


McKay
Attorney-at-Law
P.O. Box 1803
Browning, Montana 59417
(406) 338-7262
Powerbuffalo@yahoo.com
Attorney for the Plaintiff

FILED
JUL 19 2021
BLACKFEET TRIBAL COURT
By 

IN THE BLACKFEET TRIBAL COURT
FOR THE BLACKFEET INDIAN RESERVATION

THE BLACKFEET NATION,

Plaintiff,

v.

EAGLE BEAR, INC. and WILLIAM M.
BROOKE As an Agent of EAGLE BEAR, INC.
And Individually, dba ST. MARY/EAST
GLACIER KOA, Mt.,

Defendants.

)
) CASE NO. 2021CA-55
) COMPLAINT FOR TRESPASS AND
EVICTON, FRAUD, UNAUTHORIZED
) USE OF BLACKFEET NATION LAND,
FAILURE TO FOLLOW BLACKFEET
) NATION LAWS AND AN ACCOUNTING
)

COMES NOW the Plaintiff Blackfeet Nation, by and through counsel, and for its
COMPLAINT FOR TRESPASS, EVICTION, FRAUD, UNAUTHORIZED USE OF
BLACKFEET NATION LAND AND AN ACCOUNTING, and alleges and states as follows:

JURISDICTIONAL FACTS

1. The Plaintiff Blackfeet Nation of Montana is an Indian Nation government organized pursuant to the Indian Reorganization Act of 1935 and governing body of the Blackfeet Indian Reservation.
2. The Plaintiff Blackfeet Indian Nation of Montana is an owner of Indian trust and fee land within the boundaries of the Blackfeet Indian Reservation.

3. Pursuant to Article VI, Sec. 1(e) and 1(g) of the Blackfeet Constitution, the Blackfeet Tribal Business Council is authorized to manage all affairs of the Blackfeet Nation including economic activities.

4. The Defendant Eagle Bear Inc. is a closely held for profit corporation organized under the laws of the State of Montana; Defendant Eagle Bear, Inc. does business under the name “St. Mary/East Glacier KOA, Mt.”.

5. Defendant William M. Brooke is the registered agent of Defendant Eagle Bear, Inc., is an officer of Defendant Eagle Bear, Inc., is a principal and majority owner of Eagle Bear Inc., has conducted business on behalf of Eagle Bear, Inc. with the Plaintiff Blackfeet Nation and, for all intents and purposes, is the alter-ego of Defendant Eagle Bear, Inc.

Defendant Brooke and his wife Susan are the only known shareholders of Eagle Bear, Inc.. There is no record of their conduct of corporate meetings or corporate action as required by law.

Brooke is formerly an attorney and was at one time an aide to the late United States Senator from Montana Conrad Burns.

6. On or about April 9, 1997, Plaintiff Blackfeet Nation entered into a RECREATION AND BUSINESS LEASE agreement with Defendant Eagle Bear, Inc. for lease of a tract of land located within the exterior boundaries of the Blackfeet Indian Reservation and held in trust for the Blackfeet Nation by the United States of America; that RECREATION AND BUSINESS LEASE was dated April 11, 1997. See RECREATION AND BUSINESS LEASE, attached hereto as Plaintiff's Exhibit No. 1.

7. The RECREATION AND BUSINESS LEASE was signed by Defendant William M. Brooke on behalf of the Defendant Eagle Bear, Inc.. Id.

8. Performance of the parties to the RECREATION AND BUSINESS LEASE was entirely within the Blackfeet Indian Reservation.

9. The Bureau of Indian Affairs approved the RECREATION AND BUSINESS LEASE on or about July 7, 1997 as required by law. Pursuant to the law, the role of the BIA was to collect payments due under the RECREATION AND BUSINESS LEASE to the Blackfeet Nation and enforce the provisions of thereof against the lessee, including, if necessary, termination.

GENERAL BACKGROUND FACTS

A. THE LAND.

10. The RECREATION AND BUSINESS LEASE (hereinafter “the Lease”) covered a prime tract of land approximately 53.6 acres in size on the southwestern side of the Lower St. Mary Lake as represented by a Certificate of Survey attached to the Lease as Exhibit B. Plaintiff’s Exhibit No.1, Exhibit “B” thereto.

11. The subject land had been a campground and recreational facility for a number of years; however the Lease required further improvements to the facility.

12. The subject land is now known as the St. Mary/East Glacier KOA, Mt. campground.

B. The RECREATION AND BUSINESS LEASE.

13. The Lease consists of a principal document (RECREATION AND BUSINESS LEASE AGREEMENT) which is 32 pages and 46 sections, an “EXHIBIT “A” REMEDIES” (DISPUTE RESOLUTION/LIMITED WAIVER OF IMMUNITY) document which is incorporated into the principal document by reference in Section 5 (COMPENSATION), Section 24 (JURISDICTION AND VENUE) and Section 26 (WAIVER OF SOVEREIGN IMMUNITY)

of that document, and an Exhibit “B” Certificate of Survey. Plaintiff’s Exhibit No. 1, and Exhibits “A” and “B”.

14. The Lease had an initial term of 25 years with an option to renew for an additional 25 year term. Ex. 1, Sec. 3 and 4. Eagle Bear had an option to extend the Lease for additional 25 years by giving notice to the Blackfeet Nation and the Secretary. Id. at Sec. 4. Provided, however, that the Blackfeet Nation had a right to “buy out” the 25 year extension at a price set by the BIA appraisal office. Id. Any dispute over the appraised price was appealable “pursuant to Title 25, CFR, Part 2.” Id. at Section 4.

15. Compensation was addressed in Sections 5, 6 and 8 of the Lease. Pursuant to Section 5, Eagle Bear was obligated to pay the Blackfeet Nation a combination of annual royalty plus an annual base rent, along with a one-time payment for use of the facilities located on the leased premises. The annual royalty was 4% for years 1 through 5, 4 ½ % for years 6 through 10, 5% for years 11 through 25; with an annual base rental of \$5,000 per year for years 1 through 5, \$10,000 per year for years 6 through 10, and \$15,000 per years 11 through 25. In the event that Eagle Bear exercised its 25 year renewal option and the Blackfeet Nation did not buy out that option, from years 26 on, the annual royalty would be 6% and the annual rental \$25,000. Id. Royalty and base rent payments were due on November 30 of each year. Id.

16. In addition to the annual royalty and base rent, Eagle Bear had agreed to pay a one-time payment of \$250,000 to the Blackfeet Nation for the exclusive use of the improvements on the Leased Premises, which represented a payment of \$10,000 per year for each year of the primary term of the lease. Id., Sec. 5.C. Section 5.C further provides that while the Blackfeet Nation could not unilaterally cancel the Lease without Bureau of Indian Affairs approval, if the Lease were canceled before the end of the primary term, and Eagle Bear was not in default or

breach, the Blackfeet Nation agreed to pay \$10,000 for each of the remaining years of the primary term.

17. In accordance with Section 6, rent and royalty payments were due without demand, and payments not made within 30 days of the due date were to accrue interest at the Wall Street Journal prime rate plus three percent (3%). Id. at Sec. 6. Interest became due and payable from the date the rental payment became due and ran until the payment was paid in full, and otherwise became part of the rental payment. Id.

18. Section 8 of the Lease was an IMPROVEMENTS clause which is tied to compensation. Section 8 required the Lessee to submit to the Secretary within 90 days of approval of the lease, a plan and design for the full development of the leased premises, for the Secretary's approval. Id. at Sec. 8(b). The Secretary then had 30 days to approve or disapprove the plans and designs, and if approved no changes could be made to the development plan without the approval of the Secretary. Id. Once approved, the Lessee had five (5) years to complete full improvement and development of the leased premises in accordance with the plans. Id. at Sec. 8(c). Lessee's failure to complete full development within the five-year period resulted in the guaranteed minimum annual rent automatically increasing by ten percent (10%) at the beginning of the next fiscal year, and an increase in the guaranteed annual minimum rental of two percent (2%) for each full calendar year that work was not completed. Id.

19. Section 11 of the Lease required the Lessee to comply with all laws, regulations and ordinances of the Blackfeet Reservation, including the collection and remittance of all Blackfeet Nation taxes. Id. at Sec. 11.

20. Pursuant to Section 13 of the Lease, Eagle Bear was required to post bond in an amount of one year's annual rental. Id. at Sec. 13.

21. The Lease allowed Eagle Bear to sublease or assign its rights with the approval of the Blackfeet Nation and the Secretary. Id. at Sec. 17. Provided that if the Secretary refused to approve the sublease or assignment, that decision could be “appealed pursuant to 25 CFR, Part 2.” Id. at Sec. 17.

22. Failure by Eagle Bear to pay any amount of annual rental or royalty, or its failure to post bond as required by the Lease, after 30 days of written notice by the Blackfeet or the Secretary, was grounds for termination of the Lease by the Secretary. Id. at Sec. 21. .

23. Section 25 of the Lease is entitled, “BREACH OF LEASE”, and reads in full:

In the event of any breach of the lease, the Bureau of Indian Affairs shall issue a 10 day show cause letter pursuant to 25 CFR Sec. 162.14. Appeal rights of any decision thereto are provided for by 25 CFR Part 2. The parties shall exhaust all administrative appeals before filing with the United States District Court Great Falls Division.

Id. at Section 25.

24. Pursuant to Section 26 of the Lease, the Blackfeet Nation made a limited waiver of sovereign immunity but only to the extent necessary to enforce any judgment entered pursuant to Section 24 and Exhibit A, Remedies. Id. at Sec. 26.

25. Section 32 of the Lease is a record keeping, filing and retention provision. Entitled “ACCOUNTING AND AUDITS”, this section required Eagle Bear to file with the Blackfeet Nation and the Secretary a certified audit report of gross registration receipts within 45 days of December 31 of each year. Id. at Sec. 32. In addition to allowing the Secretary to cause a special audit to be performed of any calendar year, this section also allowed any authorized representative of the Federal government to inspect the books of Eagle Bear. Id. at Sec. 32. Section 32 further states: “Lessor or Secretary shall be entitled at any time within 4 years after the receipt of any such percentage rental payment to question the sufficiency of the amount

thereof and/or the accuracy of the audit report or reports furnished by the Lessee to justify the same and shall have the right to examine and/or audit as hereinbefore described.” Id. (Emphasis added). In furtherance of this requirement, Eagle Bear was required to maintain its records for a period of 4 years. Id.

26. Incorporated by reference into the Lease as Exhibit A, Remedies is a document, which is an addendum to the principal lease. It is not signed by either of the parties. Importantly, the Bureau of Indian Affairs raised concerns about this document and made clear to the parties that if the document was included in the lease, that notwithstanding the language of the document, the BIA retained final authority over the lease and all disputes arising under the lease.

C. EAGLE BEAR’S PERFORMANCE.

27. Almost from the outset, the Lessee (Eagle Bear) failed to perform under the Lease. Section 8 of the Lease required that within 90 days after approval of the Lease by the BIA, the Lessee was to submit to the Secretary plans and designs for the full improvement and development of the Leased Premises. Exhibit 1 at Sec. 8(b). The correspondence between the parties leading up to the approval of the Lease by the BIA clearly demonstrates that the parties anticipated that the Lessee would make substantial improvements to the Leased Premises and that the Lessee understood that he would need prior approval before moving forward with the improvements. Submitting the required plans and designs and completing the improvements and development of the Lease was tied to compensation under the Lease. Ex. 1, Sec. 8(c); Sec. 5. Failure to meet the timeline for improvements resulted in automatic upward adjustment of the compensation requirements. Id.

28. Eagle Bear failed to submit any plans or designs for improvement to the Leased Premises within the required 90 day period.

29. Section 13 of the Lease required Eagle Bear to post a bond in an amount equal to one year's gross registration receipts. Eagle Bear failed to post the required bond prior to the June 10, 2008 cancellation of the Lease.

30. With respect to its compensation requirement, Eagle Bear paid the required \$250,000 one-time payment, and began paying its required annual minimum rental and royalty payments on a yearly basis. However Eagle Bear soon began to default on its required annual minimum payments.

32, Eagle Bear failed from the outset to provide the required annual certified audit reports as required by Section 32 of the Lease so that the BIA or the Blackfeet Nation could accurately track and determine the accuracy of the royalty and rent payments being made.

Plaintiff's Exhibit No. 1.

31. On or about August 6, 2001 the Bureau of Indian Affairs Blackfeet Agency sent Eagle Bear Inc a 10 day show cause letter advising Eagle Bear that it had 10 days to pay \$5,000 payment due on November 1, 2000. The letter further advised Eagle Bear to "make payment within ten days of this notice or show cause why your lease should not be cancelled for non-payment of the rent due." Plaintiff's Exhibit No. 2.

32. Again on July 30, 2004, the Blackfeet Agency of the Bureau of Indian Affairs sent Eagle Bear notice that rent due in the amount of \$5,000 had not been received. The letter further advised Eagle Bear that the BIA had not received certified audit reports as required pursuant to "Part 32" of the lease agreement which Eagle Bear had agreed to provide to the BIA and the Blackfeet Nation. Eagle Bear was again "advised to make payment within ten days of

this notice and to provide copies of your certified audit's for the term of this lease or show cause why your lease should not be cancelled for these violations." Plaintiff's Exhibit No. 3.

33. Apparently, after some communication regarding the June 30, 2004 10-day show cause letter, on February 3, 2005 the BIA Blackfeet Agency sent Eagle Bear a letter outlining what the Agency believed was the discrepancy in Eagle Bear's payments and providing Eagle Bear with a payment schedule. The letter also advised Eagle Bear that it still owed \$5,000 for the November 2002 payment and that it was past due on the \$10,000 November 2004 payment. That letter again requested that Eagle Bear provide copies of the certified audits. Plaintiff's Exhibit No. 4.

34. Eagle Bear again defaulted on its November 2007 payment as required under the RECREATION AND BUSINESS LEASE agreement. On January 15, 2008 the Blackfeet Agency of the Bureau of Indian Affairs sent Eagle Bear a 10-day Show Cause letter advising Eagle Bear that it was delinquent on the November payment in the amount of \$15,000.00. Eagle Bear was advised "to make payment for this lease, or show cause why your lease should not be cancelled for non payment of the rent due." Plaintiff's Exhibit No 5.

35. Eagle Bear Inc failed to make the payment required of it for November of 2007 as a result of the January 15, 2008 BIA Blackfeet Agency warning letter.

36. On March 27, 2008 the BIA Blackfeet Agency sent Eagle Bear a second show cause letter, this time advising Eagle Bear pursuant to the federal regulations as incorporated into the lease, that it had "to make payment within 10 days of [that] letter or show cause why your lease should not be cancelled for non payment of the rent due." Plaintiff's Exhibit No. 6.

37. Apparently the BIA Blackfeet Agency was so concerned that Eagle Bear would not make the required payment within the 10 days provided in the March 27, 2008 letter, that on

April 4, 2008 the Agency sent Eagle Bear another letter warning them that the Agency had not received a response to the March 27 letter and advising Eagle Bear “that a final cancellation of this lease will be issued on April 8, 2008 if payment is not received.” Plaintiff’s Exhibit 7.

As required by Section 21 of the Lease, the April 4, 2008 warning letter was copied to Independence Bank of Havre, Mt. who apparently held a mortgage on Eagle Bear’s leasehold interest. Id.

D. CANCELLATION OF THE EAGLE BEAR LEASE.

38. On June 10, 2008, more than 60 days after the expiration of the time set out in the March 27, 2008 10-day show cause letter regarding Eagle Bear’s failure to pay the November 2007 payment when due of \$15,000.00, the BIA Blackfeet Agency sent Eagle Bear a letter cancelling the lease. After complying with the regulatory requirements and the contractual requirements for notice and an opportunity to cure the default as set forth in Section 21 and 25 of the lease, the BIA Blackfeet Agency advised Eagle Bear “that this lease is cancelled.” Plaintiff’s Exhibit No. 8.

39. The BIA Blackfeet Agency’s June 10, 2008 letter to Eagle Bear cancelling business lease no. 5B03389621 also advised Eagle Bear of its right to appeal the cancellation decision to the Rocky Mountain Regional Office in Billings, Montana and that it had to do so within 30 days of receipt of the cancellation letter. Id.

Eagle Bear was further advised pursuant to the applicable Federal Regulations, that the “notice of appeal must list the names and addresses of the interested parties known to you and certify that you have sent them a copies of the notice.” Id. Eagle Bear and William Brooke knew that the Blackfeet Nation was an interested party.

40. Eagle Bear received the June 10, 2008 cancellation letter on June 12, 2008.

Plaintiff's Exhibit No. 9. On June 18, 2008 Eagle Bear filed a Notice of Appeal and Statement of Reasons in accordance with applicable Federal Regulations with BIA Blackfeet Agency Superintendent. Plaintiff's Exhibit No. 10.

Eagle Bear's statement of Reasons falsely claimed that it had made all the required payments and that the payment in question was paid on June 6, 2008 before it received the BIA cancellation notice. Id. Eagle Bear provide no proof of that payment with its Notice of Appeal and Statement of Reasons.

Eagle Bear requested that the BIA Rocky Mountain Regional Office "reverse or amend [its] decision and in addition to change the annual payment date to June 30th." Id.

While the Eagle Bear Notice of Appeal and Statement of Reasons contains a notation at the bottom of a "Cc: Blackfeet Tribe", there was no statement certifying that the Notice of Appeal and Statement of Reasons had actually been served on the Blackfeet Tribe as required by the Federal Regulations and the actual cancellation letter.

41. Eagle Bear's statement in its Notice of Appeal and Statement of reasons that it paid the annual payment on June 6, 2008 before receiving the cancellation letter was intentionally false. The check from Eagle Bear for the November 30, 2007 payment is dated June 16, 2008 and was not received by the Bureau of Indian Affairs until June 20, 2008. Plaintiff's Exhibit 11 and 12.

42. On July 25, 2008 the Bureau of Indian Affairs, Rocky Mountain Regional Office sent Eagle Bear a letter advising Eagle Bear that the Regional Office had received the Notice of Appeal on June 30, 2008 (12 days after the Notice of Appeal was dated). Plaintiff's Exhibit No 13. The Regional Office advised Eagle Bear that it was requesting the administrative record and

complete report from the Blackfeet Agency Superintendent and that a decision would be forthcoming within 60 days after all information necessary to the case was received. Id.

Eagle Bear was once again advised that if it had not already done so, the Federal Regulations required it to serve any and all interested parties with its notice of appeal and statement of reasons and to certify to the Area Office that it had done so. Eagle Bear never formally served its Notice of Appeal and Statement of Reasons on the Blackfeet Nation and it never certified to the BIA Regional Office that it had done so. Id.

The BIA Regional Office's letter to Eagle Bear also advised any interested party that they must file an Answer to the Statement of Reasons within 30 days of receipt. However, that July 22, 2008 letter was not sent to the Blackfeet Nation. Id.

43. On August 22, 2008, without acknowledging that it had received the late payment at issue from Eagle Bear, the BIA Blackfeet Agency sent the BIA Regional Office a memo stating that it was transmitting the appeal received from Eagle Bear. The memo went on to note: "This lease was cancelled for non payment of the rent due November 30, 2007." There is no mention that the payment was received. Plaintiff's Exhibit No. 14.

44. On January 5, 2009, Eagle Bear sent a letter to the BIA Blackfeet Agency Superintendent whereby it withdrew its Notice of Appeal of the cancellation decision. The letter stated: "I am withdrawing the Notice of Appeal since I have been advised by the Bureau that all of our annual payments required under the lease have been made to the Bureau and cashed by the Bureau. Accordingly, the lease is current." Plaintiff's Exhibit 15.

45. No record exists of any official action taken by the Bureau of Indian Affairs after July 22, 2008 to reverse, rescind, modify, overturn or amend the June 10, 2008 decision of the BIA Blackfeet Agency to cancel the Eagle Bear lease.

46. The Eagle Bear lease cancellation became final according to the applicable Federal Regulations when he failed to serve the Blackfeet Nation with his Notice of Appeal and to certify to the Rocky Mountain Regional office that he had done so, thereby triggering the Blackfeet Nation's right to file an answer. At the latest the Eagle Bear lease cancellation became final and effective when he withdrew his Notice of Appeal on January 5, 2008 without having a letter or determination of any kind that the cancellation decision had been reversed, vacated or amended.

47. The Eagle Bear RECREATION AND BUSINESS LEASE No. 5B03389621 was legally, appropriately and effectively cancelled by the BIA Blackfeet Agency on June 10, 2008. That cancellation was never reversed, modified, withdrawn, rescinded or amended. The cancellation of RECREATION AND BUSINESS LEASE No. 5B03389621 became effective on or about January 5, 2009.

E. TRESPASS.

48. From the time that Eagle Bear withdrew its purported appeal of the June 10, 2008 cancellation of the RECREATION AND BUSINESS LEASE it no longer had any legal right or permission to be on the land of the Blackfeet Nation or to occupy that land for any purpose including a recreation and camping business.

49. Notwithstanding the fact that it had no legal right to be on or occupy Blackfeet Nation land which was formerly subject to the RECREATION AND BUSINESS LEASE, Eagle Bear and William Brooke continued physical possession of the premises after the June 10, 2008 cancellation.

50. Knowing that they had no legal right to be on or occupy the Blackfeet Nation land which was formerly subject to the recreation and business lease, Eagle Bear and William Brooke

had a duty to advise the Blackfeet Nation and seek new permission to continue their occupancy and use of the land.

51. At no time during 2008 or 2009 did Eagle Bear or William Brooke approach the Blackfeet Nation to negotiate a new lease or the reinstatement of the cancelled lease. Eagle Bear remained intentionally silent even though it and William Brooke knew that there was no legal right to be on or occupy Blackfeet Nation land.

52. Eagle Bear's silence on the fact that its lease and therefore its legal right to be on or occupy Blackfeet Nation land had been cancelled was deceitful, purposeful and intended to cause the Blackfeet Nation to continue to believe that a valid lease was in effect, when in fact there was no lease.

53. Under the fraudulent pretense that there was a valid lease in effect, Eagle Bear and William Brooke remained in illegal possession and trespass on Blackfeet Nation trust land which was formerly subject to the recreation and business lease for 12 years from and including 2009 until 2021.

54. During that time Eagle Bear and William Brooke continued to operate the campground and recreational facility and took an unknown amount of profit from Blackfeet Nation land.

55. The illegal trespass and occupancy of Blackfeet Nation land by Eagle Bear and William Brooke deprived the Blackfeet Nation of the opportunity to operate its own business on its own land for at least 12 years.

56. Eagle Bear, Inc. and William Brooke continued their fraudulent misrepresentation through to 2021 when they attempted to fraudulently extend the cancelled lease under the false pretense that it was still in effect when they in fact knew that it had been cancelled.

57. Eagle Bear, Inc. and William Brooke continue their fraudulent misrepresentation up to the time of this complaint by trying to extend the cancelled RECREATION AND BUSINESS LEASE through both the BIA Administrative process and arbitration.

COUNT I – TRESPASS AND EVICTION

58. The Plaintiff Blackfeet Nation hereby incorporates by this reference all the allegations set forth in paragraphs 1 through 57 above as if the same had been set forth in full in this paragraph and further alleges that Eagle Bear Inc. and William Brooke are in illegal trespass on Blackfeet Nation land and must be evicted.

59. The RECREATION AND BUSINESS LEASE by which Eagle Bear, Inc. and William Brooke had a legal right and permission to be on and use Blackfeet Nation land was legally, appropriately and justifiably cancelled in 2008.

60. Since at least January 5, 2009, Eagle Bear, Inc. and William Brooke have occupied Blackfeet Nation land illegally, without any permission or authority. They are trespassing on the trust land of the Blackfeet Nation.

61. As of the date of this COMPLAINT, Eagle Bear, Inc. and William Brooke continue to attempt to fraudulently renew or extend for 25 years the cancelled lease and they have refused to peaceably surrender the premises as required by Section 42 of the Lease.

62. The Blackfeet Nation has an absolute right to possession of its own land and is therefore entitled to an order evicting Eagle Bear, Inc. and William Brooke from the land formerly subject to the now cancelled BIA RECREATION AND BUSINESS LEASE no. 5B03389621.

COUNT II – ACCOUNTING

63. The Plaintiff Blackfeet Nation hereby incorporates by this reference all the allegations set forth in paragraphs 1 through 57 above as if the same had been set forth in full in this paragraph and further alleges that after the cancellation of the RECREATION AND BUSINESS LEASE Eagle Bear Inc. and William Brooke continued to illegally operate a campground and recreation business on Blackfeet Nation owned land and the Blackfeet Nation is entitled to an accounting of all rents and profits taken from its land by the Defendants both during the term of the lease and during their illegal occupancy.

64. Section 32 of the cancelled RECREATION AND BUSINESS LEASE between the Blackfeet Nation and Eagle Bear, Inc. required Eagle Bear to provide the Blackfeet Nation and the Secretary of the Interior with annual audits. Eagle Bear defaulted on this requirement during the term of the lease thereby depriving the Blackfeet Nation of important information that was needed to verify Eagle Bear's gross receipts and therefore the royalty owed to the Blackfeet Nation.

65. During the period of its illegal occupancy Eagle Bear, Inc. and William Brooke took substantial profit from Blackfeet Nation land. The Blackfeet Nation is entitled to a complete accounting of all rents and profits received by Eagle Bear, Inc. and William Brooke from any profit source related to or derived from the illegal operation of the campground and recreational facility on Blackfeet Nation land from 2008 through 2020.

66. The Blackfeet Nation is legally and contractually entitled to a complete accounting by a Certified Public Accountant of all rents and profits derived from any source related to the operation of a campground and recreational facility on Blackfeet Nation land located at St. Mary Lake, Blackfeet Reservation, Montana by Eagle Bear, Inc. and William Brooke both during the

term of BIA RECREATION AND BUSINESS LEASE No. 5B03389621 and during their illegal occupancy of the subject land.

COUNT III – UNAUTHORIZED USE OF BLACKFEET NATION LAND

67. The Plaintiff Blackfeet Nation hereby incorporates by this reference all the allegations set forth in paragraphs 1 through 66 above as if the same had been set forth in full in this paragraph and further alleges that Eagle Bear Inc. and William Brooke illegally trespassed on Blackfeet Nation land for 12 years from and including 2009 to 2020, and that they used that land without any authorization from the Blackfeet Nation.

68. BIA RECREATION AND BUSINESS LEASE no. 5B03389621 was cancelled in 2008. Allowing some time for Eagle Bear, Inc. and Brooke's failed appeal of the June 10, 2008 cancellation of the lease, Eagle Bear, Inc. and Brooke were in illegal and unauthorized possession of the land formerly subject to the lease from and including 2009 until 2020.

69. Notwithstanding their knowledge that the RECREATION AND BUSINESS LEASE had been cancelled and that the cancellation decision had never been reversed, rescinded, withdrawn, modified or amended in any way, Eagle Bear, Inc. and Brooke remained on the land and continued to operate a campground and recreation facility.

70. During the period from and including 2009 through 2021, Eagle Bear, Inc. and Brooke illegally and without authorization or permission of any kind from the Blackfeet Nation operated a campground and recreation facility and took an unknown amount of profit from the land belonging to the Blackfeet Nation.

71. The Blackfeet Nation is entitled to all the proceeds and profit from campground and recreation facility which Eagle Bear, Inc. and William Brooke illegally operated on Blackfeet Nation land from and including 2009 through 2020.

COUNT IV – FRAUDULENT MISREPRESENTATION

72. The Plaintiff Blackfeet Nation hereby incorporates by this reference all the allegations set forth in paragraphs 1 through 72 above as if the same had been set forth in full in this paragraph and further alleges that Eagle Bear Inc. and William Brooke engaged in fraudulent misrepresentation by failing to disclose when they had a duty to disclose the fact that BIA RECREATION AND BUSINESS LEASE no. 5B03389621 by which they previously had authorization to be on and use Blackfeet Nation land had been cancelled, that the material misrepresentation was intentional and for the purpose of causing the Blackfeet Nation to believe that a lease was still in effect when in fact there was no lease, causing damage to the Blackfeet Nation as further set out below.

73. The Bureau of Indian Affairs Blackfeet Indian Agency legally, appropriately and properly cancelled the Eagle Bear, Inc./Blackfeet Nation RECREATION AND BUSINESS LEASE No. 5B03389621 on June 10, 2008 for non-payment of the rental payment due in November of 2007. Pursuant to applicable Federal Regulations as incorporated into the Lease at Section 25, the BIA had given Eagle Bear notice of cancellation of the lease. However the BIA Blackfeet Agency did not copy the Blackfeet Nation with its cancellation letter or otherwise notify the Blackfeet Nation of its action.

74. Eagle Bear, Inc. and William Brooke received notice of that cancellation on June 12, 2008.

75. By check no. 20907 written on a bank account belonging to ST. MARY-GLACIER PARK KOA and dated June 16, 2008, Eagle Bear, Inc. and William Brooke paid the November 2007 which brought about the cancellation of the lease. That payment was received by the

Bureau of Indian Affairs on June 20, 2008. That payment was made after Eagle Bear, Inc. and William Brooke had received the Blackfeet Agency's June 10, 2008 cancellation letter.

76. Sometime between June 12, 2008 and June 30, 2008, Eagle Bear, Inc. and William Brooke as President of Eagle Bear, Inc. filed a Notice of Appeal and Statement of Reasons with the Bureau of Indian Affairs appealing the cancellation decision. In that Notice of Appeal and Statement of Reasons, Eagle Bear, Inc. and William Brooke falsely represent that they "paid the annual payment on June 6, 2008, before we received your notice."

77. At the time that this representation was made, Eagle Bear, Inc. and William Brooke as its President knew it to be a false statement.

78. Eagle Bear, Inc. and William Brooke knowingly made that false statement with the intent that the Bureau of Indian Affairs and the Blackfeet Nation would rely on the false statement to believe that Brooks had paid the past due payment before the deadline and that the lease was current, when in fact they had not paid in the required time and the lease was not current.

79. While Eagle Bear, Inc. and William Brooke's Notice of Appeal and Statement of Reasons has a "Cc: Blackfeet Tribe", there is no record that the notice was ever actually served on the Blackfeet Nation or received in Blackfeet Nation offices.

80. Pursuant to the June 10, 2008 BIA cancellation letter, Eagle Bear, Inc. and William Brooke were advised that the "notice of appeal must list the names and addresses of the interested parties known to you and certify that you have sent them copies of the notice."

81. The Notice of Appeal dated June 18, 2008 filed by Eagle Bear, Inc. and William Brooke as its President sometime between June 12, 2008 and June 30, 2008 failed to meet this

requirement. The address of the Blackfeet Nation is not included and there was no certification that the notice had been served on the Blackfeet Nation.

82. On July 22, 2008 the BIA Rocky Mountain Regional Office sent Eagle Bear, Inc. a letter advising them that their Notice of Appeal was received in that office on June 30, 2008.

81. The BIA Rocky Mountain Regional Office again advised Eagle Bear, Inc. and William Brooke as its President that “you are required to notify all interested parties of your Notice of Appeal and Statement of Reasons, which required under Title 25, Code of Federal Regulations (25 CFR), Part 2, Appeals from Administrative Actions Sec. 2.12(a). Thereafter, you are to provide this office with a certified statement indicating you served the interested parties with a copy of our Notice of Appeal/Statement of Reasons.” Eagle Bear, Inc. and William Brooke failed to meet this requirement. Eagle Bear, Inc. and William Brooke never served the Blackfeet Nation with their Notice of Appeal and Statement of Reasons and never certified to the BIA Rocky Mountain Regional office that they had done so.

82. By failing to serve the Blackfeet Nation with its Notice of Appeal and Statement of Reasons, Eagle Bear, Inc. and William Brooke intentionally deprived the Blackfeet Nation of both Notice and an opportunity to file an Answer to the appeal.

83. On or about January 5, 2009, when it appeared that the Bureau of Indian Affairs was not pursuing eviction or other action against Eagle Bear, Inc. and William Brooke and that they (Eagle Bear and Brooke) has successfully evaded the Blackfeet Nation by not providing actual knowledge to the Blackfeet Nation, Eagle Bear, Inc. acting through William Brooke as its President withdrew the bogus BIA Appeal.

84. In its January 5, 2009 letter withdrawing its bogus BIA appeal, Eagle Bear, Inc. through its President William Brooke unilaterally proclaimed that because he had been advised

by the BIA that all of their required payments had been made to the BIA and cashed by the BIA, “the lease is current.”

85. When Eagle Bear, Inc. and William Brooke unilaterally declared in the January 5, 2009 letter withdrawing their appeal, that the “lease is current”, they knew that the lease had been cancelled and that there had been no action from the BIA reversing, overruling, overturning, setting aside, modifying or amending the cancellation decision and that the lease was in fact cancelled. Eagle Bear, Inc. and Brooke knew when they sent the January 5, 2009 letter, that there was no lease to bring current.

86. Eagle Bear, Inc. and William Brooke knew at that time that they had no legal right to be on or occupy the Blackfeet Nation which had been subject to the former lease or to operate a campground and recreational facility thereon.

87. Thereafter notwithstanding its duty to disclose to the Blackfeet Nation that RECREATION AND BUSINESS LEASE No. 5B03389621 had been cancelled and to attempt to renegotiate a new lease to have permission to be on Blackfeet Nation land for the purpose of operating a business on that land, Eagle Bear, Inc. and William Brooke intentionally failed to disclose that the lease had been cancelled and that they needed new permission from the Blackfeet Nation.

88. Eagle Bear, Inc. and William Brooke’s failure to disclose was intentional and constituted a material misrepresentation.

89. Eagle Bear, Inc. and William Brooke’s material misrepresentation by failure to disclose was intentional and intended to cause the Blackfeet Nation to falsely believe that there was still a legal lease in effect when in fact there was not.

90. Because it had no knowledge of the cancellation, the Blackfeet Nation reasonably relied on Eagle Bear, Inc. and William Brooke's material misrepresentation and continued to believe that a valid lease was in effect.

91. That reliance was to the detriment of the Blackfeet Nation as it deprived the Blackfeet Nation of its right to occupy and utilize its own trust land for the benefit of the Blackfeet People.

92. The Blackfeet Nation is entitled to all rents and profits derived from the illegal operation of a campground and recreational facility on Blackfeet Nation land by Eagle Bear, Inc. and William Brooke from 2009 to the present.

COUNT V – FAILURE TO FOLLOW BLACKFEET NATION LAWS

93. The Plaintiff Blackfeet Nation hereby incorporates by this reference all the allegations set forth in paragraphs 1 through 72 above as if the same had been set forth in full in this paragraph and further alleges that during the entire time that Eagle Bear Inc. and William Brooke occupied the land of the Blackfeet Nation, both with and without permission, they failed to follow applicable Blackfeet Nation law, including tax law.

94. The Blackfeet Nation has various laws that would apply to the operation of the campground and recreational facility operated by Eagle Bear, Inc. and William Brooke, both with and without Blackfeet Nation permission, including but not limited to the Blackfeet Nation bed tax and other laws.

95. By failing to follow and adhere to Blackfeet Nation laws, Eagle Bear and William Brooke deprived the Blackfeet Nation of significant financial resources which would have derived from its tax laws and which would have been used to provide services to the Blackfeet People.

96. The Blackfeet Nation is entitled to recover from Eagle Bear, Inc. and William Brooke all the funds that should have been collected by Eagle Bear, Inc. and William Brooke and transferred to the Blackfeet Nation as required by Blackfeet Nation law in an amount to be proven at trial.

COUNT VI – RESERVATION OF RIGHTS AND CLAIMS

97. The Plaintiff Blackfeet Nation hereby incorporates by this reference all the allegations set forth in paragraphs 1 through 96 above as if the same had been set forth in full in this paragraph and further alleges that during the entire time that Eagle Bear Inc. and William Brooke occupied the land of the Blackfeet Nation, both with and without permission, they may have failed to follow applicable Blackfeet Nation law including Blackfeet Nation environmental laws.

98. The Blackfeet Nation has not had unlimited access to its land which is the subject of this complaint for 25 years and has not had the ability to conduct comprehensive environmental reviews and studies of the land and lake adjacent to the land.

99. The Blackfeet Nation therefore reserves the right to amend its COMPLAINT herein based upon discovery to include any claims arising out of the Defendants failure to follow Blackfeet environmental laws resulting in pollution to the land and/or water.

WHEREFORE, the Blackfeet Nation prays this honorable Court to enter judgment against Eagle Bear, Inc. and William Brooke and in favor the Blackfeet Nation, as follows:

1. On Court I of the Complaint, an ORDER evicting Eagle Bear, Inc. and William Brooke from the Blackfeet Nation land formerly subject to cancelled BIA RECREATION AND BUSINESS LEASE No. 5B03389621.

2. On Count II of the Complaint, an ORDER requiring Eagle Bear, Inc. and William Brooke to provide or submit to an accounting by a Certified Public Accountant of all business records related to their operation of the St. Mary-KOA campground on Blackfeet Nation land, as set forth herein, for the years from 2009 to the present.

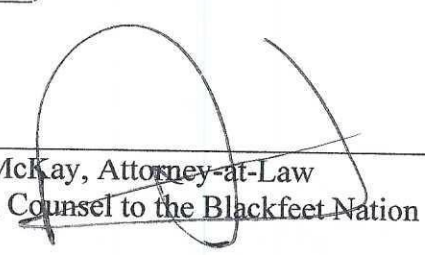
3. On Counts III and IV of the Complaint, an ORDER requiring Eagle Bear, Inc. and William Brooke to disgorge, surrender and turn over to the Blackfeet Nation all rents and profits illegally taken from Blackfeet Nation land from 2009 until the present.

4. For an ORDER requiring Eagle Bear, Inc. and William Brooke to pay over to the Blackfeet Nation all moneys which should have been collected by Eagle Bear, Inc. and William Brooke pursuant to any applicable Blackfeet Nation law, in an amount to be proven at trial.

5. For attorneys' fees and costs of this action.

6. For such other and further relief as the court deems just and proper in the circumstances.

DATED this 16th day of July, 2021.



Joe J. McKay, Attorney-at-Law
Special Counsel to the Blackfeet Nation