National Indian Gaming Commission

NOTICE OF VIOLATION

NOV-04-05

To: Webster A. Demmert III, President
Klawock Cooperative Association
P.O. Box 430
Klawock, AK 99925
FAX: 907.755.8800

1. Notification of Violation

The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Klawock Cooperative Association (Respondent or Tribe), located in Klawock, Alaska, is in violation of the Indian Gaming Regulatory Act (IGRA), NIGC regulations, and its Gaming Ordinance for failure to submit annual audits and failure to file quarterly statements.

2. Authority

Under regulations of the National Indian Gaming Commission, 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, 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) – 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) 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(c) requires tribes to file quarterly statements no later than March 31, June 30, September 30, and December 31 of each calendar year for each gaming operation subject to the jurisdiction of the NIGC.

D. Section 5.01(a) of the Gaming Ordinance of the Klawock Cooperative Association – the approved gaming ordinance requires the Tribe to 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. Role of Quarterly Statements

The annual fees collected by the NIGC in order to fund the agency's work are based upon the quarterly worksheets submitted by Indian gaming operations. NIGC must set a fee rate sufficient to fund its annual budget, yet may not exceed the fee cap set by Congress. Thus, it is imperative that the NIGC receive worksheets from the gaming operations in a timely manner so that the NIGC is able to set accurate preliminary and final fee rates.

5. Circumstances of the Violation

A. Respondent is a federally recognized Indian Tribe with tribal headquarters in Klawock, Alaska.

B. Respondent operated its gaming facility, Klawock Cooperative Association Bingo/IRA Pulltab Shoppe, during all or part of the following years: 2001, 2002, and 2003.

C. To date the NIGC has not received audit reports for:

i. Klawock Cooperative Association Bingo/IRA Pulltab Shoppe:
   1. Fiscal Year 2003.

D. The audit report for Klawock Cooperative Association Bingo/IRA Pulltab Shoppe for the fiscal year ended December 31, 2001 was received on May 17, 2004. The 2002 fiscal year audit was due April 30, 2002.

E. The audit report for Klawock Cooperative Association Bingo/IRA Pulltab Shoppe for the fiscal year ended December 31, 2002 was received on May 17, 2004. The 2002 fiscal year audit was due April 30, 2003.

F. The quarterly statements for Klawock Cooperative Association Bingo/IRA Pulltab Shoppe for fiscal years 2001, 2002, and 2003 were due on March 31, June 30, September 30, and December 31 of 2001 and 2002.

G. The quarterly statements for Klawock Cooperative Association Bingo/IRA Pulltab Shoppe for fiscal year 2004 were due on March 31 and June 30, 2004.

6. Measures Required to Correct these Violations

To correct the continuing audit violation, Respondent must submit an independent audit report within 45 days of receipt of this letter for each of the years listed in paragraph 5 of this notice.

There is no way to rectify the late submission of the 2001 and 2002 audits. The regulations require that audits be received within 120 days of the end of the fiscal year.

To correct the continuing quarterly statement violation, Respondent must submit quarterly statements for the following quarter end dates:

A. March 31, 2004; and June 30, 2004.

7. 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.

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 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 24th day of August, 2004

Philip N. Hogen
Chairman
National Indian Gaming Commission

Andrea Lord
Staff Attorney

Certificate of Service

I certify that this **Notice of Violation** was sent by facsimile and mailed on this 24th day of August 2004 to:

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