

**TURTLE MOUNTAIN TRIBAL COURT  
TURTLE MOUNTAIN JURISDICTION**

**BELCOURT, ND  
CIVIL DIVISION**

Turtle Mountain Tribe of )  
Chippewa Indians )  
Plaintiff in Fact )  
 )  
 )  
V. )  
 )  
 )  
 )  
AGAMENV LLC aka Dakota Gaming LLC, )  
Associated Investors Ray Brown, Steven )  
Haynes, 386 Decareo Court, Henderson )  
NV 89014 )  
Respondents )

Motion to Withdraw Complaint and  
Petition for a Preliminary Injunction and  
to Vacate TRO and Preliminary  
Injunction  
Case # 12-1045

Comes now the true and correct Plaintiff in the above referenced case number, and hereby moves to immediately withdraw the Complaint and Petition for a Preliminary Injunction, and to immediately vacate or otherwise dissolve the Ex Parte Temporary Restraining Order and Preliminary Injunction and Order for Show Cause Hearing (the "TRO"), dated May 10, 2012. Failure to immediately grant the Tribe's motion will result in great harm to the Tribe and the Tribe's membership.

The case was originally filed by a group of four individuals who claimed to be "acting in their capacity as Tribal Council Members" and cloaked in the authority and authorization of the Tribe. Only the Tribal Council itself, however, acting in accordance with the Turtle Mountain Band of Chippewa Indians Constitution may exercise the powers of the Tribal Council and regulate the business of the Band. *See Turtle Mountain Band of Chippewa Indians Constitution, Article IX, (a) §1 and 3 and (c) §11.* Four individuals, whether elected District Representatives or

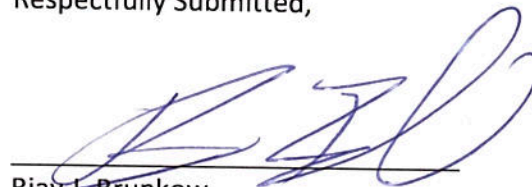
not, do not and cannot represent the Tribe without a resolution that is validly passed by a Quorum of the Tribal Council and then signed into law. "A Quorum shall consist of five (5) members and no business shall be conducted in the absence of a quorum." *Turtle Mountain Band of Chippewa Indians Constitution, Article VII, §2*. Without such a resolution the District Representatives cannot claim special powers solely due to their status as elected officials. Only the Tribal Council has the authority "To engage in any business that will further the economic well-being of the members of the tribe, or to undertake any programs or projects designed for the economic advancement of the people. . . ." *Turtle Mountain Band of Chippewa Indians Constitution, Article IX, (c) §11*.

The four original individual Plaintiffs lack standing, are not a party to the underlying contract and they surely lack the governmental authority required to act in their roles as duly elected tribal council district representatives. The Turtle Mountain Band of Chippewa Indians met on Saturday, May 12, 2012, a quorum was established as a roll call vote showed that all nine elected council representatives attended the meeting and reported their attendance during roll call. The agenda was officially adopted through roll call vote and a resolution was passed, again by roll call vote expressing the Tribe's official position on the Painted Pony Casino. *See Exhibit A (attached)*.

The Tribal Council, through official governmental action that only they possess, has expressed its resolve to continue the Painted Pony Casino project through a validly passed resolution, signed into law by the chairman. The Tribal Council further expressed its resolve to withdraw the instant action, and specifically disavow the actions of the individual members who initiated this action and requested injunctive relief without standing and without the authority of the Tribal Council. The Tribe respectfully requests that the court honor the Separation of Powers

form of government of the Tribe and grant this Motion to Withdraw the Complaint and Vacate the TRO.

Respectfully Submitted,



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RESOLUTION NUMBER **TMBC801-05-12** ELECTED AND CERTIFIED GOVERNING BODY  
OF THE TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS

WHEREAS, the Turtle Mountain Band of Chippewa Indians, hereinafter referred to as the Tribe, is an unincorporated Band acting under a revised Constitution and By-Laws approved by the Secretary of the Interior on June 16<sup>th</sup>, 1959 and amendments thereto approved; and

WHEREAS, Article IX (a) Section 1 of the Turtle Mountain Constitution and By-Laws empowers the Tribal Council with the authority to represent the Band and to negotiate with Federal, State, and Local Governments and with private persons; and

WHEREAS, the tribe passed a resolution, by a 5-0 vote, entering into a gaming development contract with Dakota Gaming for the purposes of constructing the Painted Pony Casino in the Trenton Indian Service Area; and

WHEREAS, four individuals, claiming to be acting on behalf of the government, filed for and received a preliminary injunction in an attempt to stop the Painted Pony Casino; now

THEREFORE BE IT RESOLVED that the Turtle Mountain Band of Chippewa Indians officially withdraws the "complaint and request for preliminary injunction" and disavows the actions of Loren Jay, Mike Malaterre, Cindy Malaterre and Elmer Davis, Jr. acting as individuals, in their attempt to stop the Painted Pony Casino project. The Turtle Mountain Band of Chippewa Indians' official and properly promulgated position is that construction shall continue and the Painted Pony Casino shall open for business on Friday, May 18<sup>th</sup>.

CERTIFICATION

I, the undersigned Tribal Secretary of the Turtle Mountain Band of Chippewa Indians, do hereby certify that the Tribal Council is composed of nine (9) members of whom **nine (9)** constituting a quorum were present at a meeting duly called, convened and held on the **12<sup>th</sup> day of May, 2012** that the foregoing resolution was adopted by an affirmative vote of **four (4) in favor** – Representatives Larry DeCoteau, Curtis L. Poitra, Jeff 'BJ' Delorme and Zelma Peltier; four (4) opposed – Representatives Cindy Malaterre, Lorne Jay, Elmer Davis, Jr., Mike Malaterre, with the Chairman voting in favor.

Alice H. Lunday 5/16/12  
Alice Lunday, Executive Administrative Officer/  
Acting Tribal Secretary for  
Jolean A. Morin, Tribal Secretary

☒ SIGNED INTO LAW/Dated this 16 day of May, 2012  
☐ VETOED/Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2012

Merle St. Claire  
Merle St. Claire, Chairman