NATIONAL INDIAN GAMING COMMISSION

STIPULATED NOTICE OF VIOLATION AND CIVIL FINE ASSESSMENT

Ref: NOV-07-01

To: Glenna Wallace, Chief (Agent for Service of Process)
Eastern Shawnee Tribe of Oklahoma
P.O. Box 350
Seneca, MO 64865
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Nancy McAlister, Gaming Commissioner
Eastern Shawnee Tribe of Oklahoma
Tribal Gaming Commission
301 E. Main Street
Ada, Oklahoma 74820
Fax: (580) 332-5180

STIPULATED NOTICE OF VIOLATION

1. The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Eastern Shawnee Tribe of Oklahoma (Tribe), located in Seneca, Missouri, is in violation of the Indian Gaming Regulatory Act (IGRA) and NIGC regulations for failure to conduct background investigations on key employees and primary management officials, failure to make eligibility determinations of suitability for employment in a gaming operation based on sufficient background investigations for these individuals, and failure to notify the NIGC when it licensed key employees and primary management officials.

2. <u>Applicable Federal and Tribal Laws</u>

   a. 25 U.S.C. § 2710(b)(2)(F)(i) – IGRA requires that a tribe have in place an adequate system to ensure that background investigations are conducted on key employees and primary management officials of a gaming operation.

   b. 25 U.S.C. § 2710(b)(2)(F)(ii)(I) – IGRA requires that tribal gaming operations issue tribal licenses to primary management officials and key employees of the gaming enterprise with prompt notification to the Commission of the issuance of such licenses.

c. 25 U.S.C. § 2710(b)(2)(F)(ii)(II) – IGRA requires that a tribal gaming operation shall maintain a standard whereby any person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment.

d. 25 U.S.C. § 2710(b)(2)(F)(ii)(III) – IGRA requires that a tribal gaming operation notify the Commission of the background investigation results before issuing a license to key employees and primary management officials.

e. 25 C.F.R. § 502.14 –NIGC regulations define a key employee as: (a) A person who performs one or more of the following functions: (1) Bingo caller; (2) Counting room supervisor; (3) Chief of security; (4) Custodian of gaming supplies or cash; (5) Floor manager; (6) Pit boss; (7) Dealer; (8) Croupier; (9) Approver of credit; (10) Custodian of gambling devices including persons with access to cash and accounting records within such devices; (b) If not otherwise included, any other person whose total cash compensation is in excess of $50,000 per year; or, (c) If not otherwise included, the four most highly compensated persons in the gaming operation.

f. 25 C.F.R. § 502.19 – NIGC regulations define a primary management official as: (a) The person having management responsibility for a management contract; (b) Any person who has authority: (1) To hire or fire employees; or (2) To set up working policy for the gaming operation; or (c) The chief financial officer or other person who has financial management responsibility.

g. 25 C.F.R. §§ 556.4 and 558.3(a)(2) - NIGC regulations require that a tribe conduct background investigations pursuant to 25 C.F.R. Part 556 to determine the eligibility of key employees and or primary management officials for continued employment in a gaming operation.

h. 25 C.F.R. § 522.2(h) and 25 C.F.R. § 556.4(a)(14) – NIGC regulations require that a tribe shall collect fingerprints from an applicant for a primary management official or key employee position and conduct a criminal history check including a check of the criminal history record information maintained by the FBI.

i. 25 C.F.R. § 556.4(b) - NIGC regulations require that a tribe shall conduct an investigation sufficient to make a suitability determination regarding the licensing of a key employee or primary management officials pursuant to 25 C.F.R. § 558.2.

j. 25 C.F.R. §§ 556.5(a) and 558.3(a)(1) - NIGC regulations require that when a tribe employs a primary management official or a key employee, the tribe shall forward to the Commission a completed employment application.

k. 25 C.F.R. § 556.5(b) – NIGC regulations require that, before issuing a license to a key employee or primary management official, a tribe shall forward to the Commission an investigative report on each background investigation including the following: (1) Steps taken in conducting a background investigation; (2) Results obtained; (3) Conclusions reached; and (4) The bases for those conclusions.

l. 25 C.F.R. § 556.5(c) – NIGC regulations require that a tribe shall submit a copy of the eligibility determination made by it pursuant to 25 C.F.R. § 558.2 when it forwards the investigative report.

m. 25 C.F.R. § 558.2 – NIGC regulations require that a tribe shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make an eligibility determination. If the Tribe determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary management official position.

n. 25 C.F.R. §§ 556.5(c) and 558.3(b) - NIGC regulations require that, upon completion of a background investigation and a determination of eligibility for employment in a gaming operation, a tribe shall forward an investigative report and eligibility determination to the Commission within sixty (60) days after an key employee or primary management official begins work or within sixty (60) days of the Chairman's approval of an ordinance under 25 C.F.R. Part 523.

o. 25 C.F.R. § 558.3(c) – NIGC regulations require that during the thirty (30) days after the NIGC receives a investigative report and eligibility determination for a key employee or primary management official, the Chairman may request additional information from a tribe concerning the license applicant. Such a request shall suspend the thirty (30) day period until the Chairman receives the additional information from the tribe.

p. 25 C.F.R. § 558.4(a) – NIGC regulations provide that if during the thirty (30) days after the NIGC receives a investigative report and eligibility determination for a key employee or primary management official the Commission notifies a tribe that it has no objection to the issuance of a license to such an employee, then the Tribe may issue a license to such employee.

q. 25 C.F.R. § 558.4(b) – NIGC regulations provide that if during the thirty (30) days after the NIGC receives a investigative report and eligibility determination for a key employee or primary management official the Commission provides the tribe with a statement itemizing objections to the issuance of a license to such an employee, then the tribe shall reconsider the application, taking into account the itemized objections. The Tribe shall make the final decision whether to issue a license to such employee.

r. 25 C.F.R. § 558.3(b) - NIGC regulations require that a gaming operation shall not employ a key employee or primary management official who does not have a license after ninety (90) days.

s. Section 1007(A)(1) of the Eastern Shawnee Gaming Code (Code), approved by the NIGC Chairman on October 9, 1996, defines a key employee as a person who performs one or more of the following functions: (1) Bingo caller; (2) Count room supervisor; (3) Chief of security; (4) Custodian of Gaming supplies or cash; (5) Floor manager; (6) Pit boss; (7) Dealer; (8) Croupier; (9) Approver of credit; or (10) Custodians of gambling devices including persons with access to cash and accounting records within such devices; If not otherwise included, any other person whose total cash compensation is in excess of $50,000 per year; or if not otherwise included, the four most highly compensated persons in the gaming operation.

t. Section 1007(A)(2) of the Code defines a primary management official as: the person having management responsibility for a management contract; any person who has authority (1) to hire and fire employees; or (2) to set up working policy for the gaming operation; or the chief financial officer or other person who has financial management responsibility.

u. Sections 1007(D) of the Code requires that the Tribe shall review a person's prior activities, criminal record, if any, reputation, habits and eligibility of a key employee and primary management official for employment in a gaming operation. If the Tribe determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a Tribal or individually owned gaming operation shall not employ that person in a key employee or primary management official position.

v. Section 1007(E) of the Code requires that when a key employee or primary management official begins work, the Tribe shall forward to the NIGC a completed application for employment, conduct the background investigation and make a determination of the applicant's eligibility for employment in a gaming operation. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after ninety (90) days.

w. Section 1007(F) of the Code requires that the Tribe shall prepare and forward to the NIGC an investigative report on each background investigation. An investigative report shall include all of the following: (a) steps taken in conducting a background investigation; (b) results obtained; (c) conclusions reached; and (d) the basis for those conclusions.

x. Section 1007(E)(2) and (F)(2) of the Code requires that the Tribe shall submit the investigative report to the NIGC within sixty (60) days after an employee begins work at the Tribe's gaming facility.

y. Section 1007(F)(3) of the Code provides that if a license is not issued to an applicant, the Tribe: (a) shall notify the NIGC; and (b) may forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

z. Section 1007(F)(4) of the Code provides that with respect to key employees and primary management officials, the Tribe shall retain applications for employment and report (if any) of background investigations for inspection by the Chairman of the NIGC or his or her designee for no less than three (3) years from the date of termination of employment.

aa. Section 1007(G) of the Code provides: (1) if, within a thirty (30) day period after the NIGC receives a investigative report, the NIGC notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Tribe has provided an application and investigative report to the NIGC, the Tribe may issue a license to such applicant. (2) The Tribe shall respond to a request for additional information from the Chairman of the NIGC concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the thirty (30) day period under paragraph G(1) of this section until the Chairman of the NIGC receives the additional information. (3) If, within the thirty (30) day period described above, the NIGC provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report to the NIGC, the Tribe shall reconsider the application, taking into account the objections itemized by the NIGC. The Tribe shall make the final decision to issue a license to such applicant.

bb. Section 1007(H) of the Code provides that if, after the issuance of a gaming license, the Tribe receives from the NIGC reliable information indicating that a key employee or a primary management official is not eligible for employment pursuant to the eligibility determination criteria, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation. After a revocation hearing, the Tribe shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the NIGC of its decision.

cc. Section 1022 (II) of the Code provides that the Commissioner shall forward fingerprints and information to the NIGC on all Tribal gaming employees and other persons for whom background checks are required. (A) The Commissioner shall request a report from the NIGC which shall include a check through the Federal Bureau of Investigation's National Criminal Information Center. (B) Fees charged by the NIGC for processing such reports shall be paid by the Tribe excepting those individuals and organizations that have posted bonds for such reports.

dd. Section 1032 of the Code requires that the Commissioner shall request the local CFR officers to perform an initial criminal background check for each application for employment. (A) The Commissioner of the Tribe shall receive the actual printout or a summary of any initial background check which shall identify any felony, criminal history, or crime of moral turpitude that is known by CFR officers. The Commissioner shall be considered a Tribal law enforcement officer for such review. (B) The Commissioner shall review any background check report issued to the Tribe. The Commissioner shall share any information revealed by such checks to the manager of a Tribal or individually owned gaming hall(s) which in the Commissioner's judgment affects the consideration of an individual for employment. (C) The Commissioner shall use the results of any background check to perform the lawful duties of Commissioner.

ee. Section 1034 of the Code requires that the Tribal Gaming Commissioner shall conduct an appropriate investigation and/or cause to be conducted on key employees and primary management officials. (A) Such procedures shall include at a minimum: (1) obtain and process fingerprints; (2) explanation of job description, fitness of individual to perform the job, and explanation of how individual was selected for the position; (3) credit check; (4) verification of resume; (5) character check regarding prior activities, criminal record, reputation, habits and associations, including but not limited to personal interview summaries with a sufficient number of knowledgeable people such as former employees, personal references and others to form a basis for character suitability determination; (6) document all potential problems and possible disqualification information; (B) After completion of the background investigation, the Commissioner shall prepare an investigative report setting forth the following: (1) who conducted various parts of the report, their qualifications and address; (2) an outline of the background investigation process including steps taken in the investigation; (3) a description of the information obtained together with conclusions of investigations; (4) statement of basis for conclusions; and (5) an organizational chart showing the location within the organization of the individual investigated and the positions or people over which the individual investigated may be responsible.

ff. Section 1035 of the Code provides that the Tribal Gaming Commissioner shall issue Tribal licenses and sign the same for primary management officials and key employees who are involved in gaming. (A) Such licenses shall not be required until background investigations are complete. (B) Such licenses shall be issued when the results of background investigations are available to the Commissioner and such reports indicate that the individual is of appropriate character to participate in a Tribal or individually owned gaming enterprise. (C) The Commissioner may assess a license fee as may be necessary to defray the Commissioner's costs in securing a background investigation and issuing any license.

3. Role of Background Investigations and Employee Licensing

The background investigation and licensing process for key employees and primary management officials is crucial to maintaining the integrity of Indian gaming. Submission of the completed application, background investigation report, and suitability determination to the NIGC so that it may object to the issuance of a license is an integral part of this process as set forth in the IGRA. Gaming is a cash intensive business that requires a carefully screened employee base and careful implementation of internal controls. The background investigation and licensure process helps ensure that employees who have access to cash and other gaming resources are worthy of positions of trust. Accordingly, under IGRA, the licensure of key employees and primary management officials is an important tribal governmental responsibility.

4. Circumstances of the Violation:

a. The Eastern Shawnee Tribe of Oklahoma, a federally recognized Indian Tribe, operates Bordertown Casino, located in Seneca, Missouri, and the Eastern Shawnee Travel Plaza Casino, located in Wyandotte, Oklahoma, pursuant to the Indian Gaming Regulatory Act (IGRA) and its implementing regulations.

b. On February 21, 2006, Tim Harper, NIGC Region V Director, executed a Warning Notice to the Tribe citing the Tribe's failure to conduct background investigations and issue licenses to key employees and primary management officials pursuant to 25 C.F.R. §§ 556 and 558. The Warning Notice requested that the Tribe initiate corrective action immediately. The cover letter provided with the Warning Notice gave further notice to the Tribe that it was in violation of IGRA and NIGC regulations for failure to conduct background investigations; submit employment applications, investigative reports and eligibility determinations to the NIGC; and issue gaming licenses to key employees and primary management officials pursuant to 25 C.F.R. §§ 556.4, 558.3 and 558.4. The letter requested that the Tribe immediately initiate background investigations on all key employees and primary management officials who were not currently licensed by the Tribe. The letter noted that the Tribe should not employ any key employee or primary management official who did not have a license after ninety (90) days. The letter also warned that a violation of NIGC regulations may result in the issuance of a Notice of Violation, civil fine assessment or closure of the Tribe's gaming facility.

c. On February 27, 2006, Field Investigator Brian Moody met with Charles Enyart, Chief of the Eastern Shawnee Tribe of Oklahoma, Nancy McAlister, Gaming Commissioner, and Bryce Washington, Business Manager, at the tribal offices and hand delivered the Warning Notice and cover letter to Chief Enyart.

d. On April 11, 2006, Deborah Carnes, Bordertown Casino Human Resources Manager, provided Field Investigator Moody with a report titled "Active Licensed Employees." This report identifies all employees by first and last

name, provides the employee's social security number, and identifies each employee's date of hire and labor level. Field Investigator Moody was also provided with a list that identifies the job title and department associated with each labor level code.

e. On June 8, 2006, the NIGC received correspondence from Jody DeClue, Deputy Gaming Commissioner, enclosing twenty five (25) fingerprint cards and requesting that the NIGC process the fingerprints. This correspondence was dated March 5, 2006. The Tribe submitted the fingerprints more than ninety (90) days after each of these employees began employment at the Tribe's gaming facility.

f. On January 30, 2007, Jalene Wells, Deputy Gaming Commissioner, provided Field Investigator Brian Moody with the date of hire and date of termination, where applicable, for each employee listed on the Tribe's fingerprint submission dated March 5, 2006. Fourteen (14) employees qualify as key employees, because they held the following positions: ten (10) were employed as slot clerks, two (2) were employed as blackjack dealers, one (1) was employed as an OTB clerk, and one (1) was employed on the pull team. These fourteen (14) employees were each employed in excess of ninety (90) days.

g. Consequently, in regards to those fourteen (14) key employees identified above, the Tribe is in violation of 25 C.F.R. §§ 556.5(c) and 558.3(b). The Tribe failed to submit the investigative report and eligibility determination for such employees to the NIGC within sixty (60) days after the date that each key employee began work at a tribal gaming facility.

h. Further, in regards to those fourteen (14) key employees identified above, the Tribe was also in violation of 25 C.F.R. 558.4(a), because the Tribe did not properly issue a license to these key employees within ninety (90) days as required by 25 C.F.R. § 558.4(a).

i. Moreover, in regards to those fourteen (14) key employees identified above, the Tribe is in violation of 25 C.F.R. 558.3(b) which requires that a gaming operation not employ a key employee or primary management official who does not have a license after ninety (90) days. The Tribe continued to employ each of these fourteen employees in excess of ninety (90) days without having properly issued these employees a license and as such violated 25 C.F.R. § 558.3(b).

5. Corrective Action to be Taken:

The Chairman acknowledges, however, that prior to the execution of this Stipulated Notice of Violation and Civil Fine Assessment, the Eastern Shawnee Tribe took affirmative steps to attempt to correct the circumstances giving rise to this matter by collecting and processing the fingerprints of some key employees and primary management officials, and submitting employment applications, investigative reports, and eligibility determinations for some of its employees to the NIGC. While such

action represents a significant step toward compliance, the following additional corrective actions are required by the Tribe:

a. Within 15 days, starting from the date of service of this Stipulated Notice of Violation and Civil Fine Assessment, collect and process fingerprint cards for all current key employees and primary management officials employed at the Tribes gaming facilities who have not yet been licensed pursuant to 25 C.F.R. §§ 556 and 558;

b. Within 30 days, starting from the date of service of this Stipulated Notice of Violation and Civil Fine Assessment, complete background investigations and obtain FBI criminal history checks on all current primary management officials and key employees whose background investigations and FBI criminal history record checks have not been completed and create background investigation reports for them;

c. Within 45 days, starting from the date of service of this Stipulated Notice of Violation and Civil Fine Assessment, review the completed background investigation reports, containing FBI criminal history information, for the key employees and primary management officials and make eligibility determinations of suitability for employment in a gaming operation;

d. Within 60 days, starting from the date of service of this Stipulated Notice of Violation and Civil Fine Assessment, notify the NIGC whether each key employee and primary management official has been granted a Tribal gaming license and submit to the NIGC a copy of the completed employment application, background investigation report, and eligibility determination;

e. Commencing 90 days after date of service of this Stipulated Notice of Violation and Civil Fine Assessment, not employ any persons hired as of the date of service of this Stipulated Notice of Violation, as key employees or primary management officials whose ninety (90) day temporary licenses have expired;

f. Licensing for all new key employees and primary management officials hired after the date of service of this Stipulated Notice of Violation and Civil Fine Assessment be completed within ninety (90) days from date of hire; and

g. Notify the NIGC in fifteen (15) day intervals, starting from the date of service of this Stipulated Notice of Violation and Civil Fine Assessment, of the measures taken to correct this violation. The required information must be submitted to the Chairman, National Indian Gaming Commission, 1441 L Street, NW, Suite 9100, Washington, DC 20005.

AGREEMENT FOR SETTLEMENT

6. This Agreement is entered into by and between the Eastern Shawnee Tribe of Oklahoma, by duly authorized officers or agents, and the Chairman of the NIGC

pursuant to 25 C.F.R. § 575.6(b) and shall be effective upon execution by the parties and receipt of the initial payment from the Tribe to the NIGC.

7. The Tribe admits the facts set forth in Paragraph 4 of this Agreement; agrees that the NIGC possesses jurisdiction over this action; and agrees to comply with the corrective measures set forth in Paragraph 5 of this Agreement.

8. The Tribe is aware of its rights to:

   a. submit written information about the violation to the Chairman prior to issuance of a civil fine assessment by the Chairman and to have at least fifteen (15) days after the issuance of a notice of violation to do so under 25 C.F.R. § 575.5;

   b. appeal the notice of violation to the full Commission under 25 C.F.R. § 577;

   c. obtain a hearing to contest the matter under 25 C.F.R. § 577;

   d. seek a reduction or waiver of a civil fine under 25 C.F.R. § 575.6; and

   e. appeal any final determination by the full Commission to a federal district court under 25 U.S.C. § 2714.

9. In exchange for the terms, conditions, and understandings set forth herein, the Tribe hereby waives the rights specified in Paragraph 8 of this Agreement and any other right to seek judicial review or otherwise challenge or contest the Chairman's actions under this Agreement, including the right to have the Chairman provide his written analysis of the factors to be considered in assessing a civil fine set forth under 25 C.F.R § 575.4.

10. Furthermore, the Tribe attests that:

    a. The Tribe agrees to fully comply with the corrective measures set forth in Paragraph 5.

    b. The Tribe agrees to provide full cooperation to the NIGC so that the NIGC can confirm that the Tribe has entirely complied with the required corrective measures set forth in Paragraph 5.

11. The Tribe and the NIGC Chairman desire to resolve this matter without undertaking the burdens, costs, risks, and uncertainties associated with formal administrative and judicial proceedings.

12. If this agreement is accepted by the Tribe and the Chairman, the Chairman will without further notice, simultaneously issue the Notice of Violation (set forth in Paragraphs 1 through 4 of this Agreement) and a Final Civil Fine Assessment Order which shall become a final order of the Commission.

13. The Chairman has authority to levy and collect appropriate civil fines, not to exceed $25,000 per violation, against a tribe for each violation of any provision of IGRA, NIGC regulations, or any tribal gaming ordinance. 25 U.S.C. § 2713(a)(1); 25 C.F.R. § 575.4. If noncompliance continues for more than one day, the Chairman may treat each daily act or omission as a separate violation. 25 C.F.R. § 575.4(a)(2).

14. Pursuant to the IGRA, 25 U.S.C. § 2701 *et seq.*, and by virtue of the authority vested in the Chairman of the NIGC, the Chairman has found that the Eastern Shawnee Tribe of Oklahoma is in violation of 25 U.S.C. § 2710(a)(2) and 25 C.F.R §§ 556 and 558. Accordingly, the Tribe shall pay a civil fine of twenty thousand dollars ($20,000.00). Payment shall be submitted to the NIGC, 1441 L Street N.W., Suite 9100, Washington, D.C. 20005, according to the schedule specified in Paragraph 15.

15. The Tribe agrees to pay the aforementioned civil fine to the NIGC pursuant to the following terms:

    a. The Tribe shall pay ten thousand dollars ($10,000.00) of the Civil Fine Assessment to the NIGC upon the Tribe's execution of this Stipulated Notice of Violation and Civil Fine Assessment.

    b. The remaining ten thousand dollars ($10,000.00) will be suspended and potentially forgiven according the following schedule:

        i. If the Tribe demonstrates, and the NIGC is able to confirm, that it has attained compliance with IGRA and NIGC regulations regarding licensing of key employees and primary management officials within ninety (90) days from the date this Stipulated Notice of Violation and Civil Fine Assessment is issued, then the NIGC will forgive three thousand three hundred thirty three dollars and thirty three cents ($3,333.33).

        ii. After the initial ninety (90) day period referenced in Paragraph 15(b)(i), if the Tribe demonstrates, and the NIGC is able to confirm, that it has remained in compliance with IGRA and NIGC regulations regarding licensing of key employees and primary management officials for an additional six (6) months, then the NIGC will forgive an additional three thousand three hundred thirty three dollars and thirty three cents ($3,333.33).

        iii. After the six (6) month period referenced in Paragraph 15(b)(ii), if the Tribe demonstrates, and the NIGC is able to confirm, that it has remained in compliance with IGRA and NIGC regulations regarding licensing of key employees and primary management officials for an additional six (6) months, then the NIGC will forgive the remaining three thousand three hundred thirty three dollars and thirty four cents ($3,333.34).

    c. If NIGC field staff are unable to confirm that the Tribe is in compliance with IGRA and NIGC regulations regarding licensing of key employees and

primary management officials at the times described in Paragraph 15(b), then the NIGC will provide written notice to the Tribe stating such and will identify the licensing files and the specific regulation(s) which have not been satisfied. Due to non-compliance, payment of the unforgiven portion of the remaining fine will be due within thirty (30) days of such notice.

16. The Chairman agrees upon execution of this Agreement that the NIGC shall not initiate further proceedings or actions or assess any additional sanctions against the Tribe arising out of, or related to the subject matter of this Agreement for actions or omissions occurring prior to the date this Stipulated Notice of Violation and Civil Fine Assessment is fully executed, unless the Tribe fails to comply with this Agreement. If the Tribe fails to comply with this Agreement, the Chairman reserves the right to initiate an enforcement action as outlined under 25 C.F.R. § 573.6, which may result in additional fines or closure of the Tribe's gaming facilities.

ADDITIONAL COVENANTS

17. This Agreement constitutes the entire agreement between the Chairman and the Tribe and supersedes all prior verbal or written agreements and understandings between the parties related to the subject matter hereof. No warranties, representations, covenants, or agreement shall be binding upon any party except as set forth herein. Any modification or waiver of any term of this Agreement, including the modification or waiver of term, must be in writing and signed by both parties.

18. The Tribe agrees that this Stipulated Notice of Violation and Civil Fine Assessment shall be deemed a final order of the Commission and a final agency action pursuant to 25 C.F.R. § 577.9(d).

19. The Chairman and the Tribe expressly agree and acknowledge that time is of the essence in this Agreement. The recitals herein and above set shall be binding upon the parties and their successors in their professional capacities.

20. A signature produced by facsimile shall be deemed to be an original signature and shall be effective and binding for purpose of this Agreement.

For the Eastern Shawnee Tribe of Oklahoma

By: Glenna J. Wallace Date: 2-21-07

Glenna Wallace
Chief, Eastern Shawnee Tribe of Oklahoma

For the National Indian Gaming Commission

By: Date: 2/27/07

Philip N. Hogen
Chairman, National Indian Gaming Commission