

National Indian Gaming Commission

Settlement Agreement # 14-1

This settlement agreement (Agreement) is entered into by and between Gary Watkins (Watkins), president of G2, Inc. (G2), and the National Indian Gaming Commission (NIGC), and is related to the allegation that Watkins/G2 managed the Ponca Tribe of Oklahoma's (Tribe), a federally recognized tribe, Two Rivers Casino (Casino) without an approved management contract, in violation of the Indian Gaming Regulatory Act of 1988 (IGRA), 25 U.S.C. § 2701, *et seq.*, and NIGC regulations, 25 C.F.R. § 501, *et seq.*

Circumstances of Violation

1. On or about September 1, 2011, the NIGC initiated an investigation into the management of the Casino, a wholly-owned enterprise of the Tribe, to determine whether the facility was being managed in the absence of a management contract approved by the NIGC Chair, in violation of IGRA and NIGC regulations.
2. A management contract dated July 27, 2010, between the Tribe and Watkins, was submitted to the NIGC for review on August 4, 2010, before the Casino was opened.
3. On or about October 19, 2010, Watkins and G2 began managing the Casino without a management contract approved by the NIGC Chair. On that same date, the Tribe and Watkins entered into a General Manager Agreement.
4. Watkins was not an employee of the Tribe. The General Manager Agreement entered into between the Tribe and Watkins provided that Watkins would receive \$950.00 per week. However, from October 2010 to February 2011, Watkins did not receive any pay checks from the Casino. The General Manager Agreement did not bestow any tribal employee benefits on Watkins. In addition, the Tribe never provided Watkins with an IRS 1099 Form but did provide him with a W2.
5. On December 17, 2010, Watkins issued a reimbursement check to G2 amounting to 25% of the net gaming revenue and distributed 75% of the net gaming revenue to the Tribe. These distributions were based on the Casino's November 2010 profit/loss statement reflecting a net revenue of \$43,029.93.
6. On December 31, 2010, Watkins used non-tribal funds to increase the vault by \$48,000. The Casino general ledger notes that on January 2, 2011, the vault was increased by G2, stating "raise vault to help with new year" in the memo line. Watkins increased these funds to stay in compliance with the Tribe's compact with the State of Oklahoma.
7. Payments of \$35,000 were made from the Casino operating account to G2 on March 5, 2011, April 1, 2011, May 1, 2011, June 7, 2011, and July 1, 2011. Payments of \$7,500 were made from the Casino operating account to the Tribe on February 18, 2011, March 16, 2011, April 20, 2011, and May 18, 2011.

8. During his time managing the Casino, as a representative of the Tribe, Watkins entered into electronic gaming machine agreements and signed all but one of the agreements as "President."
9. A Mutual Confidentiality and Nondisclosure Agreement was made effective on March 17, 2010, between Video Gaming Technologies and Watkins, as a representative of the Tribe. The agreement was signed by Watkins, individually, and the Tribe's Chairman, Douglas R. Rhodd, on March 17, 2010.
10. During the time Watkins managed the Tribe's casino he entered numerous agreements, such as equipment leases, participation agreements, wide area network services agreements and rental agreements, with slot machine providers.
11. As General Manager, Watkins had the authority to hire, supervise, and fire Casino employees.
12. The Tribe terminated its relationship with Watkins on August 31, 2011, and withdrew the management contract from NIGC review.
13. From approximately October 19, 2010, through August 31, 2011, Watkins and G2 managed the Casino without a management contract approved by the NIGC Chair, in violation of IGRA, 25 U.S.C. § 2711, and NIGC regulations, 25 C.F.R. part 573.
14. On or about May 23, 2014, Watkins and the NIGC began negotiations to attempt to settle this alleged violation.

Recitals

15. The NIGC Chairman has the authority to levy and collect appropriate civil fines, not to exceed \$25,000 per violation, against the tribal operator of an Indian game or a management contractor engaged in gaming for the violation of any provision of IGRA and NIGC regulations. 25 U.S.C. § 2713(a)(1); 25 C.F.R. § 575.4. "If noncompliance continues for more than one day, the Chairman may treat each daily act or omission as a separate violation." 25 C.F.R. § 575.4 (a)(2).
16. Watkins hereby admits to the facts as set forth in the "Circumstances of Violation" section of this Agreement, and wishes to settle this matter with the NIGC Chair to avoid the issuance of a notice of violation.
17. Watkins agrees that the NIGC possesses jurisdiction over this matter and agrees to comply with the terms of this Agreement.

Terms of Settlement Agreement

18. In exchange for the terms, conditions, and understandings set forth in this Agreement, Watkins waives his right: to any administrative review of this settlement (25 C.F.R. parts 584, 585); to submit information prior to the issuance of a civil fine assessment (25 C.F.R. § 575.5); to seek the reduction or waiver of a civil fine (25 C.F.R. § 575.6); and to seek judicial review (25 U.S.C. § 2714).
19. In exchange for the terms, conditions, and understandings set forth herein, Watkins hereby waives the rights specified in paragraph 26 of this Agreement and any other right to seek judicial review or otherwise challenge or contest the NIGC Chairman's actions under this Agreement, including the right to have the NIGC Chairman provide his or her written analysis of the factors to be considered in assessing a civil fine, as set forth under 25 C.F.R. § 575.4.
20. Upon execution of this Agreement, the NIGC Chairman agrees that the NIGC shall not institute further proceedings or actions or assess any additional sanctions against Watkins or G2 for any actions as alleged in the "Circumstances of Violation" section of this Agreement, unless Watkins fails to comply with this Agreement. If Watkins or G2 fail to comply with this Agreement, Watkins agrees that it will pay a fine of \$75,000.00, as outlined in paragraph 23 herein.
21. For a period of four (4) years beginning from the date that the parties began settlement negotiations, as stated in paragraph 15, Watkins and G2, and/or any other entity owned in whole or part or otherwise associated with Watkins, including any entity in which Watkins or an entity owned by him is a shareholder, agrees not to enter into any type of business arrangement or to have any further business association or relationship of any kind with the Casino, or any other Indian gaming operation regulated pursuant to IGRA and NIGC regulations. These business arrangements, associations, and/or relationships include, but are not limited to: (i) operating, managing, consulting, or providing any type of materials, machines, or services related directly or indirectly to the operation or management of any existing or future Indian gaming facility; (ii) developing, financing, or otherwise having a direct or indirect financial interest in any existing or future Indian gaming operation; (iii) receiving from the Tribe, or any other federally recognized Indian tribe, either directly or indirectly, a sum of money and/or future sums of money as consideration for Watkins' and G2's past gaming-related services provided to the Tribe, or any other tribal entity, and/or as consideration for the prohibition of such Indian gaming-related services in the future. However, nothing in this agreement shall be construed to prohibit Watkins, through his company ATMONE, from entering agreements to provide ATM services to any Tribe.
22. Watkins shall pay a civil fine of Seventy Five Thousand dollars (\$75,000.00). However, this fine shall be suspended as long as Watkins and G2 comply with the terms of the Agreement.
23. If Watkins or G2 breaches any of the provisions of this Agreement, Watkins agrees and consents that a civil fine of \$75,000.00 will become fully due and payable on the date of the breach. In such circumstance, the NIGC shall issue a written notice (demand letter) to Watkins pursuant to NIGC debt collection regulations at 25 C.F.R. part 513. Watkins

hereby agrees that the NIGC and/or U.S. Department of Treasury may proceed with the debt collection of the \$75,000.00 civil fine (less amounts already paid) against Watkins, and may assess interest, penalties, and administrative costs from the date of breach of this Agreement, as provided in 25 C.F.R. § 513.5. In such circumstance, Watkins hereby waives any rights to an oral hearing under 25 C.F.R. § 513.6, but the NIGC shall nevertheless provide Watkins with a reasonable opportunity to submit written material supporting a request to reconsider the determination that Watkins is in breach of this Agreement or to challenge the method by which the NIGC calculated the debt.

24. If Watkins breaches this Agreement, the NIGC Chair reserves the right to initiate an enforcement action, as provided for in 25 C.F.R. § 573.6.
25. This Agreement shall not become public unless and until it is accepted and signed by the NIGC Chairman. However, upon its execution by the NIGC Chairman, this Agreement will become public.

Additional Covenants

26. The parties stipulate that this Agreement shall be deemed a final order of the Commission and a final agency action pursuant to 25 C.F.R. § 580.10.
27. This Agreement constitutes the entire agreement between the NIGC Chairman and Watkins/G2 and supersedes all prior verbal or written agreements and understandings between the parties related to the subject matter hereof. No warranties, representations, covenants, or agreements shall be binding upon any party except as provided herein. Any modification or waiver of any term of this Agreement must be in writing and signed by the parties.
28. The NIGC Chairman agrees that nothing in this agreement or the settlement agreement entered into between the NIGC and the Tribe (SA-PTO dated 06/12/13, paragraph 38) related to these matters enjoins the Tribe from returning any property to Watkins, G2, and/or ATMONE. Nothing in this agreement prohibits Watkins from recovering any personal or corporate property, of G2 and or ATMONE that he is otherwise legally entitled to possess or recover from the Tribe.
29. The NIGC Chairman and Watkins expressly agree and acknowledge that time is of the essence in this Agreement. The recitals herein shall be binding upon the parties, their agents, heirs, personal representatives, successors, and assigns.
30. A signature produced by facsimile shall be deemed to be an original signature and shall be effective and binding for purpose of this Agreement.

For Gary Watkins and G2, Inc.

For National Indian Gaming Commission

By: 

By: 

Date: 11/04/14

Date: 10/31/14