

EXHIBIT A

SAULT TRIBE & KEWADIN'S COMPLAINT

PLAINTIFF'S COMPLAINT WITH EXHIBIT A

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

WILLIAM CROSS, JR.,

Plaintiff,

v.

Case No. 19-
Hon.

-CB

KEWADIN CASINOS GAMING AUTHORITY,
a political subdivision of the SAULT STE.
MARIE TRIBE OF CHIPPEWA INDIANS,
A/K/A SAULT STE. MARIE TRIBAL
GAMING AUTHORITY,

Defendant.

ANDREW J. BRODER P23051
PAYNE, BRODER & FOSSEE, P.C.
Counsel for Plaintiff
32100 Telegraph Road, Suite 200
Bingham Farms, MI 48025-2454
(248) 642-7733
abroder@ppbf.com

COMPLAINT

*This litigation should be assigned to the Business Court.
There are no other pending or resolved civil actions
arising out of the same transaction or occurrence as
alleged in this Complaint.*

/s/ Andrew J. Broder
Andrew J. Broder P23051

William Cross, Jr. ("Cross"), by and through his undersigned counsel, states the following as his Complaint against the Kewadin Casinos Gaming Authority ("Kewadin"), as follows:

1. Cross resides at 8023 Doyle Road, Laingsburg, MI 48848.
2. Kewadin, upon information and belief, is a political subdivision of the Sault Ste. Marie Tribe of Chippewa Indians, also known as the Sault Ste. Marie Tribal Gaming Authority.
3. The amount in controversy in this lawsuit exceeds \$25,000.00, exclusive of interest and costs, thus vesting this Court with jurisdiction.
4. Kewadin does business in Wayne County, and agreed with Cross that actions brought under the contract which is the subject of this lawsuit ought to be filed in this Court. See paragraph 11 of the Contract, which is formally identified below.

Background Facts

5. On or about January 27, 2009, Cross and Kewadin entered into a consulting agreement (the "Contract") under which, for a fee described in the Contract, Cross would serve as a consultant to Kewadin. A copy of the Contract is attached as Exhibit A to this Complaint.
6. The consulting services to be provided by Cross under the Contract are described in the Contract: among other things, Cross was to assist Kewadin to identify potential finance parties, to cultivate and maintain ongoing relationships with various investors, lenders, financial advisors, and other financial industry specialists, and to assist in the review of investment proposals and business plans. *Id.*
7. The Contract provides that Cross is to be compensated by Kewadin for the consulting services he renders based upon the "investment funding" received by Kewadin. Contract, paragraph 4 (a). The amount to be paid is equal to two (2%)

percent of the amount of the investment funding. Kewadin is to pay Cross from the proceeds of the investment funding. Contract, paragraph 5.

8. During the term of the Contract, Kewadin received investment funding of at least \$6,078,504.16.

9. Kewadin has failed to remit to Cross the compensation due to him under the Contract.

COUNT I (BREACH OF CONTRACT)

10. Cross incorporates paragraphs 1-9 of this Complaint

11. Kewadin's failure to remit its contractually-owed payments to Cross at the time of the investment funding constitutes a default under the Contract, entitling Cross to recover the compensation due to him, plus interest at the rate of 8% (from the date of closing of the investment funding). Contract, paragraph 4 (a). Cross is also entitled to recover his attorney fees and costs incurred to enforce the Contract in the event of Kewadin's breach. Contract, paragraph 9 (b).

COUNT II (REQUEST FOR DECLARATORY RELIEF)

12. Cross incorporates paragraphs 1-11 of this Complaint.

13. It is clear that there exists a real and substantial dispute between Cross and Kewadin as to Cross's rights and Kewadin's obligations under the existing Contract of the parties (which Contract remains in effect as neither party has terminated it in accordance with paragraph 7).

14. MCR 2.605 permits Cross to ask this Court for a declaratory ruling as to its and Kewadin's rights and obligation under the Contract. The same court rule (MCR 2.605 (D)) provides that the Court may issue an expedited ruling on Cross's request for

a declaration of the parties' rights and obligations under the Contract. Cross seeks such relief by this Complaint.

Relief Requested As to All Counts

For the above reasons, Cross asks the Court to enter judgment in its favor, as follows:

A. Entry of an award in Cross' favor, in an amount equal to all of the damages suffered by Cross due to Kewadin's breach of the Contract, and reimbursement of all of Cross' legal fees and expenses incurred as a result of Kewadin's breach (in line with the specific provisions of the Contract).

B. Entry of an order granting such other relief to Cross, including but not limited to declaratory relief, which is proper under the circumstances.

PAYNE, BRODER & FOSSEE, P.C.

/s/ Andrew J. Broder
ANDREW J. BRODER (P23051)
Counsel for Plaintiff
32100 Telegraph Road, Suite 200
Bingham Farms, MI 48025
abroder@ppbf.com
(248) 842-7733

Dated: April 8, 2019

EXHIBIT A

CONSULTING AGREEMENT

This Consulting Agreement ("Agreement") is dated as of the 27th day of January, 2009, (the "Effective Date") by and between WILLIAM CROSS JR. with an address of 8023 DOYLE RD, LANSBURG, MI 48846 (the "Consultant"), and KEWADIN CASINOS GAMING AUTHORITY (the "Client"). Each being a "Party" and collectively being the "Parties."

WHEREAS, the Client seeks to invest in, to acquire and to develop new enterprises, and is in the business of providing capital investments, lending funds and/or securing financing for investment in such enterprises (the "Investment Funding");

WHEREAS, the Consultant has cultivated relationships with various parties in multiple industries, including without limitation those listed on Exhibit A (the "Finance Parties") who have a desire to provide Investment Funding; and

WHEREAS, the Client desires to retain Consultant to assist in identifying potential Finance Parties, cultivating and maintaining ongoing relationships with various investors, lenders, financial advisors, and other specialists within the financial industry, assisting in the review of investment proposals, summaries, business plans, or other opportunities developed by the Consultant and/or the Finance Parties, all as agreed by Consultant.

NOW, THEREFORE, in consideration of the mutual promises and other good and valuable consideration, which is duly acknowledged, it is agreed as follows:

1. Services. Consultant will cultivate and develop relationships and advise the Client with respect to Client's investment in and with the Finance Parties. Consultant will advise the Client, through its designated representatives, on various matters involving the capitalization of the various projects for which Investment Funding is sought and/or financing requirements, lending requirements, including, but not limited to, making suggestions regarding presentations, proposals, financial statements, as well as business plan documents. The Client agrees to provide Consultant with any documentation or information that Consultant deems necessary and/or appropriate in order to provide the services required herein.

2. Term. This Agreement shall continue in effect until terminated by either Party pursuant to Paragraph 7 hereof. The confidentiality provisions set forth herein shall survive the termination of this Agreement.

3. Investment Funding. Investment Funding shall include, any and all loans, equity infusions, capital contributions, and/or investments generated via Consultant's services under this Agreement from a Finance Party or from any affiliate of a Financing Party, including lines of credit, and/or any other debt, credit and/or mechanism, including participation in a consortium with other owned casinos and/or other entities. A "Closing" hereunder shall mean each and every disbursement of Investment Funding from a Finance Party for the benefit of the Client.

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4. Compensation to Consultant.

(a) Upon the Closing of Investment Funding generated via Consultant's services under this Agreement Client shall pay a consulting fee of ~~FOUR PERCENT (4%)~~ of the amount of the Investment Funding (the "Success Fee"). Non-payment of this fee at the time any Closing of Investment Funding shall constitute a default by the Client and in addition to all other legal remedies available to the consultant, interest shall accrue from and after the date of closing on any such unpaid "Success Fee" at the rate of 8%.

Two (2%)
1/30/09

5. Payments.

(a) Any and all payments to be made to Consultant herein shall be paid directly to the Consultant via wire transfer on Closing and/or the date specified for payment herein. At least three (3) days prior to each Closing, the Client shall (i) provide Consultant and its attorneys with copies of any and all documents pertaining to the Closing ("Closing Documentation"), which shall reflect an allocation for payment of the Fee due to Consultant at Closing, and (ii) provide the appropriate wiring instructions for Consultant to the title company and/or escrow agent, and/or closing agent handling the Closing, with instructions to wire the Fee to Consultant from the first proceeds at Closing.

(b) If this Agreement is terminated for any reason, Client shall pay to Consultant the Success Fee upon any Closing that occurs within twelve (12) months after the termination of this Agreement. Accordingly, the terms of this Agreement relating to Client's payment obligations shall survive the termination of this Agreement.

6. Independent Contractor Status. The Parties hereto acknowledge and agree that Consultant is an independent contractor and neither an agent nor employee of the Client. Consultant shall not represent himself as an agent of the Client and may not commit or obligate Client in any way to other parties.

7. Termination. Either Party hereto may voluntarily terminate this Agreement at any time by in writing.

8. Confidentiality. During the Term, the Parties recognize that by virtue of this Agreement, each may have access to confidential and proprietary information ("Confidential Information") of the other Party. Each Party acknowledges that Confidential Information is a valuable and unique asset, and if divulged to others, could cause irreparable harm, and that each of the Parties has a legitimate business interest in protecting its Confidential Information. Each Party agrees to maintain Confidential Information of the other Party, that is identified as such, as confidential and that they shall not use or disclose, directly or indirectly, to any person or entity, any Confidential Information, except in the furtherance of the purposes and obligations of this Agreement. Notwithstanding the above, the disclosure of Confidential Information, shall not be deemed to violate this Agreement, if such disclosure: (i) is pursuant to a valid order of a court or governmental agency of competent jurisdiction; (ii) is to attorneys, auditors or other professional advisors necessary and/or appropriate to performance hereunder, provided that they are advised of the confidential nature of the materials and they agree to be bound by the terms of this

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Paragraph 9, or (iii) has been approved in writing by the Party that is the owner of the Confidential Information. Upon termination of this Agreement for any reason, all Confidential Information of a Party in the possession of the other Party, including but not limited to originals, copies, as well as electronic versions, whether prepared by the owning party or others, shall be returned forthwith to the Party that is the owner of such Confidential Information. Each Party agrees to indemnify and defend the other Party and hold them harmless from and against actual damage and costs (including, but not limited to reasonable attorneys fees) sustained by the other party by reason of an unauthorized distribution or disclosure of the Confidential Information and/or their contents by that Party.

9. Default.

(a) Should either Party violate any of the terms of this Agreement, such Party shall be in default under this Agreement. In the event of Default, the non-defaulting party shall be entitled to exercise any and all remedies available at law or in equity.

(b) In the event the Client fails to make any payment to Consultant when due, the Client shall be in default hereunder and interest shall accrue on the outstanding amounts at the rate of 8% per annum (the "Default Rate").

(b) Should either Party be required to sue to enforce the terms of this Agreement, such Party shall be entitled to an award for its costs and attorneys fees in connection with such enforcement.

10. Severability. The provisions of this Agreement shall be deemed severable, and if any part of any provision is judicially determined to be illegal, invalid or unenforceable, such illegal, invalid or unenforceable shall be deleted and have no effect on the other provisions of this Agreement, which shall remain valid, operative and enforceable. A provision as similar in terms to the deleted illegal, invalid or unenforceable provision as may be possible so as to make the provision legal, valid and enforceable, shall be substituted in its stead. If any one or more of the provisions contained in this Agreement shall, for any reason, be held to be excessively broad as to time, duration, geographic scope, activity or subject, it shall be construed by limiting and reducing it so as to be enforceable to the extent compatible with the applicable law as it shall then appear.

11. Jurisdiction. This Agreement has been negotiated, executed, and delivered in the State of Michigan, and shall be governed in all aspects by the law of the State of Michigan. The Parties agree that the 36th District Court or Circuit Court for the County of Wayne, State of Michigan (depending upon the amount of any claim), shall be the proper venue for any dispute arising under this Agreement. The Client hereby expressly waives the jurisdiction with respect to any dispute or controversy arising out of this Agreement, or regarding the subject matter hereof, including any amendment or supplement which may be made hereto or to any transaction in connection herewith. Nothing contained herein shall be construed to be a waiver of the Client's, or Client's parent governmental entity's, sovereign immunity.

12. Non-Exclusivity. This Agreement shall not confer upon Consultant the exclusive right to provide services as defined in Section 1 or to provide investment funding as defined in Section 3.

13. General Provisions.

a. Entire Agreement. This Agreement (including the Schedules and documents referred to herein, and any Addenda and/or Amendments that may arise hereafter) constitutes the entire agreement among the Parties and supersedes any prior understandings, agreements, or representations by or among the Parties, written or oral, to the extent they related in any way to the subject matter hereof.

b. Assignment. This Agreement shall be binding upon and inure to the benefit of the parties named herein and their respective successors and approved assigns. Any approved assignment shall be subject to (i) execution and delivery of such instruments of assignment executed by the assignor sufficient to convey to its assignee the interests or obligations to be assigned, and (ii) execution of such acknowledgments, assumption agreements and instruments as may reasonably be requested by any affected person with respect to the interests being assigned. Notwithstanding the foregoing, in the case of any assignment, no assignment shall be effective unless and until the other Parties hereto shall consent to the assignment in writing, and, in any event, upon an assignment, the assignor nonetheless shall remain responsible for the performance of all of its obligations hereunder.

c. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.

d. Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

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c. **Notices.** All notices, requests, demands, claims, and other communications hereunder will be in writing. Any notice, request, demand, claim, or other communication hereunder shall be deemed duly given if (and then two business days after) it is sent by certified mail, return receipt requested, postage prepaid, and addressed to the intended recipient as set forth below:

If to Consultant

WILLIAM CROSS JR.
8023 DOYLE RD.
LANSINGBURG, MI 48846

If to Client

Chairman Joe McCoy
KEWADIN CASINOS
GAMING AUTHORITY
523 Ashmun
Sault Ste. Marie, MI 49783
Telephone: 906-635-6050
Facsimile: 906-635-4969

Any Party may send any notice, request, demand, claim, or other communication hereunder to the intended recipient at the address set forth above using any personal delivery, expedited courier, messenger service, telecopy or ordinary mail (but not electronic mail), but no such notice, request, demand, claim, or other communication shall be deemed to have been duly given unless and until it actually is received by the intended recipient. Any Party may change the address to which notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other Parties notice in the manner herein set forth.

c. **Amendments and Waivers.** No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by each of the Parties, and no waiver by any Party of any default, right, misrepresentation, or breach of warranty or covenant under this Agreement, whether intentional or not, (i) shall be effective unless such waiver shall be in a writing signed by the party so charged and (ii) shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

g. **Construction.** The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including without limitation.

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h. Incorporation of Exhibits, Annexes, and Schedules. Any Exhibits, Annexes, Amendments, Addenda and Schedules identified in this Agreement are incorporated herein by reference and made a part hereof.

i. Effective Date. The Effective Date of this Agreement shall be the date of the last signature to this Agreement.

IN WITNESS WHEREOF, the Parties have executed the foregoing Consulting Agreement on the date set forth below their names.

(SIGNATURE PAGE TO IMMEDIATELY FOLLOW)

CONSULTANT:

WILLIAM CROSS JR.
8023 DOYLE RD.
LAINSBURG, MI

By: _____

WILLIAM CROSS JR.

Its: _____

Dated: _____

CLIENT:

KEWADIN CASINOS
GAMING AUTHORITY

By: _____

Its: _____

Dated: _____