



HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

**HO-CHUNK NATION LEGISLATURE
APPROVAL OF SETTLEMENT OF BANK OF AMERICA
LITIGATION AND DISMISSAL OF
HO-CHUNK NATION COURT ACTION, CV-02-93
RESOLUTION 11-18-08 J**

- WHEREAS,** on November 1, 1994, the Secretary of the Interior approved a new Constitution for the Ho-Chunk Nation, formerly known as the Wisconsin Winnebago Nation;
- WHEREAS,** the Ho-Chunk Nation ("Nation") is a federally recognized Indian Tribe, organized pursuant to the Indian Reorganization Act of 1934;
- WHEREAS,** the Legislature of the Ho-Chunk Nation ("Legislature") is the duly governing body of the Nation pursuant to the Constitution of the Nation ("Constitution");
- WHEREAS,** Article V, section 2 (a) of the Constitution authorizes the Legislature to make laws, including codes, ordinances, resolutions, and statutes;
- WHEREAS,** Article V, section 2 (i) of the Constitution authorizes the Legislature to negotiate and enter into treaties, compacts, contracts, and agreements with other governments, organizations or individuals;
- WHEREAS,** the Nation and Bank of America, N.A. ("BofA") have been engaged in a dispute arising from the claims by the Nation *inter alia* that BofA misapplied or misstated the terms of an interest rate swap agreement memorialized by an ISDA Master Agreement and related Schedules by and between BofA and the Nation dated April 27, 2000, and that confirmation dated as of May 3, 2000, which agreements are incorporated herein by reference (the "Swap");
- WHEREAS,** as a result of this dispute, the Nation commenced litigation against BofA in Ho-Chunk Nation Tribal Court entitled *Ho-Chunk Nation vs. Bank of America, N.A.* Case No. CV-02-93; and,
- WHEREAS,** the Nation and BofA wish to enter into a Settlement Agreement, a copy of which is attached hereto as Exhibit A and made a part of this record of action, to resolve and settle the claims defined in Section 1(c) of the Settlement Agreement and agree to other terms and conditions of that agreement; and

NOW THEREFORE BE IT RESOLVED, as partial consideration for and as an inducement for BofA to enter into that Settlement Agreement, the Nation by action of its Legislature does hereby adopt and approve the following:

1. The terms of the Settlement Agreement are hereby approved and adopted, and shall be in all respects binding upon the Nation, its successors and assigns.
2. The Nation acknowledges and agrees that as further consideration for the Settlement Agreement it does hereby unconditionally waive any all rights to, and defenses based upon, a claim of sovereign immunity with respect to any of the terms of the Settlement Agreement, including specifically but not exclusively the settlement and release of the Claims (as defined in the Settlement Agreement), and any dispute arising from or related to the terms of the Settlement Agreement or the enforcement thereof. The Settlement Agreement shall be interpreted in accordance with the laws of the State of Wisconsin. Any action arising from or related to the

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enforcement or interpretation of the Settlement Agreement shall be venued solely in the state courts located in Madison, Wisconsin or the Federal District Court for the District of Wisconsin.

3. Vice President, Daniel Brown, is hereby authorized and directed to execute the Settlement Agreement for and on behalf of the Nation. Justice Ericson Lindell, as counsel for and on behalf of the Nation, is hereby authorized and directed to execute the Stipulation of Dismissal with Prejudice and Order in the form of Exhibit A to the Settlement Agreement of *Ho-Chunk Nation vs. Bank of America, N.A.* Case No. CV-02-93.

4. The Tribal Secretary is hereby directed to prepare and deliver to BofA an original copy of this Resolution certifying the Legislative action.

CERTIFICATION

I, the undersigned, as Tribal Secretary of the Ho-Chunk Nation, hereby certify that the Legislature of the Ho-Chunk Nation, composed of **11 members**, of whom **10** constituting a quorum were present at a meeting duly called and convened and held on the **18th day of November, 2008**, that the foregoing resolution was adopted at said meeting by an affirmative vote of **9 members, 0 opposed, and 1 abstaining**, pursuant to the authority of Article V, Section 2(a) and (x) of the Constitution of the Ho-Chunk Nation approved by the Secretary of the Interior on November 1, 1994, and that said resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.



Elliott Garvin, Tribal Secretary

11-18-08

Date

