

TRIBAL COURT  
OF THE  
SHAKOPEE MDEWAKANTON SIOUX (DAKOTA) COMMUNITY  
COUNTY OF SCOTT

IN THE COURT OF THE  
SHAKOPEE MDEWAKANTON SIOUX  
(DAKOTA) COMMUNITY

FILED

APR 27 2005

LYNNEA A. FERRELL  
CLERK OF COURT  
STATE OF MINNESOTA

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Shakopee Mdewakanton Sioux (Dakota)  
Gaming Enterprise

Court File No. 436-00

Plaintiff,

vs.

Leonard Prescott, individually, and as  
current and former officer and/or director  
of Little Six, Inc.

Defendant.

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MEMORANDUM OPINION AND ORDER

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On February 14, 2005, Little Six, Inc. ("LSI") and the Shakopee Mdewakanton Sioux (Dakota) Community Gaming Enterprise ("the Gaming Enterprise") moved to substitute the Gaming Enterprise for LSI as the Plaintiff in this matter, pursuant to Rules 17(a) and 20 of the Rules of Civil Procedure of this Court. With their motion, LSI and the Gaming Enterprise filed an Affidavit of Jeffrey Rasumussen, legal counsel to the movants. Attached to Mr. Rasumussen's affidavit, and attested to by the affidavit, were copies of a resolution of LSI's Board of Directors (Resolution no. LSI 12-30-04-007) assigning LSI's claims in this matter to the Gaming Enterprise, and a resolution of the Board of Directors of the Gaming Enterprise (Resolution no. CGE 12-30-04-01) accepting the assigned claims and authorizing the continuation of this matter in the name of the Gaming Enterprise.


By a Clerk's Notice dated February 14, 2005, the Court gave the Defendant until March 16, 2005 to submit any materials responsive to the motion for substitution and, if responsive materials were submitted, gave the movants until March 30, 2005 to submit any reply. In the event, the Defendant elected not to submit any response to the motion.

The Court has reviewed the materials submitted by the movants, and has concluded that substitution of the Gaming Enterprise for LSI is appropriate. This Court's Rule 20 incorporates, with some exceptions not here pertinent, the provisions of Rule 25 of the Federal Rules of Civil Procedure ("the FRCP"); and Rule 25(e) of the FRCP permits the substitution of a new party in instances where the new party is the transferee of a previous party's interest in the proceeding. The materials filed by the movants indicate that the Gaming Enterprise was created as an arm and instrumentality of the government of the Shakopee Mdewakanton Sioux (Dakota) Community ("the Community"), by Resolution No. 9-14-04-015 of the Community's General Council, and that thereafter the Business Council of the Community and the Board of Directors of LSI determined that LSI would be dissolved, after transferring all gaming operations, and all claims in this matter, to the Gaming Enterprise. Those decisions were implemented, effective 12:01 a.m. on January 1, 2005. Accordingly, it is clear that the Gaming Enterprise now is the proper party plaintiff in this matter.

ORDER

For the reasons set forth above, the motion to substitute the Shakopee Mdewakanton Sioux (Dakota) Community Gaming Enterprise for Little Six, Incorporated, as the Plaintiff in this matter, is GRANTED.

April 27, 2005

  
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Judge John E. Jacobson