National Indian Gaming Commission

In the Matter of	)	
	)	CO-96-01
Santee Sioux Tribe of Nebraska	)	
	)	

ORDER

Pending before the National Indian Gaming Commission (Commission) is a motion filed on May 15, 2001, by the Santee Sioux Tribe of Nebraska (Tribe) to dissolve the closure order that the Commission issued on July 31, 1996. The basis for the Tribe's motion is its assertion that it has decommissioned and removed the video poker and video blackjack gambling devices that formed the basis of the closure order. For the reasons set forth below, the Commission grants the motion in part and rescinds the final Closure Order dated July 31, 1996.

BACKGROUND

On April 25, 1996, then-Chairman Harold Monteau of the National Indian Gaming Commission (NIGC) issued a Notice of Violation to the Tribe for operating Class III video poker and video black-jack devices without a tribal-state compact and, thus, in violation of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §§ 2701-2721 (2001).

On May 1, 1996, Chairman Monteau followed the Notice of Violation by ordering the Tribe to close its gaming casino. (*See* Revised Order of Temporary Closure, Ref. No. CO-96-01, May 1, 1996.). And on May 2, 1996, after expedited review proceedings pursuant to 25 C.F.R. § 573.6(c), Chairman Monteau refused to lift the closure order. (*See* Decision of the Chairman on Expedited Review, Ref. No. C0-96-01, May 2, 1996.)

The Tribe appealed the Chairman's action to the full commission. On July 31, 1996, the full Commission issued a lengthy opinion addressing numerous arguments raised by the Tribe and affirming and making permanent the Chairman's May, 2, 1996, closure order.[1]

On May 15, 2001, the Tribe filed a motion to dissolve the Commission's permanent closure order. Attached was the Declaration of Roger Trudell, Chairman of the Tribe. In his declaration, Chairman Trudell alleges that on May 15, 2001, the Tribe ceased to operate the gaming devices that were the subject of the Commission's order and indicating that the Tribe has begun operating a court-sanctioned Class II gaming device.

FINDINGS

The Commission credits the assertions made by Chairman Trudell in the declaration attached to the Tribe's motion. Moreover, the Chairman of the NIGC directed Region Chief John Peterson of NIGC Region IV, located in St. Paul, Minnesota, to travel to the Santee Sioux Tribe's gaming operation in Nebraska to verify Chairman Trudell's assertions. Region Chief Peterson verified that the gaming devices that were the subject of the Commission's enforcement action are no longer present at the Tribe's gaming operation. (*See* Declaration of John Peterson, NIGC Region Chief, May 30, 2001). Based upon this evidence, the Commission hereby finds that the Tribe is no longer operating the illegal Class III gaming devices that were the subject of the NIGC closure order.

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[1]Pursuant to 25 U.S.C. § 2713(c), the Tribe appealed the Commission's decision in Federal district court. On November 4, 1999, the United States District Court for the District of Nebraska entered Judgment in favor of the NIGC. Santee Sioux Tribe of Nebraska v. National Indian Gaming Commission, 8:99CV205 (D. Neb. November 4, 1999.)

CONCLUSION AND ORDER

Nearly five years after the NIGC ordered closure of the Tribe's casino, and after extensive litigation between the Tribe and the United States, the Tribe has taken the corrective action ordered by the NIGC. Because the Tribe is no longer operating the video poker and video black jack games that gave rise to this enforcement action, the Commission hereby GRANTS the Tribe's motion in part and ORDERS that Closure Order 96-01 be, and hereby is, RESCINDED to the extent that the Closure Order required closure of the Tribe's entire gaming operation. As to the particular video poker and video blackjack games that instigated the Commission's enforcement action, however, the Closure Order shall remain in effect until such time as such gaming becomes lawful whether through a tribal-state compact or alternative compact procedures approved by the Secretary of the Interior or other means.

IT IS SO ORDERED.[2]

6/4/01
Date

Montie R. Deer
Chairman

Elizabeth L. Homer
Vice-Chairman

Teresa E. Poust
Commissioner

[2]This Order addresses only the issue before the Commission. In its ongoing litigation with the Department of Justice, the Tribe has several remaining issues, such as contempt of court penalties, that should must be addressed, if at all, by the appropriate court.