National Indian Gaming Commission

NOTICE OF VIOLATION

NOV-03-04

To: Johnny Wauqua, Chairman (Agent for Service of Process)
Comanche Indian Tribe
P.O. Box 908
Lawton, OK 73502

1. The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Comanche Indian Tribe (hereafter referred to as "Respondent"), located in Lawton, Oklahoma, is in violation of the Indian Gaming Regulatory Act (IGRA), NIGC regulations and its Gaming Ordinance for failure to submit annual audits and quarterly statements of gross assessable revenue.

2. Authority. Under regulations of the National Indian Gaming Commission, the Chairman of the NIGC (hereinafter "Chairman") may issue a Notice of Violation (hereinafter "NOV") to any person for violation of any provision of the Indian Gaming Regulatory Act, NIGC regulations, or any provision of a tribal gaming ordinance or resolution approved by the Chairman. 25 C.F.R. § 573.3.

3. Applicable Federal and Tribal Laws:

   A. 25 U.S.C. 2710(b)(2)(C) – An annual audit of each gaming operation is required and a copy of the results of the annual audit must 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. 25 C.F.R. § 514.1 – NIGC regulations require Tribes submit, for each gaming operation, fee payments and quarterly statements showing assessable gross revenues for the previous year.

D. Section 5(c) of the Comanche Indian Tribe's gaming ordinance – The approved gaming ordinance requires the Tribe obtain outside annual audits for all of its gaming operations and to submit the results of those audits to the NIGC.

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 principals 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. The circumstances of the violation are:

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

B. Respondent operated its gaming facility, Comanche Red River Casino, during all or part of the following years: 1999, 2000, 2001, and 2002.

C. Respondent did not submit quarterly statements showing gross assessable revenue for the Comanche Red River Casino for 2000, 2001, and 2002.

D. Respondent operated its gaming facility, Comanche Nation Smoke Shop and Game Center located in Walters, Oklahoma, during all or part of the following years: 2000, 2001, and 2002.

E. Respondent did not submit quarterly statements showing gross assessable revenue for the Comanche Nation Smoke Shop & Game Center located in Walters, Oklahoma, for 2000, 2001, and 2002.

F. To date the NIGC has not received audit reports or management letters for:

i. Comache Red River Casino:
   1. Fiscal Year 2002.

ii. Comanche Nation Smoke Shop & Game Center
   1. Fiscal Year 2002.

6. 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 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. 25 C.F.R. §§ 571.12-13. Respondent is therefore in violation of IGRA, 25 U.S.C. 2710(b)(2)(C), NIGC regulations, 25 C.F.R. §§ 571.12-13, and Respondent's Gaming Ordinance at section 5(c) for failure to submit an annual independent audit report.

7. NIGC regulations require tribes submit, for each gaming operation, fee payments and quarterly statements showing assessable gross revenues for the previous year. 25 C.F.R. §514.1

8. The NIGC has sought compliance from Respondent on several occasions through meetings, correspondence, and telephone calls.

9. To correct this continuing violation, Respondent shall:

   Submit an independent audit report, management letters, and statements of gross assessable revenue within 15 days of receipt of this letter for the years listed in paragraph 5 of this notice.

10. Appeal.

    Within 30 (thirty) 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.

11. 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 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 17 day of June, 2003

Philip N. Hogen
Chairman
National Indian Gaming Commission

John R. Hay
Staff Attorney

Certificate of Service

I certify that this **Notice of Violation** was sent by facsimile on this 17th day of June 2003 to:

Johnny Wauqua, Chairman (and Agent for Service of Process)
Comanche Indian Tribe
P.O. Box 908
Lawton, OK 73502
Fax: (580) 492-3796

John R. Hay
Staff Attorney