

National Indian Gaming Commission

NOTICE OF PROPOSED CIVIL FINE ASSESSMENT

Ref: CFA-06-09

To: Herminia Frias, Chairwoman
Pascua Yaqui Tribe
7474 S. Camino De Oeste
Tucson, AZ 85746
FAX: (520) 883-5014

Stephen Hall, Executive Director
Pascua Yaqui Tribal Gaming Office
5655 S. Valencia Road
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1. Under the authority of 25 U.S.C. § 2713(a), of the Indian Gaming Regulatory Act ("IGRA"), and the regulations of the National Indian Gaming Commission ("NIGC") at 25 C.F.R. § 575, the Chairman of the NIGC ("Chairman") hereby provides notice of his intent to assess a civil fine against the Pascua Yaqui Tribe, Tucson, Arizona ("Respondent"), for violations of 25 U.S.C. § 2710(b)(2)(C), 25 C.F.R. §§ 571.12 and 571.13, and Pascua Yaqui Tribe of Arizona's Gaming Ordinance Part I Chapters 1.000, 5.000 and 8.020 (2) as set forth in detail in Notice of Violation ("NOV") No. NOV-06-09, issued on March 29, 2006, a copy of which is attached hereto.
2. Pursuant to 25 U.S.C. § 2713(a) and 25 C.F.R. § 575.4, the Chairman may assess a civil fine, not to exceed \$25,000 per violation, against a tribe, management contractor, or individual operating Indian gaming for each violation cited in a notice of violation issued under 25 C.F.R. § 573.3. If noncompliance continues for more than one day, the Chairman may treat each daily illegal act or omission as a separate violation. 25 C.F.R. § 575.4 (a)(2).

3. The NIGC regulations at 25 C.F.R. § 575.5 provide that, within 15 days after service of a notice of violation, or such longer period as the Chairman may grant for good cause, the respondent may submit written information about the violation. The Chairman shall consider any information so submitted in determining the facts surrounding the violation and the amount of the civil fine. Respondent submitted information under 25 C.F.R. § 575.5 about the violation that was received by the NIGC on April 12, 2006.

4. The Chairman has considered the factors set forth in 25 C.F.R. § 575.4 and the written information submitted by Respondent and finds as follows:
 - A. Economic benefit of noncompliance. Respondent has not obtained an economic benefit from failing to file the audit report. Respondent indicated that it has hired a firm to conduct the audit, therefore this factor is not being taken into consideration as a basis of the fine amount.

 - B. Seriousness of the violation. It is the declared policy of the IGRA to provide a statutory basis for the regulation of gaming by an Indian tribe adequate to shield it from organized crime and other corrupting influences; to ensure that the Indian tribe is the primary beneficiary of the gaming operation; and to assure that gaming is conducted fairly and honestly by both the operator and players. 25 U.S.C. § 2702. Submission of an annual audit report by a firm of certified public accountants is critical to protect the NIGC's mission to protect the integrity of Indian gaming. The audit report is evidence of, among other things, the integrity of the gaming operation and, more specifically, 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. Any delay in receipt of the financial statements significantly reduces the reliability and relevancy of the data to the NIGC. The NIGC uses the audited financial statements to measure regulatory compliance, which directly relates to the detection and remediation of potential and actual integrity violations.

 - C. History of violations. Respondent has had no violations in the last five years that have been the subject of a final order of the Commission.

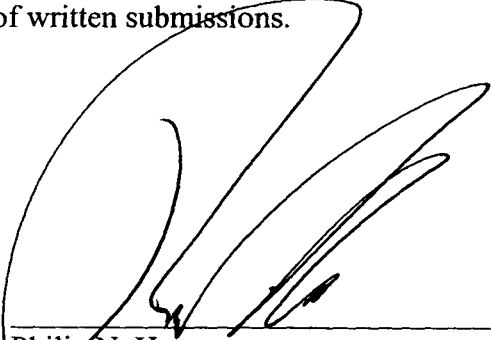
 - D. Negligence or willfulness. A civil fine may be reduced based on the degree of fault of the Respondent in causing or failing to correct the violation, either through act or omission. The NIGC regulations require that a tribe cause to be conducted annual independent audit reports for each gaming operation on Indian lands and submit a copy of the audit report to the NIGC within 120 days after the end of each fiscal year. Respondent knew of the audit submission requirements and failed to meet them. Respondent submitted a copy of its annual audit report for the fiscal year ending September 30, 2004 on February 2, 2005. Further, on February 24, 2006, NIGC issued a Preliminary Notice of Violation to the Tribe regarding its failure to submit an audit and advising that the NIGC may take further enforcement action. Respondent filed a Response to the PNOV on March

15, 2006 stating that Respondent contracted a certified public accounting firm to complete the audit; to date, however, an audit has not been submitted. Respondent was at least negligent, rather than willful, in its actions.

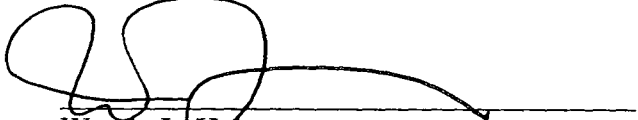
- E. Good faith. A civil fine may be reduced based upon the degree of good faith of a respondent in attempting to achieve rapid compliance after notice of a violation. In this matter, Respondent has not submitted the audit reports for Casino of the Sun and Casino del Sol, after the Preliminary Notice of Violation was issued and before the Notice of Violation was issued. Three months have passed since the audit was due and it has not yet been submitted.
5. WHEREFORE, the Chairman, having carefully reviewed the above factors, has determined that a fine in the amount of \$5,000.00 (Five Thousand Dollars) (Fine) is assessed on Respondent for failure to submit timely annual audit reports for Casino of the Sun and Casino del Sol.
6. This fine shall be due in full by July 1, 2006. Checks shall be sent to the National Indian Gaming Commission, 1441 L Street, NW, Suite 9100, Washington DC 20005. Checks should be made payable to the United States Treasury. Interest shall be assessed at rates established from time to time by the Secretary of the Treasury on amounts remaining unpaid after their due date. 31 U.S.C. § 3717.
7. FURTHERMORE, under 25 U.S.C. § 2713 and 25 C.F.R. § 575.4, the Chairman has determined that an additional fine shall be assessed on Respondent. Fines for continuing violations may be imposed in an amount of up to \$25,000 per day of non-compliance. Until an annual audit report for the fiscal year ending September 30, 2005 is submitted to the NIGC, for every 30 day period after July 1, 2006, an additional civil fine shall be assessed on Respondent. The fine for the first 30 day period shall be \$2,000.00 (Two Thousand Dollars) ("Base Fine"). For each 30 day period thereafter, the fine shall be increased by \$500.00 until such audit is submitted ("Increased Fine"). For example, the Increased Fine for the second 30 day period shall be \$2,500.00 (Two Thousand Five Hundred), for a total fine of \$4,500.00 (Four Thousand Five Hundred Dollars ("Aggregate Fine")) for the full 60 day period. The Increased Fine for the third 30 day period shall be \$3,000.00 (Three Thousand Dollars) making the Aggregate Fine \$7,500.00 (Seven Thousand Five Hundred Dollars). A successive Aggregate Fine shall be assessed on Respondent for each 30 day period until an annual audit report for the fiscal year ending September 30, 2005 is submitted to the NIGC.
8. The above-described amounts of the Fine, Base Fine, Increased Fine and Aggregate Fine represent an appropriate balancing of the other factors cited above.

9. Pursuant to 25 C.F.R. § 577.3, within 30 (thirty) days after service of this Notice of Proposed Civil Fine Assessment, Respondent may appeal the proposed fine to the full Commission by submitting a notice of appeal to the National Indian Gaming Commission, 1441 L Street NW, Suite 9100, Washington, DC 20005. Respondent has a right to assistance of counsel in such an appeal. A notice of appeal must identify this Notice of Proposed Civil Fine Assessment. Within ten (10) days after filing a notice of appeal, Respondent must file with the Commission a supplemental statement that sets forth 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, and 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.

Dated this 17th day of May 2006.



Philip N. Hogen
Chairman



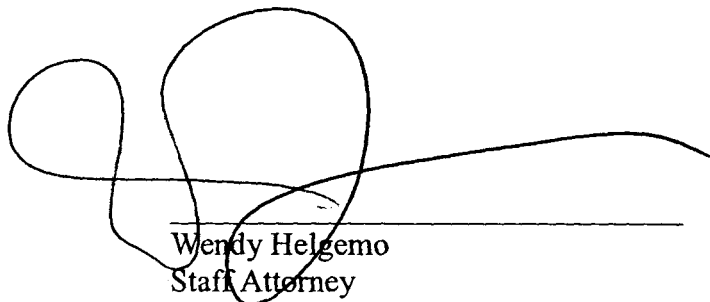
Wendy L. Helgemo
Staff Attorney

Certificate of Service

I certify that this Civil Fine Assessment was sent by facsimile and mailed VIA U.S. certified mail return receipt requested on this 17th day of May, 2006 to:

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