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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA

In re

EAGLE BEAR, INC.,

Debtor.

Case No. 4:22-bk-40035-BPH

**OBJECTION TO BLACKFEET NATION
PROOF OF CLAIM # 11-3**

Pursuant to Rule 3007, Fed. R. Bankr. P., and Mont. LBR 3007-1, the Debtor (“Eagle Bear”), by and through the undersigned attorney, respectfully objects to the Proof of Claim filed in the above-entitled case by the Blackfeet Nation (the “Nation”), which is claim number 11-3 on the Claims Register maintained by the Clerk of Court. The grounds for this Objection are as follows:

1. The Nation and Eagle Bear entered into a Lease for a Campground on the Blackfeet Indian Reservation on April 11, 1997 (“1997 Lease”).
2. Eagle Bear is current on all its payments due under the 1997 Lease.
3. On November 18, 2022, the Blackfeet Indian Nation (“Nation”) filed a proof of claim for taxes and penalties in the amount of \$7,219,243.89.
4. The Nation’s claim consists of (i) \$4,009,053.40 in lodging taxes

(“Accommodation Tax”) with interest since 1997, (ii) \$3,182,750.18 in Tribal Employment Rights Office tax (“TERO Tax”) and Construction Taxes (“Construction Tax”) with interest since 1997, and (iii) \$27,440.31 in interest due on late rental payments since 1997 (“Late Payment Interest”).

5. The Nation asserts a priority pursuant to 11 U.S.C. § 507(a)(8) for the Accommodation Tax, interest, and penalties, the TERO Tax and interest, Construction Tax and interest, and Late Payment Interest. 11 U.S.C. § 507(a)(8) provides for a priority for taxes measured by income or gross receipts as described in subsection (a)(8). The Accommodation Tax, TERO Tax, Construction Tax, and Late Payment Interest alleged in the Nation’s proof of claim do not meet the criteria of subsection (a)(8) and are not entitled to priority status.

6. The 1997 Lease provides for the payment of an annual rental and a percentage of gross registration receipts.

7. There is no liability for TERO Taxes for the first 5 years of the 1997 Lease which provides:

The Lessor has a 2% TERO tax presently in place for all new construction as well as a 3% construction tax for new construction. The parties agree that the TERO tax shall remain applicable to all new construction on the premises, however, Lessor shall waive all construction taxes for the first five years of the lease in order to encourage Lessee to make improvements and investments in the Campground/Recreation Facility and/or Complex.

8. The TERO Tax is imposed only upon construction contracts in excess of \$100,000.

9. The TERO Tax is imposed on contractors and subcontractors and not on the project owners. Eagle Bear is neither a contractor nor a subcontractor and is not liable for the TERO tax.

10. Similarly, the Construction Tax is imposed upon “any prime or subcontractors engaged in realty improvement contracts.” Much of the improvement of realty on the Eagle Bear campground was made by Eagle Bear and not by contractors or subcontractors. Nevertheless, as the owner, Eagle Bear is not liable for any Construction Tax.

11. The proof of claim is erroneously based upon the construction value of \$4,500,000 for improvements to the Campground.

12. Eagle Bear has no liability for the TERO Tax or the Construction Tax as claimed by the Nation.

13. The Nation’s Comprehensive Tax Code prevents the Nation from asserting tax liability for more than 4 years.

14. The Nation has adopted a resolution that its Accommodation Tax should not be paid if the taxpayer is also paying the State of Montana accommodation tax. Eagle Bear is paying the State of Montana’s accommodation tax.

15. The Nation is calculating the Accommodation Tax due at an incorrect interest rate.

16. The Nation’s Accommodation Tax is being selectively, and in an unlawful discriminatory manner, asserted against Eagle Bear only; the Nation does not assert that other entities providing accommodation services are subject to the Accommodation Tax.

17. The Nation has waived any claim of Accommodation Tax liability for any amount exceeding \$728,067.08.

18. The Nation is improperly compounding interest on the disputed Accommodation Tax, TERO Tax, Construction Tax, and Late Payment Interest liability.

19. Any penalty asserted by the Nation is not entitled to priority classification.

20. The Nation's Comprehensive Tax Code prevents the Tribe from looking back at tax liability beyond 4 years. Section 3.1 of the Comprehensive Tax Code only requires taxpayers to maintain records for 4 years. The Nation's claim seeks taxes, penalties, and interest going back 25 years.

21. The Bureau of Indian Affairs, the entity charged with administration of the 1997 Lease has not, and does not, assess interest or penalties on any late payments; the Bureau of Indian Affairs has never issued Eagle Bear an invoice for interest.

22. In their most recent response to written discovery requests, the BIA confirmed that all payments due under the Lease have been made. "To date, Eagle Bear, Inc. is current on all annual payments. All annual audits have been filed per the lease agreement and the Gross Registration Receipt payments have been made in accordance with annual audit findings. No outstanding amount of money is owed by Eagle Bear, Inc. as of this date."

23. For these reasons, the Nation is not entitled to its claim. Eagle Bear objects to the claim.

WHEREFORE, Eagle Bear requests that Proof of Claim number 11-3 be disallowed.

DATED this 13th day of December, 2022.

**PATTEN, PETERMAN, BEKKEDAHL
& GREEN, P.L.L.C.**
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By: /s/ JA Patten

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Attorney for Debtor

**NOTICE OF OBJECTION TO CLAIM AND PPORTUNITY TO RESPOND
AND REQUEST A HEARING**

An objection to your claim in this bankruptcy case has been filed. The objection may result in your claim being reduced, modified or eliminated. If you do not want your claim modified or eliminated, you must file a written responsive pleading and request a hearing within thirty (30) days of the date of the objection. The responding party shall schedule the hearing on the motion at least twenty-one (21) days after the date of the response and request for hearing and shall include in the caption of the responsive pleading in bold and conspicuous print the date, time and location of the hearing by inserting in the caption the following

NOTICE OF HEARING

Date: _____
Time: _____
Location: _____

If no objections are timely filed, the Court may reduce, modify, or eliminate the claim.

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify under penalty of perjury that on the 13th day of December, 2022, a copy of the foregoing was served by electronic means pursuant to LBR 9013-1(d)(2) on the parties noted in the Court's ECF transmission facilities and/or by mail on the following parties:

Derek E. Kline
P.O. Box 1577
Center Harbor, NH 03226

Blackfeet Legal Dept.
c/o Derek E. Kline
P.O. Box 849
Browning, MT 59417

By: /s/ JA Patten
Patten, Peterman, Bekkedahl & Green PLLC