NATIONAL INDIAN GAMING COMMISSION

NOTICE OF VIOLATION

NOV-08-21

TO: Peoria Tribe of Indians of Oklahoma
Attn: John P. Froman, Chief
Agent for Service of Process
118 South Eight Tribes Trail
Miami, Oklahoma 74354
FAX: (918) 540-2538

Peoria Tribe Gaming Commission
Attn: Bud Ellis, Chairman
118 South Eight Tribes Trail
Miami, Oklahoma 74354
FAX: (918) 540-0308

1. Notification of Violation

The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Peoria Tribe of Indians of Oklahoma (Respondent or Tribe), located in Miami, Oklahoma, has violated NIGC regulations and its tribal gaming ordinance 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 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. IGRA requires an annual audit of each gaming operation and requires that copy of the results of the annual audit be submitted to the NIGC. 25 U.S.C. § 2710(b)(2)(C).

B. 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 gaming operation's fiscal year. 25 C.F.R. §§ 571.12 and 571.13.

C. NIGC regulations define "gaming operation" as "each economic entity that is licensed by a tribe, operates the games, receives the revenues, issues the prizes and pays the expenses." A gaming operation may be operated by a tribe directly; by a management contractor; or, under certain conditions, by another person or other entity. 25 C.F.R. § 502.10.

D. Section 1.1(a) of the Peoria Tribe of Indians of Oklahoma Gaming Ordinance ("Ordinance"), the Tribe's approved gaming ordinance, provides that "the conduct of gaming activities provided for by this Ordinance on Tribal Lands regulation thereof shall conform with the Indian Gaming Regulatory Act, 102 Stat. 2467, 25 U.S.C. § 2701 et seq., and the regulations promulgated by the National Indian Gaming Commission."

E. Section 3.1(m) of the Ordinance provides that the Tribal Commission shall have the authority and the responsibility to "to require, and cause to be conducted annually, outside independent audits of all gaming activity as required by the Indian Gaming Regulatory Act and submitting such audits to the National Indian Gaming Commission pursuant to 25 C.F.R. Section 522.4 (b)(3); require, and cause to be conducted annually, outside audits of all contracts related to the conduct of gaming, with the exception of those contracts for professional legal and accounting services, whether those contracts be for supplies, services, or other subject matter which the Commission determines to be related to gaming, and which are for a contract amount in excess of $25,000."

F. Section 10.5 of the Ordinance requires that "The Tribal Commission shall cause to be conducted, at least annually, an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission."

4. Role of Independent Audit Report

Submission of the annual independent audit report by a firm of certified public accountants is critical to the NIGC's mission to protect the integrity of Indian gaming. A firm's ability to conduct an audit in accordance with generally accepted auditing standards and render an opinion on the financial statements prepared in conformity with generally accepted accounting principles provides a certain level of assurance as to the security of tribal gaming revenues. The audit report prepared and submitted on a timely basis is evidence of , among other things, the integrity of the gaming operation and, more specifically, of the adequacy of the books and records, the functioning of the internal financial

controls, and the disclosure of information having a bearing on the financial statements.

5. Circumstances of the Violation

   A. Respondent is a federally recognized Indian Tribe with tribal headquarters in Miami, Oklahoma.

   B. The tribe operated its gaming operation, Buffalo Run Casino, during all or part of Fiscal Year 2007.

   C. The tribe operated its gaming operation, Peoria Gaming Center, during all or part of Fiscal Year 2007.

   D. IGRA requires that tribes submit annual audits of tribal gaming. 25 U.S.C. § 2710(b)(2)(C). 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 gaming operation's fiscal year. 25 C.F.R. §§ 571.12, 571.13.

   E. The Ordinance requires that gaming activities and regulation of gaming activities be conducted in accordance with IGRA and NIGC regulations. Section 1.1(a) of the Peoria Tribe of Indians of Oklahoma Gaming Ordinance

   F. The fiscal year for Buffalo Run Casino ended March 31, 2008.

   G. The fiscal year for Peoria Gaming Center ended March 31, 2008.

   H. The audit reports for the gaming operations named in this violation were due to NIGC on or before July 29, 2008.

   I. NIGC received the audit reports for these gaming operations on August 20, 2008, 22 days late.

   J. The Tribe is in violation of NIGC regulations for failure to submit a timely annual independent audit report for two gaming operations.

6. Measures Required to Correct the Violation

   Audit reports must be received within 120 days of the end of a gaming operations fiscal year. 25 C.F.R. § 571.13. While there is no remedial action that can correct the timely submission of the audit reports, improved controls to ensure timely submission of future audits should be put in place.

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 waives 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. 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 24 of September, 2008

PHILIP N. HOGEN
Chairman

HEATHER L. MCMILLAN
Staff Attorney

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 26th day of September, 2008 to:

Shakira Ferguson

Shakira Ferguson