

# National Indian Gaming Commission

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## NOTICE OF VIOLATION AND CLOSURE ORDER

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Ref: NOV-00-6  
CO-00-6

To: Jerry G. Haney, Principal Chief  
Seminole Nation of Oklahoma  
P.O. Box 1498 (½ mile E of junction 59 & 270)  
Wewoka, OK 74884  
Telefax 405-257-6205

1. The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Seminole Nation of Oklahoma (hereafter referred to as "Respondent"), located in Wewoka, Oklahoma, is in violation of the Indian Gaming Regulatory Act (IGRA) and NIGC regulations.<sup>1</sup>
2. The circumstances of the violation are:

Respondent is a federally recognized Indian Tribe with tribal headquarters in Wewoka, Oklahoma. Respondent engages in gaming operations on tribal lands in Oklahoma, and does not have a compact with the State of Oklahoma that would allow Respondent to operate Class III gambling devices.

During a visit to the Tribe's gaming operations at the Wewoka Trading Post, Rivermist, and Travel Plaza on or about March 1, 2000, representatives of the NIGC observed the following Class III video gambling machines being offered for play:

"Red Hot Re-Spin" machines.

On March 14, 2000, the NIGC issued Potential Notices of Violations regarding the operation of these gambling machines and requested that the play of these devices cease at all Tribal facilities.

On April 19, 2000, Tribal representatives and their attorney met with NIGC officials to discuss the criteria for Class III gaming devices. The NIGC staff members provided documents and a detailed explanation as to why the NIGC considers Red Hot Re-Spin to be a Class III gaming device.

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<sup>1</sup> NIGC regulations are set forth in Chapter III, Title 25, Parts 500-599 of the Code of Federal Regulations. All sections of NIGC regulations cited in this Notice refer to the pertinent parts of Title 25. NIGC regulations implement provisions of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §§ 2701 et seq., signed into law on October 17, 1988.

On May 11, 2000, during a visit to the Tribe's gaming operations at Rivermist, representatives of the NIGC observed Red Hot Re-Spin being offered for play.

3. Respondent is in violation of NIGC regulations as follows:

Under Section 502.4 of the NIGC's regulations, Class III gaming means all forms of gaming that are not Class I gaming or Class II gaming specifically including (but not limited to) any slot machines as defined in 15 U.S.C. § 1171(a)(1) and electronic or electromechanical facsimiles of any game of chance. Under NIGC regulations an electronic or electromechanical facsimile means any gambling device as defined in 15 U.S.C. § 1171(a)(2) or (3). See Section 502.8.

The machine listed above is a gambling device as defined under 15 U.S.C. Section 1171 (a) and therefore falls within the definition of Class III gaming. Because Respondent does not have a compact with the State of Oklahoma which authorizes the playing of Class III gambling devices at Respondent's gaming facility, Respondent is operating such games in the absence of a tribal-state compact in violation of 25 U.S.C. § 2710(d) and 25 C.F.R. § 573.6(a)(11).

4. To correct the violations, Respondent shall comply with the following closure order.

#### Closure Order

**Under the authority of 25 U.S.C. §§ 2701 et seq. and 25 C.F.R. § 573.6(a) and (b), the Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Seminole Nation of Oklahoma is ordered to cease and desist the operation of the above-listed gaming machine and any other such gambling devices which may be present in its gaming facilities. This order shall be effective within twenty-four hours of receipt of this Notice of Violation and Closure Order.**

5. The Chairman may rescind the Closure Order for good cause shown.

6. Expedited Review. Under 25 C.F.R. § 573.6(c), within seven (7) days after service of this Order, Respondent may request, orally or in writing, informal expedited review by the Chairman. The Chairman must complete such review within two (2) days after receipt of a timely request. Within two (2) days after the expedited review provided by 25 C.F.R. § 573.6(c), the Chairman must decide whether to continue the Order and must provide Respondent with an explanation of the basis for the decision.

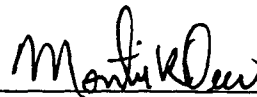
7. Appeal. Whether or not a Respondent seeks the informal expedited review described in paragraph 6 above, within 30 (thirty) days after service of this Notice of Violation and Order of Temporary Closure, Respondent may appeal to the full Commission under 25 C.F.R. Part 577 by submitting a notice of 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 and Order.

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, as well as 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 30<sup>th</sup> day of May, 2000.



Montie R. Deer  
Chairman  
National Indian Gaming Commission

cc: Wayne Shaw, Seminole Nation Gaming Commission  
Telefax 405-382-2049  
Qazi S. Alam, Executive Director, Seminole Nation Development Authority  
Telefax 405-382-2049