



Little River Band of Ottawa Indians

375 River Street
Manistee, MI 49660
(231) 723-8288

Moved to
Open Session
04/15/15

Resolution # 09-0218-45

Authorizing Hooper Hathaway, PC to Agree to Limit Amount of Recovery to Insurance Proceeds

WHEREAS, the status of the *Gaá Čhing Ziibi Daáwaa Anišhinádbek* (Little River Band of Ottawa Indians) as a sovereign and Treaty-making power is confirmed in numerous treaties, from agreements with the initial colonial powers on this land, to various treaties with the United States; and

WHEREAS, the Little River Band of Ottawa Indians (Tribe) is descended from, and is the political successor to, the Grand River Ottawa Bands, signatories of the 1836 Treaty of Washington (7 Stat. 491) with the United States, as reaffirmed by federal law in P.L. 103-324, enacted in 1994; and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership on May 27, 1998, which Constitution became effective upon its approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribe adopted amendments to the Constitution on April 26, 2004, which became effective upon approval by the Assistant Secretary-Indian Affairs on May 13, 2004; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(a) of the Constitution to provide for the public health, peace, morals, education and general welfare of the Little River Band and its members; and

WHEREAS, the Tribal Council is vested with the authority, under Article IV, Section 7(b) of the Constitution to ratify contracts on behalf of the Tribe; and

WHEREAS, the Tribe entered into a Pre-Federal Restoration Development Agreement with the Kern Valley Indian Community by Resolution #06-1220-858; and

WHEREAS, the Tribe previously entered into a contract with The Kitto Law Firm to provide legal services to the Tribe with respect to, in part, economic development programs, by Resolution #06-0426-298; and

WHEREAS Joseph Kitto of the Kitto Law Firm was simultaneously acting as General Counsel of the Kern Valley Indian Community and therefore had a conflict of interest, and acted in that capacity during the Little River Band's contemplation of and involvement in the Pre-Federal Restoration Development Agreement; and

WHEREAS, the Tribe authorized Hooper Hathaway, P.C. to file a lawsuit against Joseph Kitto and the Kitto Law Firm for legal malpractice and other claims on the Tribe's behalf, which lawsuit is now pending; and

WHEREAS, it has been confirmed that Joseph Kitto and the Kitto Law Firm did have limited malpractice insurance coverage during the period that he provided legal advice to the Tribe; and

WHEREAS, in light of Kitto's limited and ever diminishing insurance coverage, a second demand letter was sent to Mr. Kitto's counsel and insurance carrier demanding full payment of his insurance coverage limits, less any expenses incurred in accordance with the terms of the insurance policy; and

WHEREAS, Joseph Kitto has filed a Chapter 7 bankruptcy petition; and

WHEREAS, in order for the stay on the legal malpractice claim to be released so as to continue the circuit court litigation the bankruptcy trustee will likely require an agreement to limit the Tribe's recovery to the insurance proceeds; and

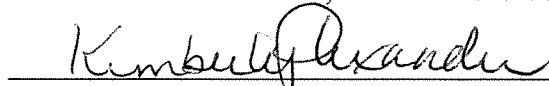
WHEREAS, attorneys from Hooper Hathaway have asked that Tribal Council authorize them to limit any recovery in or out-of-court settlement of the lawsuit to the insurance proceeds which remained at the time the demand was communicated.

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby authorizes Hooper Hathaway to stipulate to the bankruptcy court to limit any recovery in or out-of-court settlement of the lawsuit to the insurance proceeds which remained at the time the demand was communicated.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 6 FOR, 0 AGAINST, 0 ABSTAINING, and 3 ABSENT, at a Regular Closed Session of the Little River Band of Ottawa Indians Tribal Council held on February 18, 2009, at the Little River Band's Conference Room in Manistee, Michigan, with a quorum being present for such vote.


Loretta Beccaria, Council-Recorder


Kimberly Alexander, Council Speaker

Attest:

Distribution: Council Records
Tribal Ogema
Tribal Court