

# National Indian Gaming Commission

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## NOTICE OF VIOLATION

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NOV-18-01

To: Kami Sue Miller, Executive Director  
Moapa Indian Gaming Commission  
1 Lincoln Street  
P.O. Box 340  
Moapa, NV 89025

1. Notification of Violation

The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Moapa Band of Paiutes (Tribe), located on the Moapa River Indian Reservation, and operating the Moapa Paiute Travel Plaza and the Moapa Tribal Store has violated the Indian Gaming Regulatory Act (IGRA), NIGC regulations, and the Tribe's gaming ordinance by failing to submit timely annual audits.

2. Authority

Under IGRA and NIGC regulations, the Chairman of the NIGC (Chairman) may issue a Notice of Violation (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 U.S.C. § 2713; 25 C.F.R. § 573.3.

3. Applicable Federal Laws and Tribal Ordinance Provisions

- A. IGRA requires an annual audit of each gaming operation and requires that a copy of the results of the annual audit be submitted to the NIGC. 25 U.S.C. § 2710(b)(2)(C).
- B. NIGC regulations define "gaming operation" as each economic entity that is licensed by a tribe, operates the games, receives the revenues, issues the prizes and pays the expenses. 25 C.F.R. § 502.10.
- C. NIGC regulations require that a tribe engage an independent certified public accountant to provide annual independent audits of the financial statements of each gaming operation located on Indian lands for each fiscal year. 25 C.F.R. § 571.12(b).
- D. The NIGC regulations further require a tribe to submit a copy of the financial statements and audits, with any management letter(s) and other

documents/reports setting forth the results of the annual audit(s) to the NIGC within 120 days after the end of each gaming operation's fiscal year. 25 C.F.R. § 571.13.

- E. The Moapa Band of Paiute Indians Tribal Gaming Code, Chapter 5, section 503, approved by the NIGC Chair on April 26, 1994 (Ordinance), requires “All gaming authorized under this Code shall be audited by an independent public accountant, at least annually” and “copies of the annual audit shall be provided to the Council and the Commission.”

#### 4. Role of Independent Audit Report

Submission of the annual independent audit report by a firm of certified public accountants is critical to the NIGC's mission to protect the integrity of Indian gaming. A firm's ability to conduct an audit in accordance with generally accepted auditing standards and render an opinion on the financial statements prepared in conformity with generally accepted accounting principles provides a certain level of assurance as to the security of tribal gaming revenues. The audit report prepared and submitted on a timely basis is evidence of, among other things, the integrity of the gaming operation and, more specifically, of 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.

#### 5. Circumstances of the Violation

- A. The Moapa Band of Paiute Indians is a federally recognized Indian tribe with Tribal headquarters on the Moapa River Indian Reservation, in Moapa, Nevada. The Tribe entered into a compact with the State of Nevada in 1995, and the gaming operations, Moapa Paiute Travel Center and Moapa Tribal Store, commenced in 1996.
- B. The Tribe operated its gaming operation, Moapa Paiute Travel Center, located at Interstate 15 Exit 75, Moapa Nevada, from January 1, 2016 to December 31, 2016.
- C. During fiscal year 2016, the Moapa Paiute Travel Center offered Class III gaming.
- D. The Tribe operated its gaming operation, Moapa Tribal Store, located at 1 Lincoln Street, Moapa Nevada Interstate 15 Exit 75, Moapa Nevada, during fiscal year 2016.
- E. During fiscal year 2016, Moapa Tribal Store offered Class III gaming.

- F. Based on the most recent financial statements and audit submitted to the NIGC, for fiscal year 2015, the fiscal year for Moapa Paiute Travel Plaza and the Moapa Tribal Store runs from January 1 to December 31.
- G. IGRA requires that tribes submit annual audits of each gaming operation. 25 U.S.C. § 2710(b)(2)(C). NIGC regulations require that a tribe engage an independent certified public accountant to provide annual independent audits of the financial statements of each gaming operation located on Indian lands for each fiscal year. 25 C.F.R. § 571.12(b). The NIGC regulations further require a tribe submit a copy of the financial statements and audits, with any management letter(s) and other documents/reports setting forth the results of the annual audit(s) to the NIGC within 120 days after the end of each gaming operation's fiscal year. 25 C.F.R. §§ 571.13. Further, the Tribe's Ordinance requires the Tribal gaming agency to provide an annual independent audit to the National Indian Gaming Commission.
- H. Therefore, the financial statements and audits for the Tribe's gaming operations' for fiscal year 2016 were due to the NIGC on or before April 30, 2017.
- I. The Tribe failed to submit the fiscal year 2016 financial statements and audits to the NIGC by April 30, 2017.
- J. The Phoenix Region Office received a letter dated April 17, 2017, from the Moapa Tribal Chair, Darren Dadoba, requesting that the NIGC extend the deadline to submit the FY2016 annual financial audit report from April 30, 2017, to August 1, 2017, because of delays in the completion of audit services for fiscal years 2014 and 2015 were hindering completion of the 2016 audit.
- K. The Phoenix Region Office received a second letter dated May 9, 2017, from the Tribe informing the NIGC that the fiscal year 2016 annual financial audit report would be completed and submitted by June 30, 2017.
- L. On June 2, 2017, the NIGC issued a letter to Tribal Chairman, Darren Daboda, stating that IGRA and the NIGC regulations do not allow for an extension of time to submit audited financial statements, and that the NIGC could not accommodate their request for an extension. Mr. Thomas further requested that the Tribe submit the fiscal year 2016 audit of the financial statements immediately.
- M. The audited financial statements for fiscal year 2016 were submitted by the Tribe to the NIGC on July 17, 2017; 78 days late.
- N. The Tribe has a documented history of late audit financial submissions to the NIGC. The audit financial statements for fiscal year 2015 were received by the NIGC on September 30, 2016; 153 days late. The audit financial

statements for fiscal year 2014 were received by the NIGC on January 5, 2016; 250 days late. The audit financial statements for fiscal year 2013 were received by the NIGC on September 17, 2014; 140 days late. The audit financial statements for fiscal year 2013 were received by the NIGC on August 8, 2013; 100 days late.

6. Measures Required to Correct the Violation

No remedial action can correct the violation of failing to submit financial statements and audits within 120 days of the end of the fiscal year. 25 U.S.C. § 2710(b)(2)(C), and 25 C.F.R. § 571.13(a). The Tribe should implement improved controls to ensure timely submission of future financial statements and audits.

7. Appeal

The Tribe may appeal this Notice of Violation within 30 days of service. The Tribe may either 1) request a hearing before a Presiding Official under 25 C.F.R. Part 584, or, 2) 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 pursuant to 25 C.F.R. Part 585. In any event, an appeal of this Notice of Violation should be submitted to the NIGC at the following address:

NIGC Attn: Office of General Counsel  
1849 C Street NW  
Mail Stop #1621  
Washington, DC 20240

The Tribe has a right to assistance of counsel in such an appeal. If you file a notice of appeal, you must refer to this Notice of Violation.

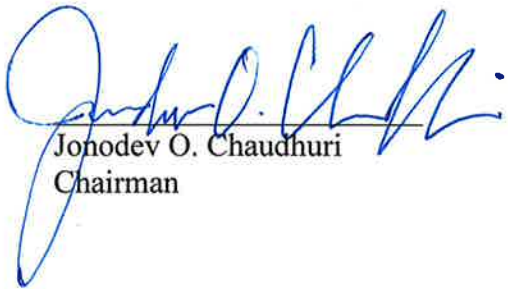
If the Tribe elects to have a hearing, the Tribe must file a brief with the Commission (within ten days after filing a notice of appeal) which states with particularity the relief desired and the grounds in support including, when available, supporting evidence in the form of affidavits. If the Tribe prefers a closed hearing, it must include, with the brief, a request to do so and why. If the Tribe wishes to present oral testimony or witnesses at the hearing, the Tribe must include a request to do so with the brief. The request to present oral testimony or witnesses must specify the names of proposed witnesses and the general nature of their expected testimony. The Tribe 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 result in the assessment of a civil fine against the Tribe in an amount not to exceed \$50,276 per violation per day. Under 25 C.F.R. §

575.5(a), the Tribe 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 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 18<sup>th</sup> of January 2018.



Jonodev O. Chaudhuri  
Chairman

**Certificate of Service**

I, Dena Wynn, certify that on January 18, 2018, NOV-18-01 was sent by Email and Certified Mail with return receipt requested to:

Kami Sue Miller, Executive Director  
Moapa Indian Gaming Commission  
1 Lincoln Street  
P.O. Box 340  
Moapa, NV 89025

Courtesy copy to:

Darren Daboda, Chairman  
Moapa Band of Paiute Indians of the  
Moapa River Indian Reservation  
1 Lincoln Street  
P.O. Box 340  
Moapa, NV 89025



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Dena Wynn  
Legal Administrative Specialist  
National Indian Gaming Commission