NOTICE OF VIOLATION AND ORDER OF TEMPORARY CLOSURE

Ref: NOV-00-1
CO-00-1

To: James Lee Edwards, Governor
Absentee Shawnee Tribe of Oklahoma
2025 S. Gordon Cooper Dr.
Shawnee, OK 74801
Fax: (405) 275-5637

1. The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Absentee Shawnee Tribe of Oklahoma (hereafter referred to as "Respondent"), located in Shawnee, Oklahoma, is in violation of the Indian Gaming Regulatory Act (IGRA) and NIGC regulations.[1]

2. The circumstances of the violation are:

Respondent is a federally recognized Indian Tribe with tribal headquarters in Shawnee, Oklahoma. Respondent engages in gaming operations on tribal lands in Oklahoma, and does not have a compact with the State of Oklahoma which would allow Respondent to operate Class III gambling devices.

During a visit to the Tribe's gaming operations on or about September 15, 1999, representatives of the National Indian Gaming Commission observed the following Class III machines being offered for play:

"Star/Super Sevens" ("Super Stars,"" Fruit Fiesta" and "Hearts and 7's") machines;
"Spin to Win" machines; and,
"Skill Challenge" machines.

[1]NIGC regulations are set forth in Chapter III, Title 25, Parts 500-599 of the Code of Federal Regulations. All sections of NIGC regulations cited in this Notice refer to the pertinent parts of Title 25. NIGC regulations implement provisions of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2701 et seq., signed into law on October 17, 1988.

During a visit to the Tribe's gaming operation on October 19, 1999, representatives of the National Indian Gaming Commission observed the following Class III machines being offered for play:

"Star/Super Sevens" machines; and
"Skill Challenge" machines.

During a visit to the Tribe's gaming operation on November 22, 1999, representatives of the National Indian Gaming Commission observed the following Class III machines being offered for play, in addition to those described above:

"Midnight 7" video pull-tab machines

3. Respondent is in violation of NIGC regulations as follows:

Under Section 502.4 of the NIGC's regulations, Class III gaming means all forms of gaming that are not Class I gaming or Class II gaming specifically including (but not limited to) any slot machines as defined in 15 U.S.C. § 1171(a)(1) and electronic or electromechanical facsimiles of any game of chance. Under NIGC regulations an electronic or electromechanical facsimile means any gambling device as defined in 15 U.S.C. § 1171(a)(2) or (3). See Section 502.8.

The machines listed above are gambling devices as defined under 15 U.S.C. Section 1171 (a) and therefore fall within the definition of Class III gaming. Because Respondent does not have a compact with the State of Oklahoma which authorizes the playing of Class III gambling devices at Respondent's gaming facility, Respondent is operating such games in the absence of a tribal-state compact in violation of 25 U.S.C. § 2710(d) and 25 C.F.R. § 573.6(a)(11).

4. To correct the violations, Respondent shall comply with the following closure order.

Closure Order

Under the authority of 25 U.S.C. §2701 et seq. and 25 C.F.R. §573.6(a) and (b), the Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Absentee Shawnee Tribe of Oklahoma is ordered to cease and desist the operation of the above-listed gaming machines and any other such gambling devices which may be present in its gaming facilities. This order shall be effective within twenty- four hours of receipt of this Notice of Violation and Closure Order.

5. The Chairman of the Commission may rescind the Closure Order for good cause shown.

6. Expedited Review. Under 25 C.F.R. §573.6(c), within seven (7) days after service of this Order, Respondent may request, orally or in writing, informal expedited review by the Chairman. The Chairman must complete such review within two (2) days after receipt of a timely request.

Within two (2) days after the expedited review provided by 25 C.F.R. §573.6(c), the Chairman must decide whether to continue the Order and must provide Respondent with an explanation of the basis for the decision.

7. Appeal. Whether or not a Respondent seeks the informal expedited review described in paragraph 6 above, within 30 (thirty) days after service of this Notice of Violation and Order of Temporary Closure, 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 and Order.

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 violations cited above may additionally result in the assessment of civil fines 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 15 days after service of this notice of violation (or such longer period as the Chairman of the Commission 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 5th day of January, 2000.

Montie R. Deer
Chairman
National Indian Gaming Commission

Cc: H. Bruce Longhorn, Absentee Shawnee Gaming Commission