



FOR IMMEDIATE RELEASE

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**SENECA NATION RESPONDS TO NEW YORK'S THREAT
WHILE NATIONAL INDIAN GAMING COMMISSION COMPLETES REVIEW**

CATTARAUGUS TERRITORY, IRVING, N.Y. – The Seneca Nation is today calling upon New York State to allow the National Indian Gaming Commission (NIGC) the time required to complete its ongoing review of the Nation's gaming Compact, while also rejecting the State's threat to circumvent that review.

Yesterday, the Nation received a letter from the State's attorneys demanding that Compact revenue share payments be made by March 16. If the payment is not made, the letter indicates that the State will seek to seize the funds. The letter comes despite the fact that the NIGC has yet to complete its review of the Compact payments and issue an official report on the matter. Last month, the Seneca Nation Council passed a resolution pausing the payments until the NIGC review was complete.

"The NIGC's review, and the time needed to complete that review, is not a matter that the Seneca Nation can control. We have pressed, and continue to press, the agency for an update. We hope that an official report from NIGC will come soon," said Seneca Nation President Matthew Pagels. "Rather than threatening aggressive action, the State should permit the federal agency responsible for overseeing Indian gaming issues the time it needs to complete its work."

While the Nation awaits NIGC's report, President Pagels stated that the Nation is preparing for every circumstance, including further legal action should the State seek to take the funds by Court order.

"Now is not the time for the State to revert to bullying and greed. We thought that chapter had hopefully ended and that a new day had dawned in Albany. We hope we are not wrong," he said. "We have seen what happens when New York acts like a government intent on eroding, ignoring and obliterating relationships with Native Nations and Native people."

In the meantime, President Pagels is calling on the State to begin discussions on an amended gaming Compact with the Seneca Nation, citing continual changes, developments and threats to the gaming market.

"The gaming market has changed dramatically in the last 20 years, in terms of what is available to people, and where. Our Compact needs to reflect these changing market dynamics," he said. "The State is required by federal law to negotiate with the Seneca Nation, and I am calling on the State to begin discussions. Unlike the NIGC review, that dialogue, which could produce meaningful and needed changes for our gaming business in Western New York and the thousands of people we employ, is completely in the control of the Nation and the State. We need to get started."

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March 9, 2022

VIA E-MAIL & OVERNIGHT DELIVERY

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RE: *Seneca Nation of Indians v. State of New York*, No. 19-cv-735S (W.D.N.Y.)

Dear Ms. Heckman:

We write on behalf of the State of New York (the “State”), respondent and judgment creditor in the above captioned action (the “Litigation”).

As you know, the State and the Seneca Nation of Indians (the “Nation”) entered into that certain Settlement Agreement dated January 12, 2022 (the “Settlement Agreement”), pursuant to which the Nation agreed to pay to the State, no later than January 22, 2022, (1) \$255,877,747.44 attributable to outstanding payments (the “State Contribution Payments”) required under that certain class III gaming compact entered into by the Nation and State on August 18, 2002 (the “Compact”) for the period January 1, 2017 through December 31, 2018, and (2) \$283,792,850.84 attributable to outstanding State Contribution Payments for the period January 1, 2019 through September 30, 2021. The Nation has not remitted the required payments. Without waiver of any rights or remedies arising under the Settlement Agreement or otherwise, the State demands that the Nation remit the agreed-to payments to the State by no later than March 16, 2022, failing which the State will consider the Settlement Agreement definitively repudiated by the Nation and of no binding effect on the State.

In the event the Nation fails to make the required payments under the terms of the Settlement Agreement by March 14, 2022, the State hereby provides notice that it intends to immediately undertake enforcement and collection efforts in respect of all amounts due under the judgment (the “Judgment”) dated November 12, 2019 entered in the Litigation by the United States District Court for the Western District of New York (the “District Court”). Per the Judgment, the Nation is obligated to remit to the State (i) \$255,877,747.44 in State Contribution Payments for the period January 1, 2017, to December 31, 2018 and (ii) all State Contribution Payments (representing 25% the Nation’s Net Drop (as defined in the Compact) of slot machines during the relevant period) as they came due from December 31, 2018 through the term of the Compact (as of December 31, 2022, this amount in total is approximately \$308,964,877.76 and continues to accrue). The State is also entitled to recover post-judgment interest on these amounts from the date of the Judgment to the collection date. The State further intends to seek recovery of its fees and costs to enforce the Judgment.

In light of the Nation's failure to satisfy the Judgment or make the agreed-to payments under the Settlement Agreement, it is clear that there remains a dispute between the parties regarding outstanding State Contribution Payments, which constitute "Disputed Amounts" as that term is defined in that certain "Nation Agreement" entered into on December 28, 2018 among the Nation, the Seneca Gaming Corporation, and Fifth Third Bank as administrative agent (the "Agent") on behalf of certain lenders and other parties thereto. Accordingly, as required by the Nation Agreement, and as represented and certified by the Nation to the District Court, the Nation was, and continues to be, obligated to maintain sufficient funds in the "Disputed Amounts Reserve Account" (as defined in the Nation Agreement) (the "Account") to satisfy the Judgment, and the Nation may not transfer, remove or withdraw any such funds from the Account except to pay the State in satisfaction of the Judgment.

The State is hopeful that the Nation will live up to its commitments and make the agreed payments pursuant to the Settlement Agreement by no later than March 16, 2022. However, in the event that the Nation fails to honor its pledge, the State intends to immediately commence enforcement and collection efforts to the full extent of its legal rights to recover on the Judgment and recoup its costs.

Please note that we are also providing a copy of this letter to the Agent to ensure that the funds in the Account are not misappropriated and are secured to satisfy the Judgment.

Sincerely,

/s/ Gregory M. Starner

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March 9, 2022

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