National Indian Gaming Commission

NOTICE OF VIOLATION

NOV-08-09

To: Absentee Shawnee Tribe
Attn: Scott Miller, Governor
(Agent for Service of Process)
2025 South Gordon Cooper
Shawnee, OK 74801
FAX: (405) 275-5637

Absentee Shawnee Tribe Gaming Commission
Attn: Dana Deere, Gaming Commissioner
15700 East State Highway 9
Norman, OK 73026
FAX: (405) 360-4182

Absentee Shawnee Tribe
Office of the Attorney General
Attn: Alyssa D. Campbell
2025 South Gordon Cooper
Shawnee, OK 74801
FAX: (405)273-4534

1. Notification of Violation

The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Absentee Shawnee Tribe (Tribe), located in Shawnee, Oklahoma, has violated IGRA and NIGC regulations by failing to submit an 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 gaming operation's fiscal year.

   C. In a resolution duly adopted by the Executive Committee, the Absentee-Shawnee Tribe authorized Class II and Class III gaming and provided "the Tribe shall cause to be conducted annually and independent audit of gaming operations." Absented-Shawnee Tribe of Indians of Oklahoma, Executive Resolution No. AS-94-94 (Aug. 12, 1994).

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. The Absentee-Shawnee Tribe is a federally recognized Indian Tribe with tribal headquarters in Shawnee, Oklahoma.

   B. The Tribe operated its gaming facility, Thunderbird Entertainment Center, during all or part 2007. The fiscal year began on January 1, 2007 and ended December 31, 2007.

   C. The NIGC has not received an audit report for the fiscal year ending December 31, 2007. The report was due to the NIGC on April 29,

2008. By NIGC regulation, these audits are due 120 days after the end of the Tribe's fiscal year.

D. IGRA requires that tribes submit annual audits of each gaming facility. 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 fiscal year. 25 C.F.R. §§ 571.12, 571.13. The Tribe is therefore in violation of IGRA and 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 this violation. IGRA requires that the Tribe submit annual audits to the NIGC. Further, NIGC regulations require that an audit be received within 120 days of the end of a gaming operation's fiscal year. 25 C.F.R. § 571.13. The Tribe should submit the audit immediately.

7. Appeal

Within thirty (30) days after service of this Notice of Violation, the Tribe 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. The Tribe 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, the Tribe 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 the Tribe wishes to present oral testimony or witnesses at the hearing, it 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. The Tribe 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. Under 25 C.F.R. § 575.5(a), the Tribe 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 25 of June, 2008.

PHILIP N. HOGEN
Chairman

ESTHER F. DITTLER
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 25th day of June, 2008 to:

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(Agent for Service of Process)
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