



TFA

Monthly Newsletter

March 2017

IN THE NEWS

Landmark Tribal Litigation Settled

by Jeffrey Heimann

On February 15, 2017, the Lac du Flambeau Band of Lake Superior Chippewa announced that an agreement had been reached to settle all litigation between the various parties involved in its original \$50 million bond transaction it entered into back in January 2008. The parties involved in the settlement include the Tribe, Saybrook Tax Exempt Investors, Stifel Nicolaus & Company and the law firms of Godfrey & Kahn, S.C. and Dentons US LLP.

This landmark case hit the financial markets like a ton of bricks back in January 2010 when a federal judge invalidated the indenture between the Tribe's wholly-owned Lake of the Torches Economic Development Corporation and Saybrook. Much of this case has been largely misunderstood, as this was not a situation of a tribe

simply trying to walk away from its debt. Quite the contrary, the Lac du Flambeau Tribe had no intention of walking away from its debt; rather, it was forced to use a strategy to cause all parties to come to the table to reach an outcome that acknowledged other parties' culpability.

Specifically, the Tribe always maintained significant irregularities existed in the original transaction, including around a commercial casino project in Mississippi that the increased proceeds of the bond deal funded. When the ill-advised project failed to materialize, the Tribe was left in a dire financial position and unable to meet the minimal governmental needs of the Tribe.

This culpability is evidenced in the final settlement – in which Saybrook did not
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EPA Grant Freeze Cuts Tribes Deeply

1/31/17 – ICMN.com

IRS Encourages Tribal Communities to Check Out the Earned Income Tax Credit

2/5/17 – KCSG.com

Tribe Settles Bond Litigation, Invites Tribal Members to Learn More March 4

2/15/17 – BusinessWire.com

Indian Nations Law Update—February 2017: Ninth Circuit Rejects Tribal Online Lenders' "Co-Regulator" Argument

2/17/17 – NatLawReview.com

Begaye Wants Tribes Treated as Nations

2/21/17 – NHONews.com

Border Wall Would Cut Across Land Sacred to Native Tribe

2/23/17 – NPR.org

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**TFA will be attending the National Reservation
Economic Summit at the Mirage in
Las Vegas, NV – March 13-16, 2017**



**If you will also be in attendance and would like to set up a meeting,
please contact Kristi Jackson at kjackson@tfacp.com**

receive its full ask, and the underwriter and law firms representing parties in the transaction all contributed.

"Throughout this journey, we remained committed to reaffirming our sound financial footing and restoring our good standing in the financial community," Tribal president Joseph Wildcat, Sr. said in a press release announcing the settlement. "We were far too trusting in our business interactions when this began nearly 10 years ago.

We learned from this lengthy, complex and expensive process. And, we put in place safeguards to ensure this never happens again."

The final settlement of \$75.5 million included \$27 million paid for by the Tribe with the difference paid for by the other parties to the litigation. Interestingly, the amount the Tribe paid for is very close to the amount of existing debt held by the Tribe prior to entering into the \$50 million bond trans-

action and investing in the Mississippi project.

We surmise it will take a little bit of time for the Tribe to reestablish its credibility with the financial markets as a whole. Given our familiarity with the Tribe's Council and Membership from their initial restructuring attempts through the settlement negotiations, however, we at TFA Capital Partners are confident that this credibility will be attained in short order.

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