National Indian Gaming Commission

NOTICE OF VIOLATION

NOV-06-06

To: Tonkawa Tribe of Oklahoma
Attn: Anthony Street, President (Agent for Service of Process)
1 Rush Buffalo Road
Tonkawa, Oklahoma 74653

Edward Street
1000 Allen Drive, P.O. Box 147
Tonkawa, OK 74653

Oakland Enterprises
Attn: Edward Street
1000 Allen Drive, P.O. Box 147
Tonkawa, OK 74653

1. The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Tonkawa Tribe of Oklahoma, Edward Street and Oakland Enterprises (hereafter referred to as "the Tribe", "Street", and "Oakland Enterprises") located in Tonkawa, Oklahoma, have violated the Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. § 2701 et seq., and NIGC regulations, 25 C.F.R. § 501 et seq.

2. Authority. Under regulations of the NIGC, 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 IGRA, NIGC regulations, or any provision of a tribal gaming ordinance or resolution approved by the Chairman. 25 C.F.R. § 573.3. Under 25 U.S.C. § 2713(a)(3) the Chairman shall provide the tribal operator of an Indian game or a management contractor with a written complaint stating the act or omissions which form the basis for the belief that there has been a violation of IGRA, NIGC regulations, or tribal regulations or ordinances, and the action being considered by the NIGC.

3. The circumstances of the violations are:

A. On or about September 27, 1999, Don Patterson (Patterson), then President of the Tonkawa Tribe, a federally recognized Indian tribe, informed the NIGC Tulsa Region Office of the Tribe's intent to reopen its

gaming facility, located in Tonkawa, Oklahoma, with the possibility that the facility would be managed by tribal member Edward Street (Street).

B. On or about December 1, 1999, during a site visit to the Tonkawa Bingo Gaming ("casino" or "gaming facility"), located at 1000 Allen Drive, Tonkawa, Oklahoma, NIGC field representatives were informed by Patterson, that Street, doing business as Oakland Enterprises, had assumed management of the Tonkawa Casino.

C. On or about December 1, 1999, NIGC field investigator Marci Pate Ober (Pate Ober) advised Street and Patterson that a management contract was required to be submitted to the NIGC for approval, and that Oakland Enterprises could not manage the operation until the agreement was approved.

D. On or about March 14, 2000, a proposed management contract between the Tribe and Street was received by the NIGC DC office. On April 14, 2000, the NIGC sent a letter to Street and the Tribe requesting documents. These documents were never provided to the NIGC.

E. On or about June 2, 2000, NIGC field investigator Pate Ober met with Street and Patterson to conduct a conference call with NIGC Financial Analyst Elaine Trimble-Saiz (Trimble-Saiz). During this call Patterson and Street were informed that the contract could not be approved because the Tribe was needed to receive at least 70% of the gaming revenue. Patterson and Street were informed that to continue with the management contract approval process they must submit background information, fees for the cost of conducting a background investigation, a business plan, and income statements. On August 15, 2000, Field Investigator Pate Ober issued a Potential Notice of Violation (PNOV) for allowing a management contractor to operate the Tribe's gaming enterprise without a contract approved by the NIGC Chairman.

F. In a letter dated February 5, 2002, Fred Stuckwisch (Stuckwisch), then NIGC Director of Contracts, notified both the Tribe and Street that the NIGC could not approve a revised contract submitted on October 3, 2001, because of multiple legal deficiencies.

G. On February 8, 2002, Pate Ober conducted an unannounced site visit to the Tonkawa Bingo and Casino. During this visit Street informed her that he had retained attorney Ken Bellmard (Bellmard) to make revisions to the management contract.

H. In a letter dated August 20, 2002, from Stuckwish, the NIGC reiterated to Patterson and Street that the management contract submission requests made on February 5, 2002, had not been responded to.

I. On March 6, 2003, the NIGC received via facsimile from Bellmard the newest revision to the Tonkawa management contract. This correspondence indicated that the Tribe would submit additional information.

J. On April 15, 2003, Stuckwish, sent a deficiency letter to the Tribe and Street outlining the submission requirements for approval of a management contract. The letter stated that the Tribe had 45 days to address the stated concerns or that the contract would be deemed withdrawn. On June 5, 2003, Stuckwisch, issued a letter to the Tribe stating that due to the parties' failure to respond to NIGC concerns, the contract was deemed to have been withdrawn from the approval process and that no further action would be taken. No contract between the Tribe and Oakland Enterprises has ever been approved by the NIGC Chairman.

K. On or about June 6, 2003, the Tonkawa Tribal Council advised the NIGC that they wished to employ Street as an employee of the Tonkawa Bingo and Gaming facility. However, the Tribe has not provided W-2 forms showing that Street was ever employed by the Tribe.

L. On August 11, 2003, Field Investigator Pate Ober conducted a site visit to determine whether Oakland Enterprises and Street were continuing to manage the Tonkawa Bingo and Casino. During the visit Street and Bellmard confirmed that nothing had changed since the management contract was withdrawn. Street and Bellmard stated that the checks for the casino are still written by Street, the gaming accounts are still in Oakland Enterprises' name, the employees are still Oakland Enterprises employees, and that the profit split is still the same as it was before the management contract was withdrawn.

M. Between February 3, 2005, and March 1, 2005, Pate Ober interviewed several employees of the Casino as well as employees and officials of the Tribe. These individuals stated that since 1999, Oakland Enterprises, through Street, has been responsible for the management of the Tonkawa Bingo and Casino by hiring and firing of all employees of the casino, that the casino employees are not employees of the Tribe but rather employees of Oakland Enterprises, that the payroll checks for the casino employees are signed by Street and that the name on the payroll checks is Oakland Enterprises. Furthermore, Oakland Enterprises controls the placement of machines; authorizes all expenditures; and controls the gaming facility accounting and revenue. These individuals further stated that Oakland Enterprises is not a tribal corporation but is an entity that is solely owned by Street.

N. On March 1, 2005, Pate Ober interviewed Street. This interview was conducted as part of an investigation to determine whether Street was managing the Tonkawa Casino without a contract approved by the NIGC Chairman. Street stated that he has been the casino general manager since 1999. Street stated that Oakland Enterprises generates profit and losses statements every month that are provided to the Tribe. Street stated that he is responsible for the hiring and firing of all casino employees. Street stated that he and the casino supervisors determine gaming employee wages, benefits, and promotions. Street further stated that he signs off on all casino expenditures without any tribal approval. Street stated that the casino's Federal Identification number belongs to Oakland Enterprises. Street stated that the casino has five operating accounts that are all in the name of Oakland Enterprises. Street stated that Bellmard is the attorney for Oakland Enterprises and he is also the attorney for the Tribe. Street stated that Oakland Enterprises paid Bellmard's attorney fees out of Street's share at the casino. Street stated that he receives forty percent (40%) of the OTB revenue and thirty-five percent (35%) of the gaming machine revenue. Street stated that he is also paid a salary of $1000 a week from Oakland Enterprises. Street stated that he is the only person who has a Temporary Employment Agreement with the Tribe. Street stated he could not recall how long he and the Tribe have worked under the Temporary Employment Agreement. Street stated that he worked under the management agreement for a period of time and that there was not much difference between the management agreement and the temporary employment agreement. Street stated that since the management contract was withdrawn there have been no changes to the way the casino is being operated. Street stated that Oakland Enterprises is not a Tribal entity. Street stated that he is the sole owner of Oakland Enterprises.

O. Since 1999, Oakland Enterprises, thorough Street, has continually managed the Tonkawa Bingo and Casino without a contract that has been approved by the Chairman of the NIGC.

4. Respondents are in violation of IGRA and NIGC regulations, which provide as follows:

A. IGRA requires that tribes obtain the approval of the Chairman of the NIGC to enter into a management contract for the operation and management of a gaming operation. 25 U.S.C. § 2711.

B. NIGC regulations mandate that "Subject to the Chairman's approval, an Indian tribe may enter into a management contract for the operation of a class II or class III gaming activity." 25 C.F.R. § 533.1. Management contracts become effective upon approval by the Chairman. 25 C.F.R. §

533.1(a). All management contracts not approved by the Secretary of the U.S. Department of the Interior must be submitted to the NIGC for review upon their execution. 25 C.F.R. § 533.2.

C. Management contracts and changes in persons with a financial interest in or management responsibility for a management contract that have not been approved by the Secretary of the Interior or the Chairman of the NIGC are void. 25 C.F.R. § 533.7.

D. NIGC regulations provide that it is a substantial violation of IGRA for a management contractor to operate a gaming operation without an approved contract. 25 C.F.R. § 573.6(a)(7).

5. To correct these continuing violations, Respondents shall, within 5 days:

A. The Tribe and/or any tribal entity shall ensure that Street, Oakland Enterprises, or any entity owned in whole or part by or in any way associated with Street, including any entity in which Street or an entity owned by him is a shareholder, does not exercise control or authority over the employees at any of the Tribes gaming facilities.

B. Street must cease, and cause any entity owned or controlled by Street to cease, all management, control, or authority over any and all gaming operations associated with the Tribe.

C. Cease and desist all gaming at the Tonkawa Bingo and Casino.

6. Appeal.

Within 30 (thirty) days after service of this NOV, Respondents 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, Suite 9100, Washington, DC 20005. Respondents have a right to assistance of counsel in such an appeal. A notice of appeal must reference this NOV.

Within ten (10) days after filing a notice of appeal, Respondents 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 Respondents wish 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. Respondents may waive in writing their right to an oral hearing and instead elect to have the matter determined by the Commission solely on the basis of written submissions.

7. Fine--Submission of Information.

The violation cited above may result in the assessment of a civil fine against Respondents in an amount not to exceed $25,000 per violation per day. Under 25 C.F.R. § 575.5(a), Respondents may submit written information about the violation to the Chairman within 15 days after service of this NOV (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.

8. Closure

Under 25 U.S.C. § 2713(b)(1) the violations cited above may result in the permanent closure of the gaming facility.

Dated: February 2, 2006

Philip N. Hogen
Chairman
National Indian Gaming Commission

John R. Hay
Staff Attorney