NATIONAL
INDIAN
GAMING
COMMISSION

NOTICE OF VIOLATION

Ref. No.: NOV-99-02

January 14, 1999

VIA FAX AND CERTIFIED MAIL

To: Dean Mike, Chairman
Twenty-Nine Palms Band of Mission Indians
46-200 Harrison Street
Coachelle, CA 92236
Fax (760) 775-4639

Respondent

1. Under National Indian Gaming Commission (hereinafter referred to as the "NIGC") regulations, the Chairman may issue a notice of violation to any person for violation of any provision of the Indian Gaming Regulatory Act (hereinafter referred to as "IGRA") or NIGC regulation or any provision of the tribal ordinance or resolution approved by the Chairman. 25 C.F.R. § 573.3.

2. The Chairman hereby gives notice that the Twenty-Nine Palms Band of Mission Indians (hereinafter referred to as the "Tribe" or the "Respondent") is in violation of IGRA, its tribal gaming ordinance[1] and NIGC regulations as follows:

   a. The IGRA states that a tribe may engage in gaming if, among other requirements, a tribe's approved gaming ordinance requires submission to the NIGC of an annual independent audit of the gaming operation. 25 U.S.C. § 2710(b)(2)(C) and (d)(2)(A).

   b. Section 607 of the Approved Ordinance requires the Tribe to arrange for an annual outside audit and Section 305 authorizes gaming consistent with the provisions of IGRA.

   c. NIGC regulations require that a tribe cause to be conducted annual independent audits of the financial statements of each gaming operation on Indian lands and submit a copy of the audit report(s) and any management letter(s) setting forth the

[1] On November 4, 1993, the Tribe adopted a gaming ordinance (hereinafter referred to as the "Approved Ordinance") which was approved by the Chairman of the NIGC on January 4, 1994 (attached as Exhibit 1).

results of the annual audit(s) to the NIGC within 120 days after the end of each fiscal year. 25 C.F.R. §§ 571.12-13.

d. As of the date of this Notice of Violation (hereinafter referred to as "NOV"), the NIGC has not received the Respondent's audit report and management letter for Spotlight 29 Casino for the fiscal year ended February 28, 1998. These items were due to the NIGC no later than June 28, 1998.

   i. On October 2, 1998, the Tribe submitted an unsigned draft copy of the Spotlight 29 Casino audit report for the fiscal year ended February 28, 1998. In the letter submitted with this draft copy, Mr. Gene Gambale, Vice President and General Counsel for the Tribe, stated that the final copy would be forwarded in the near future.

   ii. On December 2, 1998, the NIGC called Mr. Gambale and informed him that the NIGC still had not received the audit report for the fiscal year ended February 28, 1998, nor the management letter. Mr. Gambale said the items would be sent to the NIGC. To date, the items have not been received by the NIGC.

e. As of the date of this NOV, the NIGC has not received the Respondent's audit report and management letter for Spotlight 29 Casino for the fiscal year ended February 29, 1996, and including the period of January 2, 1995 (date of commencement of operation) to February 28, 1995. These items were due to the NIGC no later than June 28, 1996.

   i. The records indicate that as of this date, the Twenty-Nine Palms Band of Mission Indians submitted an unsigned, draft copy of the Spotlight 29 Casino audit report for the fiscal year ended February 29, 1996, and including the period of January 2, 1995 (date of commencement of operation) to February 28, 1995. The NIGC has not received a final signed copy of this audit report nor any management letter.

f. Unsigned, draft copies of audit reports do not satisfy the requirements at 25 C.F.R. §§ 571.12-13.

3. The measures required to correct the ongoing violation are:

   a. The Respondent must submit the audit report and any management letter for Spotlight 29 Casino for the fiscal year ended February 28, 1998, to the NIGC within ten (10) days.

   b. The Respondent must submit the audit report and any management letter for Spotlight 29 Casino for the fiscal year ended February 29, 1996, and including the

period of January 2, 1995 (date of commencement of operation) to February 28, 1995, to the NIGC within ten (10) days.

The audit reports and management letters should be submitted to: Chairman, National Indian Gaming Commission, 1441 L Street, NW, 9th Floor, Washington, DC 20005.

4. The violations cited in this NOV may result in the assessment of civil fines against the Respondent in an amount not to exceed $25,000 per violation per day. Under 25 C.F.R. § 575.5(a), the Respondent may submit written information about the violations to the NIGC Chairman within 15 days after service of this NOV (or such longer period as the NIGC Chairman may grant for good cause). The NIGC Chairman shall consider any information submitted in determining the facts surrounding the violations and the amount of the civil fine, if any. Such information should be submitted to the address set forth in paragraph 3.

5. The Respondent may appeal the allegations contained in this NOV to the NIGC within 30 days after service of this NOV. 25 C.F.R. Part 577. The Respondent may appeal the allegations by submitting a Notice of Appeal to the NIGC at the address set forth in paragraph 3 above. The Respondent has a right to be represented by counsel in such an appeal. A Notice of Appeal must reference this NOV. Within ten (10) days after filing a Notice of Appeal, the Respondent must file with the NIGC a supplemental statement that states with particularity the relief desired and the grounds therefore and includes, when available, supporting evidence in the form of affidavits.

If the Respondent wishes to present oral testimony or witnesses at a hearing, the Respondent must include a request to do so with the supplemental statement. The request to present oral testimony must specify the names of the proposed witnesses and the general nature of their expected testimony, and whether a closed hearing is requested and why. The Respondent may waive the right to an oral hearing and instead elect to have the matter determined by the NIGC solely of the basis of the written submissions.

6. A copy of the regulations cited in this NOV is attached for your information.

Montie R. Deer

Montie R. Deer, Chairman
National Indian Gaming Commission

1-14-99
Date

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