National Indian Gaming Commission

NOTICE OF VIOLATION

No. NOV-03-03

VIA FACSIMILE

To: Bryan K. McGertt
Town King (and Agent for Service of Process)
Thlopthlocco Tribal Town
P.O. Box 188
Okemah, OK 74859

1. Notification of Violation

The Chairman of the National Indian Gaming Commission (NIGC) hereby notifies you that the Thlopthlocco Tribal Town (hereinafter referred to as Respondent) is in violation of the Indian Gaming Regulatory Act (IGRA), NIGC regulations, and its Gaming Ordinance.

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. 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.

4. Applicable Federal and Tribal Laws

A. 25 U.S.C. 2710(b)(2)(C)-- An annual outside 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. Section 23 of the Thlopthlocco Tribal Town Gaming Code—The approved gaming ordinance requires the Respondent obtain outside annual audits for all of its gaming operations and to submit the results of those audits to the NIGC.

5. Circumstances of the violation

A. Respondent operated its gaming operation, Thlopthlocco Tribal Bingo, during all or part of the following years: 1999, 2000, 2001 and 2002.

B. To date the NIGC has not received audit reports and management letters for Thlopthlocco Tribal Bingo:
   1. Fiscal Year 2000;
   2. Fiscal Year 2001; and
   3. Fiscal Year 2002.

C. Under 25 U.S.C. 2710(b)(2)(C), the tribe must conduct an annual outside audit and submit the results of the audit to the NIGC.

D. Under 25 C.F.R. §§ 571.12 and 571.13 the tribe must submit their annual audits and any management letters within 120 days of the end of their fiscal year.

E. The NIGC has sought compliance from Respondent through correspondence with the Tribe. Despite NIGC efforts to obtain compliance, Respondent has failed to submit annual reports and management letters.

6. Measures required to correct this violation

To correct the violations, Respondent must submit within 15 days of the receipt of this letter the annual audit reports and management letters for Thlopthlocco Tribal Bingo:
   1. Fiscal Year 2000;
   2. Fiscal Year 2001; and
   3. Fiscal Year 2002.

7. Appeal.

A. 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, a 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.

B. 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 also result in the assessment of civil fines 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 30th day of May, 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 30th day of May 2003 to:

Bryan K. McGertt, Town King (and Agent for Service of Process)
Thlopthlocco Tribal Town
P.O. Box 188
Okemah, OK 74859
FAX: (918) 623-1810

John R. Hay
Staff Attorney