National Indian Gaming Commission

NOTICE OF VIOLATION

NOV- 08-01

To: Citizen Potawatomi Nation
Attn: John A. Barrett, Tribal Chairman
1601 S. Gordon Cooper Drive
Shawnee, OK 74801
FAX: (405) 275-0198

Citizen Potawatomi Gaming Commission
Attn: Jason Greenwalt, Gaming Commissioner-Executive Director
1601 S. Gordon Cooper Drive
Shawnee, OK 74801
FAX: (405) 275-7093
(Agent for Service of Process)

Gregory M. Quinlan, Tribal Attorney
1601 S. Gordon Cooper Drive
Shawnee, OK 74801
FAX: (405) 275-0198

1. Notification of Violation

The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Citizen Potawatomi Nation, located in Shawnee, Oklahoma, has violated NIGC regulations by failing to submit a timely annual audit.

2. Authority

Under the Indian Gaming Regulatory Act (IGRA) and NIGC regulations, the Chairman of the NIGC (Chairman) may issue a Notice of Violation (NOV) to any person for violation of any provision of the Indian Gaming Regulatory Act (IGRA), NIGC regulations, or any provision of a tribal gaming ordinance or resolution approved by the Chairman. 25 U.S.C. § 2713; 25 C.F.R. § 573.3.

3. Applicable Federal Laws and Tribal Ordinance Provisions

A. 25 U.S.C. § 2710(b)(2)(C) – IGRA requires an annual audit of each gaming operation and requires that a copy of the results of the annual audit be submitted to the NIGC.

B. 25 C.F.R. §§ 571.12 and 571.13 – 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 results of the annual audit(s) to the NIGC within 120 days after the end of each fiscal year.

C. Section 25 of the Citizen Potawatomi Nation Gaming Ordinance asserts that the Business Committee will annually provide the NIGC with a copy of that portion of the audit prepared by the Tribe's independent auditor that relates to the gaming.

4. Role of Independent Audit Report

Submission of the annual independent audit report by a certified public accountant is critical to the NIGC's mission to protect the integrity of Indian gaming. An accountant's ability to conduct an audit in accordance with generally accepted auditing standards and render an opinion prepared in conformity with generally accepted accounting principles provides assurance as to the security of tribal gaming revenues. The audit report, when prepared and submitted on a timely basis, is evidence of the integrity of the gaming operation. Specifically, it demonstrates the adequacy of the books and records, the functioning of the internal financial controls, and the disclosure of information with a bearing on the financial statements.

5. Circumstances of the Violation

A. Respondent is a federally recognized Indian tribe with tribal headquarters in Shawnee, Oklahoma.

B. Respondent operated its gaming facility, the FireLake Grand Casino, during all or part of the following years: 2006 and 2007. The fiscal year ended September 30, 2007.

C. The NIGC received an untimely audit report for the fiscal year ending September 30, 2007. By NIGC regulation, the annual audits are due 120 days after the end of the Tribe's fiscal year. The audit report was due to the NIGC on January 28, 2008.

D. The audit report was received by the NIGC on March 21, 2008. Therefore, the audit report was fifty-three (53) days late.

E. IGRA requires that tribes submit annual audits of each gaming facility. 25 U.S.C. § 2710(b)(2)(C).

F. NIGC regulations require that a tribe cause to be conducted an annual independent audit of the financial statements of each gaming operation on Indian lands and submit a copy of the audit report(s) and management letter(s) setting forth the 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, 571.13.

G. Section 25 of the Citizen Potawatomi Gaming Ordinance requires the Tribe's Business Council to annually provide the NIGC with a copy of the independent audit report as it pertains to gaming.

H. The Tribe is therefore in violation of NIGC regulations for failure to submit a timely annual independent audit report.

6. Measures Required to Correct the Violation

There is no way to correct a late audit report submission. The regulations require that audits be received within 120 days of the end of a gaming operation's fiscal year. Here, the Tribe submitted its annual audit fifty three (53) days late.

7. Appeal

Within thirty (30) days after service of this notice of violation, Respondent may appeal to the full Commission under 25 C.F.R. Part 577 by submitting a notice of appeal, and, if desired, request for hearing to the National Indian Gaming Commission, 1441 L Street, NW, Ninth Floor, Washington, DC 20005. Respondent has a right to assistance of counsel in such an appeal. A notice of appeal must reference this Notice of Violation.

Within ten (10) days after filing a notice of appeal, Respondent must file with the Commission a supplemental statement that states with particularity the relief desired and the grounds therefore and that includes, when available, supporting evidence in the form of affidavits. If Respondent wishes to present oral testimony or witnesses at the hearing, Respondent must include a request to do so with the supplemental statement. The request to present oral testimony or witnesses must specify the names of proposed witnesses and the general nature of their expected testimony, whether a closed hearing is requested and why. Respondent may waive its right to an oral hearing and instead elect to have the matter determined by the Commission solely on the basis of written submissions.

8. Fine-Submission of Information

The violation cited above may result in the assessment of a civil fine against Respondent in an amount not to exceed $25,000 per violation per day. See 25 C.F.R. §575.4. Under 25 C.F.R. § 575.5(a), Respondent may submit written information about the violation to the Chairman within fifteen (15) days after service of this notice

of violation (or such longer period as the Chairman may grant for good cause). The Chairman shall consider any information submitted in determining the facts surrounding the violation and the amount of the civil fine, if any.

Dated this 28 of April, 2008.

PHILIP N. HOGEN
Chairman

Certificate of Service

I certify that this **Notice of Violation** was sent by facsimile transmission and certified U.S. mail, return receipt requested, on this 29 day of 2008 to:

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Shakira Ferguson

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Legal Staff Assistant, NIGC