divide or distribute principal in kind or in money, or partly in each, or by way of undivided interests, pro rata or non-pro rata, in such manner as the Trustee shall deem advisable.

END OF ARTICLE

ARTICLE FOUR  
TRUSTEE COMPENSATION

The Trustee shall be entitled to receive, out of the income and principal of the Trust fund, compensation for its services hereunder, to be determined from time to time by agreement in writing or by application of the schedule of fees as published by the Trustee and in effect at the time such fees are charged for trusts of a similar size and character, and in the event that the Trustee shall be called upon to render any extraordinary services, it shall be entitled to additional compensation therefore.

END OF ARTICLE

ARTICLE FIVE  
RESIGNATION, REMOVAL, SUCCESSORS AND SPECIAL TRUSTEES

A. The Trustee may resign as Trustee by written instrument delivered to the Grantor, any co-trustee or any current beneficiary of the Trust, or to any natural or legal guardian of any beneficiary of the Trust. Such resignation shall be effective upon delivery unless otherwise specified. The Trustee may be removed as Trustee by the Grantor's written direction or, if the Grantor is not then living, by the unanimous written direction of the Qualified Beneficiaries. The Qualified Beneficiaries include any living adult beneficiary of the Trust who, on the date the qualification is determined, (a) is a distributee or permissible distributee of the income or principal of the Trust, (b) would be a distributee or permissible distributee of the income or principal of the Trust if the interests of the persons described in (a) above terminated on such date without causing the Trust to terminate; or (c) would be a distributee or permissible distributee of the income or principal of the Trust if the Trust terminated in accordance with its terms on such date.

Any successor trustee may be appointed by the Grantor's written direction or, if the Grantor is not then living, by the unanimous written direction of the Qualified Beneficiaries. In case of any vacancy in the office of Trustee because of the refusal, failure or inability of the Grantor or any Qualified Beneficiary to appoint a successor trustee, such appointment shall be made by any court having jurisdiction and any expenses for petition thereof shall be paid as expenses of the Trust directly from the Trust fund. A successor trustee may be any individual or corporate

trustee residing in any state. No successor trustee shall be liable for the acts, omissions or defaults of any prior trustee nor shall have responsibility to examine the actions or determine the omissions to act of any prior trustee, and each successor trustee shall have responsibility only with respect to property delivered to such successor trustee by the predecessor trustee.

B. In the event the Trustee is unwilling or unable to act with respect to any Trust property, the Trustee shall have the power to designate in writing an individual or entity to act as a Special Trustee with respect to any specified Trust property. The Special Trustee shall administer any such specified property, and any income there from, pursuant to direction by the delegating Trustee. The Special Trustee shall have all the Trustee powers with respect to the specified property provided for by this Agreement unless otherwise limited in writing by the delegating Trustee. Any Special Trustee may resign at any time written instrument delivered to the delegating Trustee and the delegating Trustee may at any time remove the Special Trustee for any reason.

#### END OF ARTICLE

#### ARTICLE SIX TRUST SITUS AND ACCOUNTINGS

A. Immediately upon the effectiveness of the appointment of the Trustee, the situs of the Trust shall be the state where the Trustee is located.

B. The Trustee may transfer the situs to another state at any time as determined by the Trustee in the Trustee's sole discretion, and the Trustee shall not be required to give any bond or surety.

C. To the greatest extent possible, the Trustee shall not be required to file accountings with any court. To the greatest extent possible, the Trustee may provide periodic account statements to the beneficiaries and any other persons in lieu of accountings.

D. Prior to distributing the trust to the beneficiaries or to a successor trustee, the Trustee in its discretion may request that the beneficiaries provide releases for the Trustee's actions based on an informal accounting or the Trustee may seek judicial approval of its actions. If the Trustee chooses to seek judicial approval of its actions, the Trustee's expenses, including reasonable attorneys fees, associated with any related proceedings shall be paid for out of the Trust.

E. MSTNA shall not be obligated to examine the actions of any predecessor trustee, and is expressly relieved of any duty or responsibility to audit or review the actions or accounts of any predecessor trustee and is relieved from any liability of the acts or omissions, known or unknown, of any predecessor trustee. MSTNA shall not be liable, directly or indirectly, for the actions of a prior trustee and MSTNA is indemnified and held harmless from any claims, demands, losses, actions, damages and expenses which may have been sustained at any time because of any act or omission, known or unknown, that happened prior to when the trust property was received by MSTNA. MSTNA shall only be responsible for the property delivered to it, by the prior trustee or otherwise.

END OF ARTICLE

ARTICLE SEVEN  
DISTRIBUTIONS

A. The Yurok Tribal Council or their designee has the duty of determining specific distributions from the Trust, and of establishing the standards, guidelines, application process and qualifications for distribution from the Trust except that the Council shall not make awards based upon a Beneficiary Class Member's affiliation, or lack thereof, with any Federally Recognized Indian Tribe.

B The Trustee will make disbursements as specified by the Yurok Tribal Council (the Council) or its designee from time to time to individual Beneficiary Class Members for educational purposes pursuant to this Article.

B. The Council will review applications from Beneficiary Class Members for financial assistance in meeting the Members' higher educational goals and will award distributions based upon need, and prior educational performance.

END OF ARTICLE

ARTICLE EIGHT  
EXECUTION AND ACKNOWLEDGMENT

Signature Clause - Settlor: The Settlor certifies that the Settlor has read the foregoing Declaration of Trust and that it correctly states the terms and conditions under which the Trustee is to hold, manage and distribute the Trust estate. The Settlor approves the Declaration of Trust in all particulars and requests that the Trustee sign it. The Trustee accepts this appointment.

Executed at Klamath, California on \_\_\_\_\_, 2012

TRIBAL COUNCIL OF THE YUROK TRIBE, as SETTLOR

By: \_\_\_\_\_  
Thomas P. O'Rourke, Sr.  
Yurok Tribal Chairperson

MORGAN STANLEY TRUST, N.A., as TRUSTEE

By: \_\_\_\_\_  
Name:  
Title:

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

STATE OF CALIFORNIA

COUNTY OF DEL NORTE

On \_\_\_\_\_, 2012, before me, \_\_\_\_\_, notary public, personally appeared THOMAS P. O'ROURKE, SR., YUOK TRIBAL CHAIRPERSON, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, 2012, before me, \_\_\_\_\_, notary public, personally appeared (Morgan Stanley Trust representative), who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)