National Indian Gaming Commission

NOTICE OF VIOLATION

NOV-06-04

To: Floyd Jourdain, Hereditary Chief, Chairman (agent for service of process)
Red Lake Band of Chippewa Indians
Red Lake Band of Chippewa Indians Gaming Board
P.O. Box 550
Red Lake, MN 56671
FAX: (218) 679-3361

Todd Smith, Chairman
Red Lake Gaming Commission
15882 Main Avenue
P.O. Box 561
Red Lake, MN 56671
FAX: (218) 679-4119

1. Notification of Violation

The Chairman of the National Indian Gaming Commission ("NIGC") hereby gives notice that the Red Lake Band of Chippewa Indians ("Respondent" or "Band"), located in Red Lake, Minnesota, is in violation of NIGC regulations for failure to submit timely quarterly fee statements and fee payments and failure to submit a timely annual audit.

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 mandates that the Commission shall establish a schedule of annual fees to be paid to the Commission annually by each Indian gaming operation that conducts class II or class III gaming, and that such fees shall be payable to the Commission on a quarterly basis. Failure to pay the scheduled fees may be

grounds for revocation of the approval of the Chairman of any license, ordinance, or resolution required for the operation of gaming. 25 U.S.C. § 2717(a).

B. NIGC regulations require that each gaming operation on Indian lands compute quarterly statements determining the amount of fees owed to the Commission. The quarterly statements are due on March 31, June 30, September 30, and December 31 of each calendar year the gaming operation is subject to the jurisdiction of the NIGC. The quarterly statements shall be transmitted to the Commission and arrive no later than the due date. 25 C.F.R. §§ 514.1(c) and 514.1(c)(2)-(4).

C. 25 C.F.R. § 514.1(c)(5) requires each gaming operation to remit to the Commission the fees due each quarter with the quarterly statement.

D. 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).

E. 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 and 571.13

F. Section 500 of the Red Lake Band of Chippewa Indians Gaming Ordinance ("Ordinance"), as amended - the Band's approved gaming ordinance - requires Respondent to fully comply with all applicable U.S. federal law, to include the provisions of the Indian Gaming Regulatory Act (25 U.S.C. section 2701 *et seq.*).

4. Role of Quarterly Fees and 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. 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.

6. Circumstances of the Violation

A. Respondent is a federally recognized Indian Tribe with tribal headquarters in Red Lake, Minnesota.

B. Respondent operated its gaming facility, Seven Clans Casino Red Lake, during all or part of the following years: 2000, 2001, 2002, 2003, 2004 and 2005.

C. Respondent operated its gaming facility, Seven Clans Casino Warroad, during all or part of the following years: 2000, 2001, 2002, 2003, 2004 and 2005.

D. Respondent operated its gaming facility, Seven Clans Casino Thief River Falls, during all or part of the following years: 2000, 2001, 2002, 2003, 2004 and 2005.

E. The NIGC has not received or received untimely quarterly statements and fee payments for the quarters up to December 31, 2004 as follows:

i. Seven Clans Casino Red Lake

Quarter:	Due:	Received:
1st 2000	3/31/00	5/2/00
2nd 2000	6/30/00	7/6/00
3rd 2000	9/30/00	10/5/00
1st 2001	3/31/01	Not filed
2nd 2001	6/30/01	Not filed
3rd 2001	9/30/01	Not filed
4th 2001	12/31/01	Not filed
1st 2002	3/31/02	Not filed
2nd 2002	6/30/02	Not filed
3rd 2002	9/30/02	Not filed
4th 2002	12/31/02	Not filed
1st 2003	3/31/03	6/10/03
2nd 2003	6/30/03	7/8/03
3rd 2003	9/30/03	10/22/03
4th 2003	12/31/03	1/5/04

1st 2004	3/31/04	5/13/04
4th 2004	12/31/04	1/6/05

ii. Seven Clans Casino Warroad

Quarter:	Due:	Received:
1st 2000	3/31/00	Not filed
2nd 2000	6/30/00	Not filed
3rd 2000	9/30/00	Not filed
4th 2000	12/31/00	Not filed
1st 2001	3/31/01	Not filed
2nd 2001	6/30/01	Not filed
3rd 2001	9/30/01	Not filed
4th 2001	12/31/01	Not filed
1st 2002	3/31/02	1/6/03
2nd 2002	6/30/02	1/6/03
3rd 2002	9/30/02	1/6/03
4th 2002	12/31/02	1/6/03
1st 2003	3/31/03	6/10/03
2nd 2003	6/30/03	7/8/03
3rd 2003	9/30/03	10/22/03
4th 2003	12/31/03	1/5/04
1st 2004	3/31/04	5/13/04
4th 2004	12/31/04	1/6/05

iii. Seven Clans Casino Thief River Falls

Quarter:	Due:	Received:
1st 2000	3/31/00	Not filed
2nd 2000	6/30/00	Not filed
3rd 2000	9/30/00	Not filed
4th 2000	12/31/00	Not filed
1st 2001	3/31/01	Not filed
2nd 2001	6/30/01	Not filed
3rd 2001	9/30/01	Not filed
4th 2001	12/31/01	Not filed
1st 2002	3/31/02	1/6/03

2nd 2002	6/30/02	1/6/03
3rd 2002	9/30/02	1/6/03
4th 2002	12/31/02	1/6/03
1st 2003	3/31/03	6/10/03
2nd 2003	6/30/03	7/8/03
3rd 2003	9/30/03	10/22/03
4th 2003	12/31/03	1/5/04
1st 2004	3/31/04	5/13/04
4th 2004	12/31/04	1/6/05

F. Pursuant to NIGC regulations, the final quarterly statement and fee payment for each year were due on December 31. 25 C.F.R. § 514.1(c)(2). Quarterly statements and fee payments must arrive at the NIGC on or before the quarter ending date. 25 C.F.R. § 514.1(c)(4). Respondent is therefore in violation of these regulations for failure to submit timely quarterly statements and fee payments.

G. The NIGC received an untimely audit report for the fiscal year ending December 31, 2003. The audit report was due to the NIGC on April 30, 2004, 120 days after the end of the Band's fiscal year. The audit report was received May 4, 2004.

H. 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 fiscal year. 25 C.F.R. §§ 571.12, 571.13. The Tribe is therefore in violation of these statutes and regulations, as well as section 500 of the Gaming Ordinance, for failure to comply with IGRA.

7. <u>Measures Required to Correct these Violations</u>

A. There is no way to rectify submission of late quarterly statements and fee payments. NIGC regulations require that the quarterly statement and fee payments be transmitted to the Commission to arrive no later than the due date. 25 C.F.R. §§ 514.1(c) and 514.1(c)(2)-(4).

B. There is no way to rectify the late submission of an annual audit. NIGC regulations require that audits be received within 120 days of the end of the fiscal year. 25 C.F.R. § 571.13.

8. 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.

9. 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 31st 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 VIA U.S. certified mail return receipt requested on this 31st day of January, 2006 to:

Floyd Jourdain, Jr., Hereditary Chief, Chairman (agent for service of process)
Red Lake Band of Chippewa Indians Gaming Board
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Red Lake, MN 56671
FAX: (218) 679-3361

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Wendy Helgemo
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