

6113-24

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into by and between Adelino Vazquez and the Chairwoman of the National Indian Gaming Commission (“NIGC Chair” or “Chairwoman”), relating to the matters contained in the NIGC Chairwoman’s Notice of Violation No. NOV-12-1.

RECITALS

1. Whereas, the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.* (“IGRA”), authorizes the NIGC Chairwoman to issue civil fines for violations of the IGRA, National Indian Gaming Commission (“NIGC”) regulations, or tribal regulations, ordinances, or resolutions approved by the NIGC Chairwoman under 25 U.S.C. §§ 2710, 2712. 25 U.S.C. § 2713(a)(1).
2. Whereas, under the regulations of the NIGC, 25 C.F.R. § 573.3(a), the NIGC Chairwoman may issue a Notice of Violation (“NOV”) to any person for violations of any provision of the IGRA, NIGC regulations, or any provision of a tribal gaming ordinance or resolution approved by the Chairwoman.
3. Whereas, under NIGC regulation, 25 C.F.R. § 573.6(a)(7), it is a substantial violation of IGRA for a third party to manage all or part of an Indian gaming operation without a contract approved by the NIGC Chair.
4. Whereas, on August 22, 2012, the NIGC Chairwoman issued NOV-12-1 alleging that Adelino Vazquez, along Titan Network LLC (“Titan”), Mercury Gaming Group LLC (“Mercury”), Michael Gavenchak, Anthony DiMartino and Douglas Pattison, managed the Thlopthlocco Tribal Town’s (Tribe) gaming facility, known as the Golden Pony Casino (“Gaming Facility”), from on or about September 6, 2005 to and including December 31, 2010, without a management contract approved by the NIGC Chair.
5. Whereas, Adelino Vazquez and the NIGC Chairwoman desire to resolve this matter without undertaking the burdens, costs, risks and uncertainties associated with formal administrative and judicial proceedings.
6. Therefore, based on the above and foregoing as well as the terms set out herein and below, the NIGC Chairwoman and Adelino Vazquez have agreed to execute this Agreement and perform in accordance with the following covenants and conditions:

US DISTRICT COURT
NORTH DAKOTA
LEWISTON

TERMS OF SETTLEMENT

7. This Agreement is entered into by Adelino Vazquez and the NIGC Chairwoman pursuant to 25 C.F.R. § 584.10 and shall be effective upon execution by the parties (“Effective Date”).
8. Adelino Vazquez acknowledges that IGRA and NIGC regulations authorize a third party to manage a gaming operation or a part thereof only under a management contract that has been approved by the NIGC Chair.
9. Adelino Vazquez agrees that the NIGC possesses jurisdiction over this action, and that the NIGC Chairwoman has authority to levy and collect civil fines for such violations. 25 U.S.C. § 2713(a).
10. Adelino Vazquez agrees that he shall not be employed nor shall he enter into any consulting or other work with the Tribe now or at any time in the future.
11. Adelino Vazquez agrees that he shall not be employed nor shall he enter into any consulting or other business with any Indian gaming operation for a period of one year, which period began at midnight on November 1, 2012 and expires at midnight on October 31, 2013.
12. Adelino Vazquez agrees to report quarterly in writing to the NIGC of all contacts (whether verbal, electronic, or in writing), that he has either personally, or as part owner or partner or shareholder, whether silent or otherwise, of any company, corporation, LLC, partnership, or any other entity, with any Indian Tribe regarding employment, consulting, development, financing, equipment leasing or any other business involvement in tribal gaming operations for a period of three years from the date of this Agreement.
13. If Adelino Vazquez, either personally, or as part owner or partner or shareholder, whether silent or otherwise, of any company, corporation, LLC, partnership, or any other entity, contracts with or otherwise enters into any working relationship or agreement that involves gaming activity with any Indian Tribe, he shall advise the NIGC, within thirty (30) days of the starting date of such employment or agreement or working relationship, in writing of the nature of the employment, agreement, or relationship and shall submit for NIGC review all employment, consulting, development, finance, equipment lease or other agreements which were entered into with the Tribe or any of its entities or any of its management contractors. Mr. Vazquez agrees that this provision shall apply for a period of three years from the date of this Agreement.

14. Adelino Vazquez agrees to a civil fine in the amount of One Hundred and Fifty Thousand Dollars (\$150,000.00), which shall be suspended so long as there is complete compliance with each and every term of this Agreement.
15. Adelino Vazquez agrees to provide full cooperation to the NIGC in relation to the pending administrative appeal involving Titan/Mercury, Anthony DeMartino, Jr., Michael Gavenchak, and Doug Pattison arising out of NOV 12-1 against Titan/Mercury, Anthony DeMartino, Jr., Michael Gavenchak, and Doug Pattison for managing the Gaming Facility without an approved management contract from September 6, 2005, to and including December 31, 2010. Such cooperation includes but is not limited to: (1) providing NIGC all documents or other evidence in Adelino Vazquez's possession related to the acts at issue in the above administrative appeal; and (2) making himself available for interviews, declarations and testimony for purposes of the matters described in this provision. Adelino Vazquez represents that he has provided all documents or other materials requested by the NIGC and related to this matter and also represents that no other documents responsive to the request of the NIGC and/or related to this matter are within his possession, custody or control. The NIGC specifically acknowledges that as of the date of this Agreement Mr. Vazquez has provided documents or other materials in response to the request by the NIGC.
16. Adelino Vazquez is aware of his rights to:
 - A. Submit written information about the violation to the Chairwoman prior to issuance of a civil fine assessment by the Chairwoman and to have at least fifteen (15) days after the issuance of a notice of violation to do so under 25 C.F.R. § 575.5;
 - B. Appeal the notice of violation to the full Commission under 25 C.F.R. Part 584 or 585;
 - C. Obtain a hearing to contest the matter under 25 C.F.R. Part 584;
 - D. Request a reduction or waiver of a civil fine under C.F.R. § 575.6; and
 - E. Seek judicial review of any final determination by the full Commission pursuant to 25 U.S.C. § 2714.
17. In exchange for the terms, conditions, and understandings set forth herein, Adelino Vazquez hereby waives the rights specified in Section Sixteen (16) of this Agreement and any other right to seek judicial review or otherwise challenge or contest the Chairwoman's actions under this Agreement, including the right to have the Chairwoman provide her written analysis of the factors to be considered in assessing a civil fine set forth under 25 C.F.R. § 575.4.
18. Adelino Vazquez further agrees that this Agreement fully resolves his appeal of NOV 12-1. To that end, Adelino Vazquez waives all rights to pursue an appeal of the Presiding Official's order relative to this Agreement; waives all rights to any further proceedings

before the NIGC regarding this matter; and waives all rights to judicial review of such proceedings.

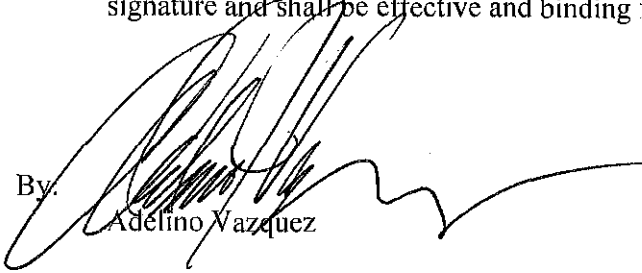
19. After the Effective Date, the NIGC shall inform the Presiding Official that the parties have entered into a settlement agreement and shall transmit a copy of the Settlement Agreement to the Presiding Official and shall request that the Presiding Official certify the Settlement Agreement and dismiss the administrative appeal. Adelino Vazquez consents to the motion to certify the Settlement Agreement and the NIGC may represent that such consent is given.
20. The parties agree that the Presiding Official's certification of the Settlement Agreement shall constitute dismissal of the appeal and final agency action pursuant to 25 C.F.R. § 584.10(d).
21. The Chairwoman agrees that, upon execution of this Agreement, the NIGC shall not institute further proceedings or actions or assess any additional sanctions against Adelino Vazquez for actions or omissions arising out of, or related to, the subject matter of NOV 12-1 and occurring prior to the Effective Date; provided that, if Adelino Vazquez fails to comply with any term or condition of this Agreement, he agrees that the suspended portion of the civil fine imposed in Section Fourteen (14) of this Agreement shall become fully due and payable on the date of the breach of this Agreement. In such circumstance, the NIGC shall issue a written notice to Adelino Vazquez. Adelino Vazquez agrees that he waives any rights to an oral hearing under 25 C.F.R. § 513.6. The NIGC shall provide Adelino Vazquez with a reasonable opportunity to submit written material supporting a request to reconsider the determination that Adelino Vazquez is in breach of the Agreement.

ADDITIONAL COVENANTS

22. This Agreement constitutes the entire agreement between the NIGC Chairwoman and Adelino Vazquez relating to the enforcement action set forth above, 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 set forth herein. Any modification or waiver of any term of this Agreement must be in writing and signed by all the parties.
23. Adelino Vazquez and the TTGC agree that this Agreement shall be deemed to be the subject of a final order of the NIGC under 25 C.F.R. § 575.4(c)(1) and a final agency action pursuant to 25 C.F.R. § 584.10(d).
24. The NIGC Chairwoman and Adelino Vazquez expressly agree and acknowledge that time is of the essence in this Agreement. The recitals herein and above set shall be binding upon the parties, their agents, heirs, personal representatives, successors and assigns.
25. The parties agree that, after the Effective Date, this Agreement shall be a public document and may be published or disclosed by either party.

26. This Agreement may be executed on one or more counterparts and each shall constitute an original. A signature produced by facsimile shall be deemed to be an original signature and shall be effective and binding for purpose of the Agreement.

By:




Adélino Vazquez

Date: 05-28-13

For the National Indian Gaming Commission:

By:



Tracie L. Stevens, Chairwoman
National Indian Gaming Commission

06-12-13

Date: