

November 11, 2021

**David W. DeBruin**  
Tel +1 202 639 6015  
DDeBruin@jenner.com

**VIA ELECTRONIC MAIL**

Attorney General Letitia James  
Office of the Attorney General  
28 Liberty Street  
New York, NY 10005  
Letitia.James@ag.ny.gov

Re: Seneca County Board of Supervisors' Request for "Independent Investigation"

Dear Attorney General James:

I am counsel for the Cayuga Nation. The Cayuga Nation, long recognized as a sovereign Indian nation by the federal government, was part of the Haudenosaunee confederacy of Indian nations in New York (along with the Seneca, Mohawk, Oneida, and Onondaga nations as other original members).

The Cayuga Nation is writing with regard to the extraordinary letter sent to you by Seneca County Attorney David Ettman, written pursuant to a formal resolution of the Seneca County Board of Supervisors, calling for a so-called "independent investigation" by your office of an ongoing criminal case brought pursuant to an indictment of the Seneca County Grand Jury and being handled by Seneca County District Attorney Mark Sinkiewicz, and the events underlying the indictment. (A copy of Attorney Ettman's letter is enclosed as Exhibit A.) The Board's letter is not only an unprecedented attempt to interfere with an ongoing criminal case being handled by the County's own District Attorney, but is another anti-Indian action by the Seneca Board that smacks of racism. The Board again attempts to denigrate the Cayuga Nation, its present leadership as chosen by the Cayuga people and recognized by the Department of the Interior, and its police department, the legitimacy of which has been expressly confirmed by the federal government. The Board seeks to interfere with grand jury-initiated proceedings against a non-Indian Caucasian man named Charles Bowman, who has been indicted for criminal trespass upon a Cayuga Nation property and criminal assault upon a Cayuga Nation police officer.

This letter is part of a recent vendetta the Seneca County Board has directed against the Cayuga Nation, during which members of the Board have made openly racist remarks. There has been vocal opposition within the Board itself to this campaign, but resolutions have carried by majority vote. As part of this campaign, the Board recently complained to Secretary of the

Interior Deb Haaland that “For more than forty years, the people of Seneca County have had to deal with the assertion of sovereign rights by the Cayuga Indian Nation.” (A copy of the Board’s letter to Secretary Haaland is enclosed as Exhibit B.) Of course, Indian nations—including the Cayuga Nation—*have* sovereign rights, but that is something the Seneca Board apparently cannot accept. The letter to Secretary Haaland bizarrely urged her to recognize different leadership the Board would prefer for the Cayuga Nation. It is difficult to imagine a more pernicious attack upon a tribal nation’s right to self-rule than the suggestion that local government can dictate its leadership.

Recent Seneca Board meetings have been riddled with hostility toward the Cayuga Nation and blatant anti-Indian sentiment. Board member Richard Ricci recently likened the Cayuga Nation leadership to what he described as the “marauders” and “thugs” of the Oneida Nation leadership. *See* June 2021 meeting, recorded at <https://www.youtube.com/watch?v=9aoN6Jtr9jc>. At that same meeting, Board chair Robert Hayssen protested, “How can the Cayuga Indian Nation continue to add land to something that they don’t have? They don’t have a reservation.” Yet *every* court to consider the issue—including the New York Court of Appeals—has expressly ruled that the Cayuga Reservation in Cayuga and Seneca Counties continues to exist. *See Cayuga Indian Nation of N.Y. v. Gould*, 14 N.Y.3d 614 (2010); *Cayuga Indian Nation of N.Y. v. Seneca Cnty.*, 260 F. Supp. 3d 290 (W.D.N.Y. 2017).

Members of the Board have recognized the hostility and racism being directed toward the Cayuga Nation and its leaders. With regard to a proposal that the Board invite Cayuga Council Member and Federal Representative Clint Halftown to appear before the Board, Board member Kyle Barnhart stated to his fellow supervisors: “I have serious concerns about some of your behavior if we’re going to question Mr. Halftown in open session. I think there’s significant liability for this Board and the things some of you are liable to say.”

In Attorney Ettman’s letter to you, the Board asks for an investigation of “the status of the Cayuga Indian Nation Police,” calling it “a paramilitary force.” The “status of the Cayuga Indian Nation Police,” however, already has been reviewed and expressly addressed by the federal government. On June 17, 2019, Darryl LaCounte, Director of the BIA, sent a formal letter on behalf of then-Secretary of the Interior David Bernhardt to Stuart Peenstra, Chief of Police of the Town of Seneca Falls. (A copy of Director LaCounte’s letter is enclosed as Exhibit C.) In the letter, Director LaCounte explained:

Currently, the Department of the Interior (Department) does not have any relationship with the Tribe’s Law Enforcement Department and the Tribe does not receive any funding from the Department for law enforcement purposes. In addition, Cayuga Indian Nation officers are not federally commissioned under 25 U.S.C. § 2804. *However, Federal funding or commissioning is not necessary for the Cayuga Indian Nation to exercise its inherent sovereign authority to enforce*

*its own laws inside the Cayuga Indian Nation Reservation boundaries through a law enforcement program.*

Director LaCounte continued:

Both Federal and State Courts have ruled that the Cayuga Indian Nation Reservation has not been diminished or disestablished. While the Tribe does not have lands in trust, all lands within the exterior boundaries of the Reservation are considered Indian Country under Federal law. *Therefore, the Department's position is that the Cayuga Indian Nation may enforce its own criminal laws against Indians within the boundaries of the Reservation.*

Director LaCounte concluded that although 25 U.S.C. § 232 gave the State of New York criminal jurisdiction over Indian Country within the State, “the State’s jurisdiction is concurrent with Cayuga Indian Nation and Federal jurisdiction.” In sum, the BIA has made clear that the Cayuga Nation law enforcement program is legitimate. Moreover, the Supreme Court has held unequivocally that Indian police may briefly detain a non-Indian before referring him to federal or state authorities. *See, e.g., United States v. Cooley*, 141 S.Ct. 1638 (2021) (also citing Cayuga Nation amicus brief).

With regard to the incident for which Mr. Bowman has been indicted, many of the facts are undisputed. On February 20, 2020, Cayuga Nation police, acting pursuant to a warrant, recovered certain Cayuga Nation properties that had been seized, and were being held, by a dissident group. (A copy of the warrant is enclosed as Exhibit D.) The Cayuga Nation took this action only after the N.Y. Court of Appeals directed that “use of dispute resolution mechanisms other than courts is itself an exercise of the right to self-govern in a manner consistent with tribal traditions and oral law.” *Cayuga Nation v. Campbell*, 34 N.Y.3d 282, 296 (2019). These properties had generated more than \$5 million annually in business income for the Cayuga Nation, and the dissident group was using the proceeds from the properties for their own ends, with no accounting to the Nation.

A week after the Nation recovered the properties, a group of individuals, including Bowman—a Caucasian with no ties to the Cayuga Nation—gathered to “protest” the Nation’s recovery of its own properties. During the “protest,” Bowman led a small group that stormed back onto one of the Cayuga Nation properties, broke through a police tape barrier, and began assaulting Cayuga Nation police officers.

These events were witnessed by both federal and state officials. Two representatives from the DOJ Community Relations Branch were present. New York State Troopers and local law enforcement officers also were present. Indeed, when Bowman and others stormed onto the Cayuga Nation property, state and local police also came onto the property, taking up positions with and behind the Cayuga police. The Cayuga police then slowly walked forward, pushing the

Attorney General Letitia James

November 11, 2021

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protestors back off the property. US Attorney J.P. Kennedy announced he would investigate the events surrounding the Cayuga Nation's recovery of its properties. No charges have been brought—by either the US Attorney or by state authorities—against the Cayuga Nation or its police officers for any of their actions.

But the Seneca County Grand Jury did bring charges against Bowman, as identified above. Ultimately, that matter is appropriately resolved in court. For the Seneca Board to seek to “investigate” an ongoing criminal case initiated by grand jury and being handled by the Seneca County District Attorney is unprecedented and improper. Nothing has been shown, or even alleged by the Board, suggesting any impropriety by DA Sinkiewicz or the Seneca County Grand Jury. What apparently is unacceptable to the Board is that a Caucasian man is being prosecuted for trespassing on an Indian-owned property and for assaulting an Indian-commissioned police officer. The only actual impropriety here is the blatant hostility of the Seneca County Board to the very existence of the Cayuga Nation and the Nation's rightful assertions of sovereign authority on its reservation lands within the County. The Nation repeatedly has expressed a willingness to have a dialogue with the County Board, if reasonable views prevail there. There has yet to be an invitation.

I would be happy to answer any questions you may have.

Sincerely,



David DeBruin

Counsel for the Cayuga Nation

# **Exhibit A**



# *Seneca County*

## *Office of the County Attorney*

1 DI PRONIO DRIVE  
WATERLOO, NEW YORK 13165  
Tel: (315) 539-1989 Fax: (315) 539-1657

*David K. Ettman*  
*County Attorney*

*Christopher D. Lucchesi*  
*Assistant County Attorney*

November 4, 2021

Office of the Attorney General  
28 Liberty Street  
New York, NY 10005  
**ATTN:** Personal Service

Re: Request for Independent Investigation

Dear Attorney General James:

At the direction of the Seneca County Board of Supervisors, by resolution of the Board (enclosed), I am writing to you to request that an investigation by independent counsel or by your office into the investigation, circumstances, and prosecution of Mr. Charles Bowman, as well as the status of the Cayuga Indian Nation Police, and other matters pertinent thereto. These other matters may also include the relationship between the Cayuga Indian Nation Police and law enforcement agencies of the state. This request is made to you under the authority of Executive Law § 63(2) and (8), which reads in part...

"Whenever in his judgment the public interest requires it, the attorney-general may, with the approval of the governor, and when directed by the governor, shall, inquire into matters concerning the public peace, public safety and public justice."

At 3:00 a.m., on February 22, 2020, a paramilitary force, under the leadership of federally designated tribal representative Clint Halftown, were directed to enter and gain possession of buildings and businesses located in the Town of Seneca Falls, then occupied by other members of the Cayuga Nation not aligned with Mr. Halftown.

The following weekend, in what started as a peaceful protest by both tribal members not affiliated with Halftown, and their community supporters, turned into a violent melee. Several protesters were alleged to have been beaten and "hauled away" by the Cayuga Nation security force.

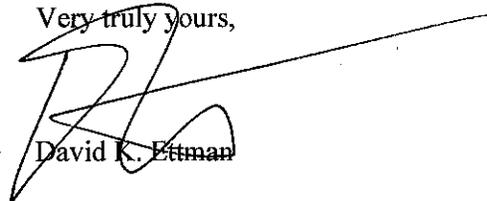
Despite calls by local governments and Senator Schumer for a full investigation of the role of the Cayuga Nation Police and their jurisdiction, nothing has occurred. And after the local investigation of any possible crimes occurring during the protest, the Seneca County Grand Jury issued only a misdemeanor indictment against local resident Charles Bowman, not a member of the Cayuga Nation, or any Native American group. It has been more than 75 days since the indictment, and the matter is still pending the Town Court.

The Board seeks an independent review of all the facts and circumstances related to both February 2020 incidents, and the interaction with the federal, state and local officials, which has apparently led to only one local prosecution and no action by the Cayuga Indian Nation.

The Governor's Office has been advised of this request and a request that you be directed to take on this investigation.

Please contact my office for further details or to address any questions relevant to this request.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Ettman', is written over the typed name 'David K. Ettman'. The signature is stylized and somewhat illegible.

David K. Ettman

DKE/jmy

Cc: Robert W. Hayssen, Chairman, Board of Supervisors

Encl.

# BOARD OF SUPERVISORS SENECA COUNTY

Waterloo, New York 13165

## BOARD OF SUPERVISORS REQUEST INVESTIGATION BY NEW YORK STATE ATTORNEY GENERALS OFFICE

RESOLUTION NO. 238-21, moved by Sprvr. Garlick Lorenzetti, second by Sprvr. Lott and adopted by 517 ayes (Garlick Lorenzetti, Lott, Reynolds, Barnhart, Borst, Kronenwetter, Hayssen, Trout, and Cleere); 176 nays (Brownell, Hayes, Ferrara, and McGreevy); and 57 not present (Enslow).

WHEREAS, the Board of Supervisors has been petitioned by a county constituent to address apparent questions of conflict of interests involving the Seneca County District Attorney and charges brought against Charles Bowman involving conduct on land controlled by the Cayuga Indian Nation; and

WHEREAS, there is continuing conflict of opinion as to the legal status of the Cayuga Indian Nation in the community; now, therefore be it

RESOLVED, that the Seneca County Board of Supervisors directs the Seneca County Attorney to write to the New York State Attorney General seeking their investigation of the situation and circumstances of Mr. Bowman and the Cayuga Indian Nation Police, and other matters pertinent thereto.

*I do hereby certify that I have compared the preceding with the original thereof, on file in the Office of the Clerk of the Board of Supervisors at Waterloo, New York, and that the same is a correct transcript therefrom and of the whole of said original; and that said original was duly adopted at a regular meeting of the Board of Supervisors of Seneca County held at Ovid, New York on the 12 day of October 2021.*

STATE OF NEW YORK  
County of Seneca



Margaret E. Li  
2021.10.15 11:15:30 -04'00'

Margaret E. Li, Clerk, Board of Supervisors  
Seneca County, Waterloo, New York 13165

Given under my hand and official seal \_\_\_\_\_

# **Exhibit B**



*Seneca County*  
**BOARD OF SUPERVISORS**

1 DIPRONIO DRIVE  
WATERLOO, NEW YORK 13165

PHONE: 315-539-1700

FAX: 315-539-0207

August 26, 2021

*Chairman*  
Robert W. Hayssen  
*Town of Varick*

*Majority Leader*  
Don Trout  
*Town of Waterloo*

*Minority Leader*  
Cindy Garlick Lorenzetti  
*Town of Fayette*

*Finance Director*  
*Jury Board Member*  
Michael Reynolds  
*Town of Covert*

*Town of Junius*  
C. Ernest Brownell

*Town of Lodi*  
Kyle Barnhart

*Town of Ovid*  
Joseph Borst

*Town of Romulus*  
David Hayes  
*Town of Seneca Falls*  
Michael Ferrara

*Town of Seneca Falls*  
Paul B. Kronenwetter

*Town of Seneca Falls*  
Ralph Lott

*Town of Tyre*  
Ronald F. McGreevy

*Town of Waterloo*  
Michael Enslow

*Town of Waterloo*  
James Cleere

*Clerk to the Board*  
Margaret E. Li

*Deputy Clerk to the Board*  
Amanda Porter

Debra Anne Haaland, Secretary of the Interior  
United States Department of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240

Darryl LaCounte, Director  
Bureau of Indian Affairs  
MS-4606  
1849 C Street, N.W.  
Washington, D.C. 20240

Kimberly Bouchard  
Eastern Regional Office  
Bureau of Indian Affairs  
545 Marriott Drive Suite 700  
Nashville, Tennessee 37214

Re: Cayuga Indian Nation, Seneca County, State of New York

The purpose of this letter is to bring to your attention the concerns of the Seneca County Board of Supervisors with the ongoing actions of the designated federal representative of the Cayuga Indian Nation and the impact of such actions on the people of Seneca County.

For more than forty years, the people of Seneca County have had to deal with the assertion of sovereign rights by the Cayuga Indian Nation. The significant impacts include the loss of millions of dollars in property tax revenue to the local governments and school districts from tribal fee interest land without any reduction in services required to be provided, the deployment of an apparently illegitimate tribal police force, erosion of property rights, and confusion as to civil rights and obligations for both tribal and non-tribal members of the local community.

For the past decade, actions taken by the faction of the Cayuga Indian Nation led by Clint Halftown as the currently recognized federal representative have caused unrest, civil strife and issues of public safety.

In fact, the decision of your agency to deny the "Land into Trust" application of the Cayuga Indian Nation was based in part on the pattern of oppression, violence, and threats of physical and economic abuse towards members of the Nation's local community, let alone the public in general.

The 3:00 a.m. attack on commercial and personal interests by Mr. Halftown's paramilitary "security forces" on February 22, 2020, and the continued alleged harassment by the Halftown Cayuga Nation Police, of both tribal and community members, are but a few sad examples of the actions of the current tribal leadership under Mr. Halftown.

Seneca County recognizes that the Cayuga Indian Nation can be a valuable partner in our community, but that partnership requires tribal leadership that accepts responsibility for its actions and the negative impact that those actions have on their own people and our community at large.

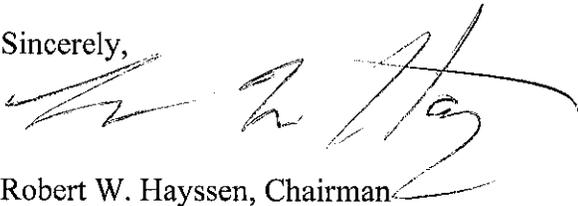
If the current designated leadership of the Cayuga Indian Nation cannot accept the diversity of views of its own people, then how can we, Seneca County, expect that same leadership to act responsibly and reasonably in the future?

We do not suggest that the Seneca County Board of Supervisors can pick and choose who we believe represents the Cayuga Indian Nation as the designated federal representative. However, we can share our experience with both Halftown's leadership and that of the Gayogohó:nq' Council of Chiefs. It is clear to us that the commitment to fairness and cultural values of the Gayogohó:nq' Council of Chiefs offers our communities a better path forward to understanding and a positive model for the future.

The Seneca County Board of Supervisors urges you and the Bureau to examine the impact that the Bureau's designation of Mr. Halftown as the representative of the Cayuga Indian Nation has had on the day-to-day life and culture of the Cayuga people.

We suggest that you review not only the tribal leadership history, but also consider that if Mr. Halftown and his leadership council cannot be trusted to lead their own people justly and fairly, alternative leadership should be seriously considered for recognition.

Sincerely,



Robert W. Hayssen, Chairman  
Board of Supervisors

SENECA COUNTY

RWH/de/ml

cc: U.S. Senator Charles Schumer  
U.S. Senator Kirsten Gillibrand  
U.S. Congressman Tom Reed  
U.S. Congressman John Katko  
NY Senator Pamela Helming  
NY Assemblyman Brian Manktelow  
NY Assemblyman Jeff Gallahan

# **Exhibit C**

To Any Police Officer of the  
Cayuga Nation Police  
4400 State Route 90, Union Springs, New York

Proof, by affidavit, having been made this day before me by the sworn affidavit of BJ Radford, Chief Financial Officer of the Cayuga Nation, an investigative report from Amric Associates, and an affidavit from Cayuga Nation Officer Douglas Davis that there is reasonable cause to believe that certain property below, of a character described in Section 602 of the Cayuga Nation Rules of Criminal Procedure, is stolen, is unlawfully possessed has been used, or is possessed for the purpose of being used, to commit or conceal the commission of an offense, and constitutes evidence or tends to demonstrate that an offense was committed or that a particular person participated in the commission of an offense, will be found at the location described below within the Cayuga Nation Territory, pursuant to Section 603 of the Rules of Criminal Procedure.

YOU ARE HEREBY directed to search: the following four businesses and surrounding grounds, 1.) the "Boathouse" at 2540 Route 89, Seneca Falls, New York, 2.) Lakeside Trading at 2552 Route 89, Seneca Falls, New York, 3.) Cayuga Sugar Shack at 2553 Route 89, Seneca Falls, New York and 4.) Gakwiyo Provisions at 2557 Route 89, Seneca Falls, New York. These buildings are each free-standing structures and located within several hundred yards of each other on both the east and west sides of Route 89.

The areas to be searched being each of the buildings listed above, including all storage areas, containers, unattached garages and curtilage associated with each structure to seize the following property:

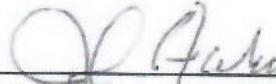
1. Business records including any documents, ledgers, invoices or payroll records,
2. Cell phones including any and all data contained within each device,
3. Computers and all data contained therein,
4. Cash registers,
5. Currency,
6. Credit/debit cards,
7. Any firearms and any other property consistent with the possession of firearms, such as: magazines, ammunition, holsters, firearm boxes and paperwork,
8. Any illegal drugs or drug paraphernalia,
9. Any and all food and beverage products,
10. Any and all tobacco products,
11. A box truck, NY registration 39076MM, registered to Cayuga Lake Trading.

IF ANY SUCH PROPERTY IS FOUND, you are directed to seize the same and, without unnecessary delay, return and deliver to this property to an appropriate and secure storage location. Thereafter, you are directed to file with this Court an inventory of all seized property.

YOU ARE HEREBY AUTHORIZED, PURSUANT TO RCP 609, TO DETAIN AND SEARCH ALL PERSONS LOCATED ON THE PREMISES TO BE SEARCHED.

YOU ARE DIRECTED TO EXECUTE THIS WARRANT PURSUANT TO RCP 610, AT ANY EXPEDIENT AND APPROPRIATE TIME, WITH OR WITHOUT NOTICE.

This SEARCH WARRANT issued this 20 day of February, 2020, at 2:15 P.M.

  
\_\_\_\_\_  
HONORABLE JOSEPH FAHEY  
JUDGE - CAYUGA NATION

Cayuga Nation Police  
Supporting Deposition

TERRITORY OF THE CAYUGA NATION

TOWN OF SENECA FALLS

I, Douglas P. Davis, the Deponent herein, residing at 122 North Genesee Street, Geneva, NY, Occupation, Retired New York State Police Investigator state the following:

On 02/14/2020 while working surveillance for the Cayuga Nation, I observed the following at the gas station/convenient store located at 2552 Route 89, Seneca Falls, New York, in the Town of Seneca Falls:

At 10:10 am the box truck NY Registration 39076MM (registered to Cayuga Lake Trading) was not at this location. A blue Ford NY Registration JFF9579 (registered to Brett Kettle 03/14/86) was parked where the box truck was normally located.

At 1:16 pm I observed the box truck travelling eastbound off of the Garden street Extention and turn Northbound onto Route 89 and into the parking lot at 2552 Rt 89. The box truck then backed up to the loading doors at the Northeast corner of the building. The operator of the box truck, appeared to be Native American approx. 30 years old, dark clothing, knit cap and a dark ponytail. He then opened up the rear of the box truck and appeared to be off loading. The box truck stayed at this location for 14 minutes.

At 1:30 pm the box truck then travelled behind the building to the North of the gas station (known to me as the Boathouse) and out of my sight.

At 1:38 pm the box truck reappeared and parked next to the Blue Ford. The same operator of the box truck then got into the blue Ford and drove away. Surveillance terminated at this point.

It is my observation that the box truck NY Registration 39076MM is being utilized by the business to transport unknown items for said business.

I have read the foregoing and understand that FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW.

Deponent Signature: Douglas P. Davis

Verified and Subscribed before me on 2/20/20

Officer Signature: James Astowell

Title: Police Office, Cayuga Nation Police

THE PEOPLE OF THE STATE OF NEW YORK

VS.

Unknown Defendants

DEFENDANT(S)

<p><b>LOCATON OF INCIDENT:</b></p> <p>STATE OF NEW YORK TOWN OF SENECA FALLS COUNTY OF SENECA CAYUGA NATION LAND CLAIM AREA</p>	<p><b><u>LOCATION OF DEPOSITION:</u></b></p> <p>STATE OF NEW YORK COUNTY OF ONTARIO CITY OF GENEVA</p>
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On February 18, 2020 at 10-00AM I, BJ Radford 122 North Genesee Street Geneva, NY 14456

State the following: That I am the Chief Financial Officer for the Cayuga Nation. Funds received from the established Cayuga nation businesses are the property of the Nation, are closely audited; and quarterly disbursements are made to all Cayuga nation members in good standing.

In 2014 and 2015 several of the Nation businesses were taken over by force by a splinter faction of Nation members. The four businesses taken over were: 1. the "Boathouse" at 2540 Route 89 Seneca Falls, NY, 2. Lakeside Trading 2552 Route 89 Seneca Falls, NY, 3. Cayuga Sugar Shack 2553 Route 89 Seneca Falls, NY, and 4. Gakwiyo Provisions 2557 Route 89, Seneca Falls, NY. Those businesses continue to be occupied and operated by members of the splinter faction, and no funds have been shared with the established Nation members from these businesses. These businesses generated millions of dollars annually for the Nation before being taken over, and business has been observed to be steady since that time. The profits from those businesses rightfully belong to all members of the Cayuga Nation, and have been withheld from them since the takeover.

**NOTICE**

(Penal Law § 210.45)

In a written instrument, any person who knowingly makes a false statement which such person not believe to be true has committed a crime under the laws of the state of New York punishable as a Class A Misdemeanor.

Affirmed under penalty of perjury

The 10<sup>th</sup> day of February, 2020

*[Signature]*  
(SIGNATURE OF DEPONENT)

-OR-

\*Subscribed and Sworn to before me

\_\_\_\_\_  
(WITNESS) TIME ENDED: 10-55AM

This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\*This form need be sworn to only when specifically required by the court (NAME OF PERSON TAKING DEPOSITION)

*[Handwritten mark]*



Investigations & Security Consulting  
6444 Fly Road, East Syracuse, New York 13057

Telephone (315) 437-5500 Fax (315) 437-9092  
email: info@amric.com  
www.amric.com

**LESTER L. AMANN, President**  
FBI (Ret.), CFE

**JACK McELIGOT, Vice President**  
FBI (Ret.), CFE

**Douglas M. Amann, Manager**  
Investigative Operations

**Kenneth F. Derr, Manager**  
Forensic & Security Services (AFOSI Ret.)

January 13, 2020

Cayuga Indian Nation Police  
122 North Genesee Street  
Suite A204  
Geneva, NY 14456

Re: Cayuga Lake Trading Gas Station  
AMRIC File No. C19-2182

Dear Colonel Lincoln:

Reference is made to our previous report dated January 6, 2020. Enclosed please find our report of investigation for services conducted in January 2020 regarding the above referenced file.

Thank you for choosing AMRIC Associates Ltd. for your investigative needs. We appreciate having you as a client and look forward to serving you again.

Sincerely,

Kenneth F. Derr

KFD:

- Norman Asitbarry  
NYSP-BCI (Ret.)
- Mary E. Barnes  
Investigator
- Phillip C. Barnes  
Undersheriff, Schuyler Co. S.O.  
(Ret.)
- Robert Boris  
Syracuse P.D. (Ret.)
- George R. Briggs  
NYSP-BCI (Ret.)
- William Bronner  
NSYP-BCI (Ret.)
- Jeffrey R. Callahan  
Syracuse P.D. (Ret.)  
Certified Accident Reconstructionist
- Michael Cobb  
NYS DOCCS (Ret.)
- Duane S. Corbo  
NYSP (Ret.)
- Daniel A. Corleto, Sr.  
Utica P.D. (Ret.)
- Gerard F. Cunningham  
NYPD (Ret.)
- Kelly Daley  
NYSP (Ret.)
- Edward F. Dyer  
NYSP (Ret.)
- Brad Falkey  
Ontario Co. Sheriff's Dept.
- Joseph Ficarella  
NYSP (Ret.)
- Valerie J. Fidanza  
Investigator
- Stewart Field  
NYSP (Ret.)
- Michael D. Grande  
NYSP (Ret.)
- Robert G. Harrington, CPP  
Syracuse P.D. (Ret.)
- Edmond N. Jensen, Jr.  
Buffalo P.D. (Ret.)
- Terry A. Loftus  
U.S. Postal Inspector (Ret.)
- Steven A. Lucas  
Federal Bureau of Prisons (Ret.)
- Edward Marecek  
NSYP-BCI (Ret.)
- Thomas M. McDonnell  
NYSP (Ret.)
- David M. McElligott  
NYSP (Ret.)
- Richard McKeen  
NYSP (Ret.)
- Stephen Meyer  
NYSP (Ret.)
- John D. Miner  
NYSP (Ret.)
- Bruce Moritz  
NYSP-BCI (Ret.)
- Robert J. Owens  
Onondaga Co. S.O. (Ret.)
- Frank K. Peo  
NYSP/U.S. Marshal (Ret.)
- Brian Sankey  
ATF (Ret.)
- Peter J. Segula  
U.S. Army Crim. Inv. (Ret.)
- Michael F. TenEyck  
Otsego Co. S. O.
- Michael Trimboli  
NSYP-BCI (Ret.)
- Walter Vanderhoff  
Investigator
- Frederick Varin  
Federal Bureau of Prisons (Ret.)
- David Waite  
NYSP (Ret.)
- Douglas J. Wolf  
IRS (Ret.)
- Stephen P. Young  
IRS-CID (Ret.)

*Report For*

Cayuga Indian Nation Police  
122 North Genesee Street  
Suite A204  
Geneva, NY 14456

*Report By:*

AMRIC Associates Ltd.  
6444 Fly Road  
East Syracuse, New York 13057  
(315) 437-5500

**CONFIDENTIAL AND RESTRICTED**

January 13, 2020

AMRIC File No. C19-2182

## EXECUTIVE SUMMARY

On December 10, 2019 Colonel Mark Lincoln of the Cayuga Indian Nation Police requested AMRIC provide investigative assistance regarding the Cayuga Lake Trading Gas Station and Store. It was requested AMRIC make undercover purchases of gas and items while obtaining video of the transactions and the exterior and interior of the facility.

Between January 3, 2020 and January 8, 2020, seven (7) visits were made to the Cayuga Lake Trading Gas Station and Store located on NY Route 89, Seneca Falls NY. Covert video of the exterior and interior of the facility was obtained. Vehicle license plates of vehicles believed to belong to the occupants of the facility were obtained.

## INVESTIGATION

Friday, January 3, 2020

On January 3, 2020 at approximately 1:25pm Associate Falkey arrived at the Gas Station. There were 4 vehicles observed to be parked in the area where employees routinely park. Those vehicles bore NY registrations JHY9884, GYJ3559, DYJ4121, and JKK5694. Also observed was a male of American Indian decent acting in the capacity of gas pump attendant. This male was about 6 feet tall and had a full beard and mustache. He was approximately 25 to 30 years of age. He was observed pumping gas for several vehicles. Video could not be obtained of this male as a second male of American Indian decent had come out of the store and was standing at the corner of the building in front of Associate Falkey's vehicle. This male was approximately 30 to 35 years old with black hair and some facial hair that was very short. He was approximately 5'6" and weighing about 160lbs. He had a diamond earring in his left ear and was wearing a black nylon jacket with "Security" written across the back in yellow lettering. This male was using a cell phone and observing the vehicles and customers in the parking lot. Associate Falkey then entered the store at approximately 1:28pm. He selected items for purchase and went to the checkout counter. A chair in the rear of the building by the cigarette display area and a back-office entry was empty. Another third male of American Indian decent was standing at the end of the checkout counter. The male was observing the sales floor. This male was approximately 5'10" 150lbs and slim. He was approximately 25-30 years of age. Associate Falkey then stepped to the counter and purchased the items. The cashier was an American Indian female approximately 45 to 50 years of age. She was about 5'4" and weighed about 155 to 160 lbs.

Monday, January 6, 2020

At 9:08 AM, associate Owens arrived at the Gas Station. A white male in his 20s was working at the gas pumps. Associate Owens emptied trash and used the squeegee in an effort to obtain video in the area of the pumps and look for evidence of a pump shut off. None was observed in the area of the gas pumps. There is a small wooden shed south of the pumps in which a shutoff may be situated. The young Native American male previously observed in surveillance left the business operating the black Ford Focus seen during previous surveillances as well. A young Native American female was in his company.

Associate Owens then parked in front of the main entrance and upon exiting his vehicle observed another white male about 40 years of age smoking a cigarette and standing to the left of the entry door. A white female clerk (observed and videotaped during previous surveillance) worked the cash register and was the sole employee found within the building. An empty chair in the back right corner of the store has been utilized by those believed to be performing security for the business in the past. It is believed that the white male standing outside the entry door was responsible for security this date. It should be noted that no gas pump shut off was observed in the exterior front entrance area of the business. A black Chrysler Town & Country was parked in the employee parking area bearing New York registration JHY 9884. A newer model black Jeep bearing New York registration ACB 7554 was parked on the east side of the building.

On January 6, 2020 Associate Falkey arrived at the Gas Station at 12:00noon and went to the gas pumps. A purchase of gas was made. The gas attendant was the same American Indian decent male that was observed on January 3 at 1:25pm pumping gas. Associate Falkey then parked. There was only one vehicle present in the employee area, that vehicle being a black Chrysler mini van bearing NY registration JHY9884. This vehicle was also present on January 3 at the 1:25pm visit. Associate Falkey then went into the store and observed at least three employees working inside. There was a male approximately 25 to 30 years old of American Indian decent seating in the back left (west side) of the cigarette display. This male had heavy framed glasses. A second male was briefly observed seated outside a door that appears to be a rear office on the right side (east side) of the cigarette display. This male was also 25 to 30 years of age, medium build with black hair and of American Indian decent. He was wearing a black nylon jacket that appeared to be the same type as the security jacket previously seen. No writing was observed on the front and the Associate was unable to see the back of the jacket. A purchase was then made. The cashier was a white female approximately 25 years of age. She was about 5'7" and weighed approximately 110lbs. She was of slim build. She had long brown hair that was tied up and wore a wedding band and diamond ring.

Tuesday, January 7, 2020

On January 7, 2020 Associate Falkey arrived at the Gas Station at approximately 12:33pm. A purchase of gas was made from the attendant that was observed during the January 3, 1:25pm and January 7, 12:00 noon visits. He then parked in the employee area and observed three vehicles bearing NY registrations JHY9884 (also seen on 1/3 and 1/7), GYJ3559 (also seen on 1/3) and JVT9609. Associate Falkey then entered the store and observed at least three employees working. A male was seated in the rear left (west side) of the cigarette display. This male was

25 to 30 years old, medium build and of American Indian decent. He had black hair and was wearing a hat. He was seated and appeared to be of medium build and wearing a white hooded sweatshirt. A second male was observed in the rear left (east side) of the cigarette display. This was the same male observed on January 3 at 1:25pm. He was standing and facing the window that appears to be a rear office. This window is a pass through type. The male was wearing a black nylon jacket with "Security" in white letters on the back. Associate Falkey then selected items and went to the cashier. The cashier was the same female that was observed on January 7 at 12:00 noon.

At 4:22 PM Associate Owens arrived at the Gas Station and obtained fuel at the onset. A white male pumped gas. Associate Owens was unable to identify a pump shut off in the area of the pumps. There were two white metal support posts between the pumps approximately 6" x 6" which supported the canopy over the pump area. It was noted that on the east side of the east side post was a section of metal the size and shape of an electrical outlet cut out of the post about 4 to 5 feet up the post. Associate Owens was unable to see if there was any type of shut off inside that area of the post. Upon entering the business, a Native American male served as a cashier and a second Native American male wearing a black security shirt and glasses was by the entry door. There were two other Native American males present and conversing with the individual wearing the security shirt however it was unknown if they were employees. Upon exiting the store, it was observed there was a black Cadillac Escalade parked on the east side of the building bearing New York registration JHY9402. There was gray Toyota tundra parked on the west side of the building bearing New York registration 18105 ME. Lastly, there was a blue Subaru Forrester bearing New York registration GYJ3559 parked in the employee parking area. Associate Owens made it a point to view the west southwest side of the building however, no pump shut off was visible.

Wednesday, January 8, 2020

Associate Owens arrived at the Gas Station at 8:57 AM and entered the business. A Native American female in her mid-50s served as the cashier. A Native American male was situated by the door believed to be working security and was conversing with two other Native American males however it is unknown if they were visiting or working in the business. Associate Owens proceeded back to his vehicle and while maneuvering his vehicle over to the gas pumps, the covert camera deactivated and no video was obtained at the pumps. A young Native American male previously observed operated the pumps. It should be noted that after gassing Associate

Owens' vehicle, the subject was asked for a receipt and said he would have to go inside. Associate Owens offered to go inside but he said he that he would have to do so. The subject entered the business and after about four minutes returned saying that no receipt was available. The following two vehicles were parked in the employee parking area: A black Chevy Tahoe bearing New York registration JKK5694 and a dark Chevy pickup bearing New York registration JHY 9274. Parked directly in front of the main entrance was a red older model Dodge van observed during previous surveillance and still bearing no New York license plates. Upon departing the business, a white BMW sedan with one male occupant pulled into the parking lot and parked at the northeast corner of the building near a rear side entrance. That vehicle was New York registration JDG6170.

On January 8, 2020 at approximately 4:00pm Associate Falkey arrived at the Gas Sation. He first went to the gas pumps and made a purchase. The male attendant was not the same as the previous days. This male was a Caucasian male about 5'10" and weighing around 180. He was in his mid 20's and had reddish brown hair, with a beard and mustache. After the purchase Associate Falkey parked near the building. One vehicle was observed in the employee parking area. This vehicle was a Red Ford Explorer bearing NY registration HYD8851. Associate Falkey then entered the store. He observed at least 4 possibly 5 employees inside. The 5<sup>th</sup> person was standing near the cashier counter and speaking with the others. He was not observed engaging in any activity nor was he at one of the usual "stations" where employees have been observed. This male was of American Indian decent, about 6 feet tall and weighing about 200lbs. He had short black hair and a goatee. An American Indian male was seated to the right just inside the front doors. This male was in his mid 20's with glasses and long single braided hair down his back. He weighed approximately 180lbs and a height could not be determined. There were two males seated in the rear cigarette display area. The male on the left (west) side was a Caucasian with short brownish hair and a balding spot on top. He was in his mid 20's and looking down at his cell phone. The male on the right was another Caucasian in his mid 20's with brown hair. He was eating from a disposable Styrofoam container. Associate Falkey selected items for purchase and went to the checkout counter. This cashier was a Caucasian female in her early 30's. She was about 5'10" and weighed approximately 150lbs. She had longer blonde hair that was tied up on the top of her head.

**At this time our investigation is on hold pending further instructions from the Client.**

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**AMRIC Associates Ltd.  
6444 Fly Road  
East Syracuse, New York 13057  
315-437-5500**

# **Exhibit D**



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Washington, DC 20240

JUN 17 2019

Mr. Stuart Peenstra  
Chief of Police  
Town of Seneca Falls Police Department  
130 Ovid Street  
Seneca Falls, New York 13148

Dear Chief Peenstra:

Thank you for your letter dated March 1, 2019, addressed to Secretary Bernhardt, requesting guidance on the authority of the Cayuga Indian Nation Law Enforcement Division. In your letter, you ask six particular, but overlapping questions regarding criminal jurisdiction on the Cayuga Indian Nation Reservation. Secretary Bernhardt asked our office to respond to you on his behalf.

Currently, the Department of the Interior (Department) does not have any relationship with the Tribe's Law Enforcement Department and the Tribe does not receive any funding from the Department for law enforcement purposes. In addition, Cayuga Indian Nation officers are not federally commissioned under 25 U.S.C. § 2804. However, Federal funding or commissioning is not necessary for the Cayuga Indian Nation to exercise its inherent sovereign authority to enforce its own laws inside the Cayuga Indian Nation Reservation boundaries through a law enforcement program.

Both Federal and State Courts have ruled that the Cayuga Indian Nation Reservation has not been diminished or disestablished.<sup>1</sup> While the Tribe does not have lands in trust, all lands within the exterior boundaries of the Reservation are considered Indian Country under Federal law.<sup>2</sup> Therefore, the Department's position is that the Cayuga Indian Nation may enforce its own criminal laws against Indians within the boundaries of the Reservation. Although the New York Act, 25 U.S.C. § 232, gave the State of New York criminal jurisdiction over Indian Country within the State, the State's jurisdiction is concurrent with Cayuga Indian Nation and Federal jurisdiction. *United States v. Cook*, 922 F.2d 1026 (2nd Cir. 1991).

If you have further questions, you may contact Mr. Terrell Leonard, District IV Special Agent-in-Charge, Bureau of Indian Affairs, Office of Justice Services, at (615) 564-6605.

Sincerely,

Darryl LaCounte  
Director, Bureau of Indian Affairs

cc: The Honorable Clint Halftown, Chairman, Cayuga Indian Nation  
Mr. James P. Kennedy, Jr., United States Attorney, Western District of New York

<sup>1</sup> *Cayuga Indian Nation of N.Y. v. Seneca County*, 260 F. Supp.3d 290 (W.D.N.Y. 2017); *Cayuga Indian Nation of N.Y. v. Gould*, 14 N.Y.3d 614 (2010); *Cayuga Indian Nation of N.Y. v. Cuomo*, 758 F. Supp 107 (N.D.N.Y. 1991).

<sup>2</sup> 18 U.S.C. § 1151; *Seymour v. Superintendent of Wash. State Penitentiary*, 368 U.S. 351 (1962).

received  
6/26/19 JJ