

At a Special Term of the Cayuga
Nation Civil Court held on the 11th
day of February,
2022

Present: Hon. Joseph E. Fahey,
Cayuga Nation Civil Court Judge

NATION CIVIL COURT
CAYUGA NATION

CAYUGA NATION,

Plaintiff,

v.

DUSTIN PARKER and DUSTIN PARKER d/b/a
PIPEKEEPERS,

Defendants.

ORDER TO SHOW CAUSE

Index No.: Cv-21-011

Upon the reading and filing of the annexed Amended Complaint and the Exhibits annexed thereto, it is hereby

ORDERED, that Defendants show cause at a motion term of this Court to be held at the Cayuga Nation Civil Court located at 2540 NY-89, Seneca Falls, NY 13148 on the 11th day of March, 2022 at 2:00 a.m./pm, or as soon thereafter as counsel can be heard why an Order should not be issued:

- a) enjoining the Defendants from the continued operation of Pipekeepers as being in violation of Nation law;
- b) requiring that Pipekeepers be shuttered; and
- c) granting such other and further relief as the Court deems just and proper; and it is hereby further

ORDERED, that pending further order of this Court, Defendants are hereby temporarily enjoined and restrained from the continued operation of Pipekeepers.

Let service of a copy of this Order and the papers upon which this application is granted be made upon the Defendants by personal service on or before February 18, 2022, and that such service shall be deemed good and sufficient notice of this application.

All opposition to this Order to Show Cause shall be served by Defendants upon the Court and Plaintiff's counsel so as to be received no later than February 25, 2022; and any reply shall be served by Plaintiff by overnight delivery on Defendants on or before March 4, 2022 and provided to the Court that same day.

Dated: February 11, 2022



Cayuga Nation Civil Court Judge

NATION CIVIL COURT
CAYUGA NATION

CAYUGA NATION,

Plaintiff,

v.

DUSTIN PARKER and DUSTIN PARKER d/b/a
PIPEKEEPERS

Defendants.

**AMENDED
COMPLAINT**
Index No. CV-21-016

Plaintiff, the Cayuga Nation, as and for its Amended Complaint against the Defendants herein alleges and shows to the Court as follows:

INTRODUCTION

1. This is an action for declaratory judgment, money damages and related relief, and injunctive relief brought pursuant to Cayuga Nation Law, to wit, the Cayuga Nation Amended and Restated Business License and Regulation Ordinance (the "Ordinance"). A copy of the Ordinance is annexed and submitted herewith as Exhibit "A."

JURISDICTION AND VENUE

2. This Court has jurisdiction over this proceeding in accordance with the Cayuga Nation Rules of Civil Procedure, Rule 1 b. Venue in this proceeding likewise lies in this Court.

PARTIES

3. Plaintiff Cayuga Nation (the “Nation”) is a federally-recognized Indian nation. *See* Indian Entities Recognized by and Eligible to Receive Services From The United States Bureau of Indian Affairs, 86 Fed. Reg. 7554, 7555 (Jan. 29, 2021).

4. Defendant Dustin Parker (“Parker”) is a citizen of the Nation residing at 25 Spruce Ln., Seneca Falls, New York.

5. Upon information and belief, Defendant Pipekeepers (“Pipekeepers”) is an entity owned and/or operated by Parker with a location at 7153 State Route 90, Town of Montezuma, New York (the “Premises”). Said Premises are within the Nation’s federally-recognized reservation and constitute “Nation land,” as that term is defined in the Ordinance. Ordinance, Ex. “A,” Article I, § 2.

BACKGROUND

6. This action follows an identical action previously before this Court which resulted in an Order and Judgment against Defendants in the amount of \$45,360.47 based on Defendants’ violation of the Nation’s Amended and Restated Business License and Regulation Ordinance (“Ordinance”). Copies of the prior Order and Judgment are annexed and submitted herewith as Exhibit B.

7. Subsequent to the issuance of this Court’s Order and Judgment, the Nation purchased the Pipekeepers Tobacco & Gas property which was the subject of the first action, thereby putting the Pipekeepers Tobacco & Gas business out of operation.

8. Now, despite the provision of this Court’s December 2, 2021 Order which “permanently enjoined [Defendants] from the operation of Pipekeepers,” Defendant Parker has simply relocated his Pipekeepers retail operation to a residential property in the Town of

Montezuma. A copy of the deed for the property dated December 22, 2021 is annexed and submitted herewith as Exhibit C.

9. As with the original Pipekeepers location in Seneca Falls, which was illegally located in a R-1 residential district, the new Pipekeepers location in the Town of Montezuma is illegally located in agricultural/residential zoned area.

CONTINUING VIOLATION OF THE NATION’S BUSINESS ORDINANCE

10. Article II of the Ordinance entitled “License Requirement” imposes upon any person engaging in any type of business on Nation land an obligation to obtain a license issued by the Nation pursuant to the Ordinance.

11. Specifically, the Ordinance provides in this regard as follows:

Article II - License Requirement

No person shall engage in any type of business on Nation land without a business license issued by the Nation pursuant to this Ordinance. A valid license shall entitle the licensee to engage in those business activities for which the Nation issued the license. Each place of business on Nation land requires a separate license, provided, however, those businesses without a fixed place of business may have only one license.

12. Defendants have not been issued a business license by the Nation for the operation of Pipekeepers, nor have Defendants even applied for such a license.

13. Additionally, the Ordinance prohibits any person seeking to obtain a license from engaging in any business that competes with any business conducted by the Nation or which constitutes a threat to the effective regulation of commerce on Nation land or to the health, safety, welfare, morals, or well-being of the Nation, its members, residents or neighbors. In this regard, Article III – License Standard of the Ordinance provides as follows:

Article III – License Standard

No license shall issue to, or be held by, any person who the Director determines: (i) is engaging, or seeks to engage, in any business that, directly or indirectly, competes in whole or in part with any business conducted by the Nation or an entity or enterprise owned or controlled by the Nation, (ii) is occupying or using, or proposes to occupy or use, Nation land without having first received the express written approval of the Nation Council to do so, (iii) is engaging, or proposes to engage, in any business the operation of which would be contrary to the best interests of Nation, or (iv) who constitutes a threat to the effective regulation of commerce on Nation land or to the health, safety, welfare, morals, or well-being of the Nation, its members, residents, or neighbors. Any misrepresentation in an application for a license shall result in the denial of a license, and any person who engages in any business on Nation land without a license shall be subject to the fines, penalties and other enforcement actions set forth in Article X of this Ordinance.

14. The Ordinance further provides for penalties for any person who operates a business on Nation land without a business license issued pursuant to the Ordinance or otherwise violates any provision of the Ordinance. In this regard, Article X - Penalties and Enforcement provides as follows:

Article X – Penalties and Enforcement

Any person who engages in or operates a business on Nation land without a business license issued pursuant to this Ordinance or otherwise violates any provision of this Ordinance shall be subject to the following fines, penalties and enforcement actions.

1. Revocation and Fines –

a. The Director may revoke the license of any licensee who breaches the license standard set forth in Article III, above, or any other provision of this Ordinance.

b. The Director may levy and collect appropriate civil fines, not to exceed \$1,000 a day, plus interest, against any person for any violation of any provision of this Ordinance, following notice to that person of the relevant violation(s). Each day that a violation continues shall constitute a separate violation for purposes of calculating fines.

c. Property of the person fined that is located on Nation land may be seized and used to satisfy the payment of such fine(s), and the Nation may also use any other means available to it under law to collect such fines.

d. The Director shall provide an opportunity for an appeal by the person against whom a fine is levied. An appeal, if made, shall be submitted to the Director within thirty (30) days of the imposition of the fine; however, such appeal shall not stay the Director from collecting the fine.

2. Closure – The Director may order the temporary closure of a business for violation of this Ordinance. Such order shall take effect upon issuance. The temporary closure order shall be made permanent within ten (10) days unless the owner or operator of the business requests a hearing before the Director during that time. A hearing, if requested, must occur within thirty (30) days after the date of the request, but the temporary closure order shall remain in effect until the hearing is held and the Director either resolves the matter in the appellant's or favor or rules against the appellant in which event the temporary closure order shall be made permanent.

3. Eviction and Seizure. The Director may evict and remove any person from Nation land who is operating a business or engaging in any activity in violation of this Ordinance. In addition, the Director of Commerce may seize any property on Nation land that is being used, directly or indirectly, to operate a business or engage in any activity in violation of this Ordinance. Before initiating any eviction or seizure action, the Director shall notify the putative owner or operator of the business of the contemplated enforcement action who shall then have ten (10) calendar days to correct the violation(s) and present evidence to the Director that such violation(s) have been corrected. If the Director determines that the proffered evidence is insufficient and that such violations have not been corrected, he shall so notify the putative owner or operator of the business and shall thereafter be authorized to proceed immediately with the seizure and eviction.

4. Final Review – A person penalized or subjected to an enforcement action for violating this Ordinance may challenge such action by filing an appeal to the Nation Council within ten (10) days following the exhaustion of administrative remedies within the jurisdiction of the Director of Commerce. The Nation Council shall have full discretion to stay or permit the imposition of the penalty or enforcement action in question during the pendency of the appeal. The decision of the Nation Council on appeal shall be final.

15. In accordance with Article 10 of the Ordinance, the Defendants have been provided with more than ten (10) calendar days of Notice of their Violations of the Ordinance based on the October 22, 2021 Notice of Violations that was served on them, a copy of which is annexed and submitted herewith as Exhibit D. Defendants were provided with a second Notice of Violations via mail on February 10, 2022, a copy of which is annexed and submitted herewith as Exhibit E.

**FIRST CAUSE OF ACTION
(DECLARATORY JUDGMENT)**

16. Defendants are in violation of the Ordinance inasmuch as Defendants have not obtained the license required under the Article II of the Ordinance to operate Pipekeepers.

17. Defendants are in further violation of the Article III of the Ordinance inasmuch as Pipekeepers competes with Nation-owned businesses.

18. By virtue of the foregoing, Plaintiff is entitled to a declaratory judgment declaring that Defendants are in violation of the Ordinance.

**SECOND CAUSE OF ACTION
(ASSESSMENT AND ENFORCEMENT OF FINES AND PENALTIES)**

19. In accordance with Article X of the Ordinance, Defendants are liable to Plaintiff for a civil fine not to exceed \$1,000 per day, plus interest, for each day the violation continues.

20. In addition to the foregoing, Plaintiff, through its Director of Commerce, is entitled to issue an order ordering the temporary closure of Pipekeepers for violation of the Ordinance.

21. Plaintiff, through its Director of Commerce, is further entitled to evict and remove any person from the Pipekeepers Premises who is engaged in the business of Pipekeepers and seize any property that is being used directly or indirectly to operate said business.

22. Pursuant to the Ordinance, the Director of Commerce is authorized and required to provide notice to the Defendants of Plaintiff's contemplated enforcement of the Ordinance. A

copy of the aforesaid Notice of Violations dated and delivered to Defendants on October 22, 2021 is annexed and submitted herewith as Exhibit "C."

23. Defendants have failed and refused, and have continued to fail and refuse, to comply with said Notice.

24. By virtue of the foregoing, Plaintiff is entitled to an order assessing fines against Defendants in the amount of \$1,000 per day, as may be determined at trial or by the Court, closure of the Premises, removal of all persons engaged in the business of Pipekeepers located at the Premises, as well as the seizure of all property being used directly or indirectly to operate Pipekeepers.

**THIRD CAUSE OF ACTION
(INJUNCTIVE RELIEF)**

25. In addition to the foregoing, Plaintiff is entitled to a Temporary Restraining Order and Preliminary Injunction pursuant to Rule 30 of the Cayuga Nation Rules of Civil Procedure enjoining Defendants from the continued operation of Pipekeepers, as the operation of the Pipekeepers poses immediate and irreparable injury, loss, or damage to Plaintiff.

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

- 1) on Plaintiff's first cause of action, a declaratory judgment declaring that Defendants are in violation of the Ordinance by their ownership and/or operation of Pipekeepers;
- 2) on Plaintiff's second cause of action, a monetary fine in the amount of \$1,000 per day for which Defendants are found to be in violation of the Ordinance, the total of which shall be determined upon trial or by the Court, closure of the Premises, removal of all persons engaged in the business of Pipekeepers located at the

Premises as well as the seizure of all property being used directly or indirectly to operate Pipekeepers;

- 3) on Plaintiff's third cause of action, a Temporary Restraining Order and preliminary injunction enjoining the Defendants from their continued operation of Pipekeepers;
- 4) the costs and disbursements of this action together with such other and further relief as the Court deems just and proper.

DATED: February 10, 2022

BARCLAY DAMON, LLP

By: 

Lee Alcott, Esq.

Attorneys for Plaintiff,

Cayuga Nation

Barclay Damon Tower

125 East Jefferson Street

Syracuse, New York 13202

Tel: (315) 425-2749

EXHIBIT A

CAYUGA NATION

AMENDED AND RESTATED

BUSINESS LICENSE AND REGULATION ORDINANCE

Pursuant to the authority vested in the Cayuga Nation (hereinafter referred to as the “Nation”) by virtue of its sovereignty and sovereign powers of self-government, the Nation hereby establishes the office of Director of Commerce (hereinafter sometimes referred to as the “Director”) and adopts this Amended and Restated Business License and Regulation Ordinance (this “Ordinance”) setting forth rules and procedures by which the Director shall issue licenses to persons who seek to engage in business on Nation land, and governing the manner in which businesses may be operated on Nation land.

Article I - Definitions

1. “business” means any trade, professional or commercial activity of any sort.
2. “Nation land” means any real property that is located within the boundaries of Nation’s federally-recognized reservation.
3. “person” means (except as otherwise provided herein) any member of the Cayuga Nation that is a human being or group of human beings or any entity recognized as a person under the law of any jurisdiction, including, but not limited to, sole proprietorships, partnerships, associations, joint ventures and corporations claiming to operate as a sovereign business enterprise; provided that “person” shall not include the Cayuga Nation, its affiliates, enterprises or authorized agents.
4. “principal” means any person with ownership or management responsibility for a business.
5. “applicant” means any person acting on his own behalf, or authorized to act on behalf of any other person, for the purpose of securing a license pursuant to this Ordinance.
6. “licensee” means the person to or for whom a license is issued pursuant to this Ordinance.

Article II - License Requirement

No person shall engage in any type of business on Nation land without a business license issued by the Nation pursuant to this Ordinance. A valid license shall entitle the licensee to engage in those business activities for which the Nation issued the license. Each place of business on Nation land requires a separate license, provided, however, those businesses without a fixed place of business may have only one license.

Article III – License Standard

No license shall issue to, or be held by, any person who the Director determines: (i) is engaging, or seeks to engage, in any business that, directly or indirectly, competes in whole or in part with any business conducted by the Nation or an entity or enterprise owned or controlled by the Nation, (ii) is occupying or using, or proposes to occupy or use, Nation land without having first received the express written approval of the Nation Council to do so, (iii) is engaging, or proposes to engage, in any business the operation of which would be contrary to the best interests of Nation, or (iv) who constitutes a threat to the effective regulation of commerce on Nation land or to the health, safety, welfare, morals, or well-being of the Nation, its members, residents, or neighbors. Any misrepresentation in an application for a license shall result in the denial of a license, and any person who engages in any business on Nation land without a license shall be subject to the fines, penalties and other enforcement actions set forth in Article X of this Ordinance.

Article IV - License Text

Each license issued by the Nation shall provide the full name of the licensee, the business for which the license is granted, the location at which such business is permitted to operate, the date upon which the license is issued and the date of its expiration.

Article V - License Posting and Duration

1. Posting – The holder of a valid business license from the Nation shall post the license in a conspicuous place at the business location listed on the license. The holder shall display a copy of that license on the windshield or dashboard of each vehicle used by the licensee for business on Nation lands. Any licensee without a place of business shall carry his license with him. The license and all copies thereof shall be accessible at all times for inspection by the Director of Commerce, his agents, and other agents of the Nation.

2. Duration – Each license issued pursuant to this Ordinance shall remain in effect for one (1) year from the date of issuance unless revoked by the Director of Commerce.

Article VI - Establishment of Director of Commerce

1. The Nation establishes the Office of the Director of Commerce of the Cayuga Nation to administer this Ordinance.

2. The Director shall be appointed by the Nation Council. Only Cayuga citizens are eligible to serve as Director. Further, the Nation Council may remove a sitting Director at any time and for any reason. If the Director is a member of the Nation Council, then the Director shall be required to recuse himself from any removal action initiated by the Nation Council.

3. The Director shall have those powers and duties common to offices of its kind. The Director may in his discretion promulgate regulations to implement this Ordinance, provided they are consistent with its terms.

4. In the event the Director is unable temporarily to serve, the Nation Council shall appoint a replacement for the Director to serve in his stead during that time.

5. The Director shall be assisted by such staff, other public bodies or offices of the Nation, and legal counsel from time to time as deemed necessary by the Nation Council to fulfill the purposes of the Ordinance.

Article VII - Licensing Procedures

1. Any person may apply for a business license from the Nation.

2. The application shall be accompanied by a ONE THOUSAND DOLLAR (\$1,000.00) non-refundable fee and shall include the following information:

- a. Name of the applicant;
- b. Form of the applicant's business (*e.g.*, a sole proprietorship, association, corporation, etc.) and, if a corporation, the name of the jurisdiction in which the corporation is registered;
- c. The business address and telephone number to which the license would apply;
- d. Nature of the applicant's business;
- e. Full name, birthdate, place of birth, citizenship, gender, driver's license number, address, and telephone number of the applicant, each owner, and each principal of the business;
- f. Number of employees during prior calendar year and the number anticipated for current calendar year (include identification of the actual and anticipated number of native employees);
- g. Name, address, and telephone number of an agent for the applicant who resides on Nation land and who is designated to accept service of process on behalf of the applicant;
- h. The name and address of any licensing body or regulatory agency, other than the Nation, with which the person has filed an application for a business or occupational license or permit, whether or not such license or permit was granted;
- i. Proof that the Nation Council has given written authorization to the applicant to occupy Nation land for the purpose of conducting the business activity that is the subject of the license application;

j. Such other information as may be necessary to properly evaluate the applicant; and

k. Statement by the applicant that: (i) the information provided in the application is true and complete, that the applicant will cooperate with the Nation and any of its agencies or representatives in any investigation deemed necessary regarding the fitness of the applicant to be licensed, and (ii) the applicant will abide by the laws and requirements, and submit to the jurisdiction, of the Cayuga Nation.

3. The Director shall not issue a license to any applicant who does not meet the requirements of Article III, above, and all other prerequisites of this Ordinance.

4. The Director shall issue or deny the license within ten (10) business days of receipt of the application, unless exceptional circumstances exist, in which case the

Director shall notify the applicant within ten (10) business days of receipt of the application of the reason for the delay, along with an estimate of the approximate amount of additional time needed to process the application.

Article VIII - Renewal and Transfer

1. Renewal – A person may renew a license by applying for a renewal at least thirty (30) days prior to the expiration of the license to be renewed. The renewal application shall be accompanied by a ONE THOUSAND DOLLAR (\$1,000.00) non-refundable fee. The Director of Commerce shall review a renewal application pursuant to the standards and procedures set forth in this Ordinance.

2. Assignment or Transfer – Although the business authorized by a license issued under this Ordinance may only be conducted and operated by the named licensee, such license may be assigned or transferred on application to the Director and upon: (i) satisfaction by the transferee of the standards and requirements applicable to the original license, (ii) approval by the Director of an application for assignment or transfer, (iii) payment of a ONE THOUSAND DOLLAR (\$1,000.00) non-refundable fee. The Director of Commerce shall sign each certification of assignment or transfer. The certification shall be displayed with the license at all times. Assignment or transfer shall not alter the expiration date set forth on the license.

3. Operation Under License by Others Prohibited – No person holding a valid license may allow any other person chargeable with a separate license to operate under his license.

Article IX - Appeal Procedure

If the Director denies or revokes a license, its renewal or its assignment or transfer, then the Director shall provide the applicant or licensee with written notice setting forth the reason(s) for the denial or revocation and allow the applicant or licensee to appeal the denial or revocation within ten (10) days of receipt of such notice. All appeals shall be

addressed to and heard by the Nation Council and its decision on appeal shall be final. Notwithstanding the foregoing appeal rights, if the Director denies or revokes a license or its renewal or its assignment or transfer, the applicant, licensee or proposed assignee may not conduct any unlicensed business or other commercial activity on Nation land unless and until the appeal is resolved in his favor or unless the Nation Council decides, as an interim measure, to stay the Director's decision to revoke a license or deny a license application or the assignment of an existing license.

Article X – Penalties and Enforcement

Any person who engages in or operates a business on Nation land without a business license issued pursuant to this Ordinance or otherwise violates any provision of this Ordinance shall be subject to the following fines, penalties and enforcement actions.

1. Revocation and Fines –

a. The Director may revoke the license of any licensee who breaches the license standard set forth in Article III, above, or any other provision of this Ordinance.

b. The Director may levy and collect appropriate civil fines, not to exceed \$1,000 a day, plus interest, against any person for any violation of any provision of this Ordinance, following notice to that person of the relevant violation(s). Each day that a violation continues shall constitute a separate violation for purposes of calculating fines.

c. Property of the person fined that is located on Nation land may be seized and used to satisfy the payment of such fine(s), and the Nation may also use any other means available to it under law to collect such fines.

d. The Director shall provide an opportunity for an appeal by the person against whom a fine is levied. An appeal, if made, shall be submitted to the Director within thirty (30) days of the imposition of the fine; however, such appeal shall not stay the Director from collecting the fine.

2. Closure – The Director may order the temporary closure of a business for violation of this Ordinance. Such order shall take effect upon issuance. The temporary closure order shall be made permanent within ten (10) days unless the owner or operator of the business requests a hearing before the Director during that time. A hearing, if requested, must occur within thirty (30) days after the date of the request, but the temporary closure order shall remain in effect until the hearing is held and the Director either resolves the matter in the appellant's or favor or rules against the appellant in which event the temporary closure order shall be made permanent.

3. Eviction and Seizure. The Director may evict and remove any person from Nation land who is operating a business or engaging in any activity in violation of this Ordinance. In addition, the Director of Commerce may seize any property on Nation land that is being used, directly or indirectly, to operate a business or engage in any activity in violation of this Ordinance. Before initiating any eviction or seizure action, the Director shall

notify the putative owner or operator of the business of the contemplated enforcement action who shall then have ten (10) calendar days to correct the violation(s) and present evidence to the Director that such violation(s) have been corrected. If the Director determines that the proffered evidence is insufficient and that such violations have not been corrected, he shall so notify the putative owner or operator of the business and shall thereafter be authorized to proceed immediately with the seizure and eviction.

4. Final Review – A person penalized or subjected to an enforcement action for violating this Ordinance may challenge such action by filing an appeal to the Nation Council within ten (10) days following the exhaustion of administrative remedies within the jurisdiction of the Director of Commerce. The Nation Council shall have full discretion to stay or permit the imposition of the penalty or enforcement action in question during the pendency of the appeal. The decision of the Nation Council on appeal shall be final.

Article XI - Interpretation

1. Sovereign Immunity – The Nation does not by enacting this Ordinance waive in any respect its sovereign immunity, or that of its enterprises, affiliates or agents, under either state or federal law or arising from native existence.

2. No Right of Action – This Ordinance does not create any right, cause of action or benefit enforceable at law or in equity by any person against the Nation, its enterprises, affiliates, agents, officers or employees, or any other person.

3. No Right of Use or Occupancy – This Ordinance does not create any right on the part of any Nation citizen or other person to use or occupy Nation land to conduct any business or for any other purpose, except as expressly provided herein.

4. Sole Procedure – This Ordinance establishes the sole procedure for a person to obtain a license and engage in business on Nation land. This Ordinance is not subject to review, enforcement, or modification in any state or federal court or by any authority outside the Nation.

5. Outstanding Fees or Penalties – No license shall be issued, renewed, or transferred if the person seeking the license has failed or refused to pay any fee or penalty imposed by this Ordinance. Provided, however, that, the Director in his discretion may, for cause shown and on such terms or conditions as he shall prescribe, waive the restriction of the previous sentence.

Article XII – Licensing of Nation-owned Businesses

Consistent with Article I, Section 3 of this Ordinance, any Nation-owned or operated business, enterprise, or entity may engage in commercial or other activities without first obtaining a license issued by the Nation pursuant to this Ordinance. The foregoing notwithstanding, either the Nation Representative or the Director of Commerce, may, in his discretion, issue a license to one or more such businesses, enterprises or entities on such terms and conditions as he deems appropriate, including, but not limited to, excusing the

Nation-owned or operated business, enterprise or entity from completing and submitting a license application or paying any fees.

Article XIII - Effective Date

This Ordinance is effective upon enactment. Enacted as of the 6th day of June, 2017. Amended and restated on the 18th day of July, 2017, Amended by a First Amendment effective as of the 1st day of August, 2019, and Amended by a Second Amendment as of the 12th day of October, 2021.

EXHIBIT B

At a Special Term of the Cayuga
Nation Civil Court held on the 2nd
day of December, 2021

Present: Hon. Joseph E. Fahey,
Cayuga Nation Civil Court Judge

NATION CIVIL COURT
CAYUGA NATION

CAYUGA NATION,

Plaintiff,

v.

DUSTIN PARKER and DUSTIN PARKER d/b/a
PIPEKEEPERS TOBACCO & GAS,

Defendants.

ORDER

Index No.: CV-21-016

Plaintiff, having moved by Order to Show Cause seeking an Order enjoining the Defendants from the continued operation of Pipekeepers Tobacco & Gas, requiring that Pipekeepers Tobacco & Gas be shuttered, seeking a monetary fine in the amount of \$1,000 per day for Defendants' violation of a Cayuga Nation Ordinance, and granting such other and further relief as the Court deems just and proper;

NOW, upon reading and filing Plaintiff's Order to Show Cause, Plaintiff's Complaint and the Exhibits annexed thereto, and Defendants not having submitted any opposition to Plaintiff's Order to Show Cause or having appeared on the December 2, 2021 return date of Plaintiff's Order to Show Cause, it is hereby

ORDERED, that Defendants are permanently enjoined from the operation of Pipekeepers Tobacco & Gas; and it is hereby further

ORDERED, that pursuant to the Cayuga Nation Amended and Restated Business License and Regulation Ordinance (“Ordinance”) Defendants are hereby assessed a civil fine of \$1,000 per day for their violation of the Ordinance beginning October 22, 2021, said day being the date of “Notice of Violations,” served on Defendants and continuing until such time as Pipekeepers Tobacco & Gas ceases operations.

Dated: December 2, 2021



Cayuga Nation Civil Court Judge

NATION CIVIL COURT
CAYUGA NATION

CAYUGA NATION,

Plaintiff,

v.

DUSTIN PARKER and DUSTIN PARKER d/b/a
PIPEKEEPERS TOBACCO & GAS,

Defendants.

JUDGMENT
Index No.: CV-21-016

Plaintiff, having moved by Order to Show Cause seeking an Order enjoining the Defendants from the continued operation of Pipekeepers Tobacco & Gas, requiring that Pipekeepers Tobacco & Gas be shuttered, seeking a monetary fine in the amount of \$1,000 per day for Defendants' continued violation of a Cayuga Nation Ordinance, and granting such other and further relief as the Court deems just and proper, and Defendants having failed to appear on the return date of Plaintiff's Order to Show Cause, and the Court having issued an Order dated December 2, 2021, granting the relief requested by Plaintiffs (copy attached).

NOW, on motion of Lee Alcott, Esq., attorney for Plaintiff, it is hereby

ADJUDGED that Defendants are permanently enjoined from the operation of Pipekeepers Tobacco & Gas; and it is hereby further

ADJUDGED, that pursuant to the Cayuga Nation Amended and Restated Business License and Regulation Ordinance ("Ordinance") Defendants are hereby assessed a civil fine of \$1,000 per day for their violation of the Ordinance beginning October 22, 2021, said day being the date of the "Notice of Violations," served on Defendants and continuing until such time as Pipekeepers Tobacco & Gas ceases operations and that Plaintiff do recover from Defendants at this time the sum

of Forty Five Thousand Dollars (\$45,000), said amount continuing to accrue at the rate of \$1,000 per day and that Plaintiff have execution therefor

Judgment entered this 6th day of December, 2021



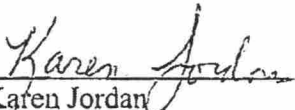

Karen Jordan
Clerk of the Cayuga Nation court

EXHIBIT C

QUIT CLAIM DEED

THIS INDENTURE, made this 22nd day of December, 2021 between the **SENECA CAYUGA TRIBE OF OKLAHOMA**, with a mailing address of P.O. Box 453220, Grove, Oklahoma 74344, party of the first part, and **CAYUGA NATION**, with a mailing address of P.O. Box 786, Seneca Falls, New York 13148, party of the second part;

WITNESSETH: that the party of the first part for and in consideration of the sum of one dollar and 00/100 cents (\$1.00), lawful money of the United States, and other good and valuable consideration, paid by the party of the second part, does hereby remise, release, and quit claim unto the party of the second part, its distributees, successors, and assigns forever:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Village and Town of Seneca Falls, County of Seneca, State of New York bounded and described as follows,

See attached "**Schedule A**" hereto and made a part hereof

Subject to easements and restrictions of record.

BEING THE SAME PREMISES conveyed by a deed dated December 8, 2010 from Compound Holdings, LLC to Grantor and recorded on December 8, 2010 in the Seneca County Clerk's Office as Instrument No. 2010-00004307.

TOGETHER with appurtenances and all the estate and rights of the party of the first part in and to said premises.

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, its distributees, successors and assigns forever.

[Signature page to follow]

IN WITNESS WHEREOF, the party of the first part has caused its corporate seal to be hereunto affixed and this Indenture to be subscribed on the day and year first above written.

**SENECA CAYUGA TRIBE OF
OKLAHOMA**

By: Charles Diebold

Name: Charles Diebold

Title: Chief

STATE OF OKLAHOMA)
COUNTY OF Tulsa)

On the 22 day of DECEMBER in the year 2021 before me, the undersigned, a notary public in and for said state, personally appeared CHARLES DIEBOLD personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Rebecca S. Matheus
NOTARY PUBLIC



EXHIBIT D



NOTICE OF VIOLATIONS

TO: DUSTIN PARKER AND DUSTIN PARKER, D.B.A. PIPEKEEPERS TOBACCO AND GAS, 126 E. BAYARD ST., SENECA FALLS, NEW YORK 13148

YOU ARE HEREBY NOTIFIED THAT YOUR OWNERSHIP AND/OR OPERATION OF THE ABOVE-REFERENCED PREMISES ("PREMISES") IS IN VIOLATION OF THE CAYUGA NATION AMENDED AND RESTATED BUSINESS LICENSE AND REGULATION ORDINANCE (THE "ORDINANCE").

THE SPECIFIC VIOLATIONS ARE AS FOLLOWS:

- 1. VIOLATION OF ARTICLE II OF THE ORDINANCE WHICH REQUIRES ANY PERSON ENGAGING IN ANY TYPE OF BUSINESS ON NATION LAND TO OBTAIN A BUSINESS LICENSE ISSUED BY THE CAYUGA NATION.**
- 2. VIOLATION OF ARTICLE III OF THE ORDINANCE WHICH PROHIBITS ANYONE ENGAGING IN A BUSINESS THAT, DIRECTLY OR INDIRECTLY, COMPLETES IN WHOLE OR IN PART WITH ANY BUSINESS CONDUCTED BY THE CAYUGA NATION.**

YOU ARE FURTHER NOTIFIED THAT YOUR FAILURE TO COMPLY WITH THIS NOTICE BY CEASING ALL OPERATIONS AT THE PREMISES WITHIN TEN (10) DAYS OF DELIVERY OF THIS NOTICE MAY SUBJECT YOU THE FOLLOWING PENALTIES INCLUDING, BUT NOT LIMITED TO:

- 1. A CIVIL FINE NOT TO EXCEED \$1,000 PER DAY AGAINST ANY PERSON FOUND TO BE VIOLATING THE ORDINANCE.**
- 2. CLOSURE OF THE PREMISES.**
- 3. EVICTION AND REMOVAL OF ANY PERSON OPERATING THE BUSINESS ON THE PREMISES AS WELL AS THE SEIZURE OF ANY PROPERTY BEING**

USED DIRECTLY OR INDIRECTLY TO OPERATE THE BUSINESS ON THE PREMISES.

- 4. A CIVIL SUIT FILED IN THE NATION COURT SEEKING TO ENFORCE THE TERMS AND PROVISIONS OF THE ORDINANCE.**

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DATED: October 22 , 2021

**/s /Michael Barringer
Michael Barringer
Director of Commerce
Cayuga Nation**

EXHIBIT E



NOTICE OF VIOLATIONS

**TO: DUSTIN PARKER AND DUSTIN PARKER D/B/A/ PIPEKEEPERS,
7153 STATE ROUTE 90, TOWN OF MONTEZUMA, NEW YORK**

YOU ARE HEREBY NOTIFIED THAT YOUR OWNERSHIP AND/OR OPERATION OF THE ABOVE-REFERENCED PREMISES ("PREMISES") IS IN VIOLATION OF THE CAYUGA NATION AMENDED AND RESTATED BUSINESS LICENSE AND REGULATION ORDINANCE (THE "ORDINANCE").

THE SPECIFIC VIOLATIONS ARE AS FOLLOWS:

- 1. VIOLATION OF ARTICLE II OF THE ORDINANCE WHICH REQUIRES ANY PERSON ENGAGING IN ANY TYPE OF BUSINESS ON NATION LAND TO OBTAIN A BUSINESS LICENSE ISSUED BY THE CAYUGA NATION.**
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- 3. EVICTION AND REMOVAL OF ANY PERSON OPERATING THE BUSINESS ON THE PREMISES AS WELL AS THE SEIZURE OF ANY PROPERTY BEING**

USED DIRECTLY OR INDIRECTLY TO OPERATE THE BUSINESS ON THE PREMISES.

- 4. A CIVIL SUIT FILED IN THE NATION COURT SEEKING TO ENFORCE THE TERMS AND PROVISIONS OF THE ORDINANCE.**

DATED: FEBRUARY 8, 2022

**/s/ Michael Barringer
Michael Barringer
Director of Commerce
Cayuga Nation**