National Indian Gaming Commission

NOTICE OF VIOLATION

NOV-06-01

To: Chairman C. Michael Harwell (Agent for Service of Process)
Otoe-Missouria Tribe of Oklahoma
8151 Highway 177
Red Rock, OK 74651
FAX: (580) 723-4273

Chairman Billie Tohee
Otoe-Missouria Gaming Commission
8151 Hwy 177
Red Rock, OK 74651
FAX: (580) 723-4273

1. Notification of Violation

The Chairman of the National Indian Gaming Commission ("NIGC") hereby gives notice that the Otoe-Missouria Tribe of Oklahoma ("Respondent" or "Tribe"), located in Red Rock, Oklahoma, is in violation of the Indian Gaming Regulatory Act ("IGRA"), NIGC regulations and the Tribe's gaming ordinance for failure to submit timely annual audits.

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 ("IGRA"), 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. 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. 25 U.S.C. § 2710(b)(2)(C).

B. 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. 25 C.F.R. §§ 571.12 and 571.13.

C. Section 1-2 of the Otoe-Missouria Tribal Gaming Act ("Act"), as amended, the Tribe's approved gaming ordinance, declares that one of the purposes of the Act is to regulate the conduct of gaming owned and operated by the Otoe-Missouria Tribe of Oklahoma or its officially licensed agents, on Indian lands of the Otoe-Missouria Tribe of Oklahoma in compliance with Public Law 100-497, October 17, 1988, 102 Stat. 2467, the Indian Gaming Regulatory Act.

D. Section 2-2 of the Act grants the power to the Otoe-Missouria Tribal Gaming Commission to establish policy to and take all actions necessary to carry out the provisions of this Act in compliance with IGRA.

E. Section 3-4 requires the Tribe to cause annual audits of all gaming activity under a Class II license to be conducted within the existing independent tribal audit system and to provide all audit information to the National Indian Gaming Commission. The Act also states that the management and operation of any Class II gaming facility shall be subject to all applicable provisions of the IGRA.

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. Circumstances of the Violation

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

B. Respondent operated its gaming facility, Seven Clans Casino, during all or part of the following years: 2003 and 2004.

C. The NIGC has not received timely submitted audit reports for the fiscal years ending December 31, 2003 and December 31, 2004. The audit reports were due to the NIGC on April 29, 2004 and April 30, 2005, respectively, 120 days after the end of each gaming operation's fiscal year. The audit reports were received May 24, 2004 and December 5, 2005, respectively.

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 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. 25 C.F.R. §§ 571.12, 571.13. The Tribe is therefore in violation of these statutes and regulations, as well as its Gaming Ordinance, for failure to comply with IGRA.

6. Measures Required to Correct these Violations

There is no way to rectify the untimely of submission of any annual audits. The regulations require that audits be received within 120 days of the end of the gaming operation's fiscal year.

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 18th day of January, 2006.

PHILIP N. HOGEN
Chairman
National Indian Gaming Commission

WENDY L. HELGEMO
Staff Attorney

Certificate of Service

I certify that this **Notice of Violation** was sent by facsimile and mailed on this 18th day of January, 2006 to:

Chairman C. Michael Harwell (Agent for Service of Process)
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Wendy Helgemo
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