

NATIONAL INDIAN GAMING COMMISSION

SETTLEMENT AGREEMENT

SA-18-01

This Settlement Agreement (Agreement) is entered into by and between the Moapa Band of Paiutes (Tribe) through its duly authorized representatives and the Chairman of the National Indian Gaming Commission (NIGC) to resolve the issues related to the notice of violation (NOV-18-01) and proposed civil fine assessment (CFA-18-01) issued to the Tribe.

I. RECITALS

1. The Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §§ 2705(a)(2) and 2713(a)(1), and NIGC regulations, 25 C.F.R. § 575.4, authorize the Chairman to issue civil fines not to exceed \$51,302 per violation against a tribe, management contractor, or individual operating Indian gaming for violations of IGRA, NIGC regulations, or tribal regulations, ordinances, or resolutions approved by the Chairman.
2. Pursuant to 25 C.F.R. § 575.4(a)(2), if the violation continues for more than one day, the Chairman may treat each daily illegal act or omission as a separate violation.
3. The IGRA authorizes the Chairman to issue an order of temporary closure of an Indian gaming operation for a substantial violation of IGRA, NIGC regulations, or an approved tribal ordinance under 25 U.S.C. §§ 2705(a)(1) and 2713(b)(1).
4. Under NIGC regulations, at 25 C.F.R. § 573.3(a), the Chairman may issue a notice of violation to any person for violations of any provision of IGRA, NIGC regulations, or an approved tribal gaming ordinance or resolution.
5. 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 pursuant to 25 U.S.C. §2710(b)(2)(C).
6. 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).
7. 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.

8. The Tribe's operations include Class III gaming consisting of 90 slot machines which operate in a state where commercial gaming is legal.
9. By letter dated June 2, 2017, Dustin Thomas, Director of Compliance, informed Moapa Tribal Chairman Darren Daboda that the Tribe's submission of the fiscal year 2016 annual independent audits and financial statements for each of the Tribe's two gaming operations was late.
10. The audited financial statements for fiscal year 2016 were submitted by the Tribe to the NIGC on July 17, 2017; 78 days late.
11. On January 18, 2018, the Chairman issued to the Tribe a Notice of Violation, NOV-18-01, for failure to timely submit to the NIGC annual independent audits and financial statements for the 2016 fiscal year for each of its two operations.
12. On February 15, 2018, the Chairman issued to the Tribe a proposed civil fine assessment in the amount of \$51,302, CFA-18-01.
13. The Tribe timely appealed the Notice of Violation and the Civil Fine Assessment.
14. On March 5, 2018, the Office of Hearings and Appeals, United States Department of the Interior, designated Presiding Official, Joshua N. Epstein, to conduct a hearing and render a recommended decision with regard to the appeal of NOV-18-01, and later, CFA 18-01.
15. Whereas, the Chairman and the Tribe desire to resolve issues related to the notice of violation (NOV-18-01) and the civil fine assessment (CFA-18-01).
16. The Chairman and the Tribe have agreed to execute this Agreement and perform in accordance with the following terms:

II. STIPULATIONS

1. For the purpose of this Settlement Agreement, the Tribe agrees that the NIGC has jurisdiction over this matter.
2. For the purpose of this Settlement Agreement, the Tribe admits that it was required to submit to the NIGC the annual independent audit reports for all gaming operations within 120 days of the end of fiscal year 2016, as required by IGRA and NIGC regulations.
3. The Tribe admits that it owned and operated two gaming operations in 2016:

Moapa Paiute Travel Center, and Moapa Tribal Store.

4. The Tribe admits, solely for the purpose of this Settlement Agreement, that the document it provided to the NIGC on July 17, 2017, entitled "Moapa Tribal Casino Financial Statements with Independent Auditors' Report for the Years Ended December 31, 2016 and 2015" was submitted 78 days after the applicable deadline.
5. Tribe is aware of its right to:
 - a. Appeal the notice of violation to the full Commission under 25 C.F.R. part 585;
 - b. Obtain a hearing to contest the matter under 25 C.F.R. part 584; and
 - c. Appeal any final determination by the full Commission to a federal district court under 25 U.S.C. § 2714.
6. The Tribe stipulates that this Settlement Agreement shall be deemed a final order of the Commission, and a final agency action pursuant to 25 C.F.R. § 573.5(b).

III. TERMS OF SETTLEMENT

1. This Agreement is entered into pursuant to 25 C.F.R. § 584.10 and shall become effective on the date it is signed by all parties to this Agreement.
2. No later than December 31, 2018, the Tribe will provide NIGC with a copy of an engagement letter with a Certified Public Accountant to perform Fiscal Year 2018 annual independent audit reports for the Tribe's gaming operations. The engagement letter will specify the date that the Tribe's audit is due to the NIGC for Fiscal Year 2018.
3. The Tribe shall submit in a timely manner the audit reports and financial statements produced by the audit firms for which the engagement letters have been submitted to the NIGC Director of Compliance pursuant to this Agreement.
4. Tribal Council members and members of the Board of Commissioners of the Moapa Indian Gaming Commission shall attend the following NIGC training classes, or their equivalents: The Requirements of IGRA and the Pitfalls of Non-Compliance; and the Value of Internal Control Systems. The NIGC and the Tribe shall schedule mutually agreeable dates for the training within six months of execution of this Agreement. The training will be conducted by the NIGC at a facility on the Tribe's lands.
5. The Chairman determined that the maximum amount of civil fines that may be assessed against the Tribe for the violations alleged in NOV-18-01 is \$8,003,112.
6. Having carefully reviewed all factors, the Chairman agrees to reduce the civil fine

assessment from \$51,302 to \$15,000.

7. The Chairman agrees to suspend \$10,000 of the civil fine assessment pending the Tribe's adherence to the terms of this Agreement. The remaining \$5,000 will become due within 30 days of the execution of this Agreement. The civil fine is payable to the U.S. Treasury and delivered to the NIGC at 1849 C Street, N.W., Mail Stop #1621, Washington, D.C. 20240.
8. The Tribe agrees that if any term of this Agreement is not met, the balance of the civil fine assessment in the amount of \$ 10,000 will become due, and payment must be made within 10 days of the Tribe receiving written notice by the Chairman. The civil fine is payable to the U.S. Treasury and delivered to the NIGC at 1849 C Street, N.W., Mail Stop #1621, Washington, D.C. 20240.
9. The NIGC Chairman agrees upon execution of this Agreement to waive the right to impose any further civil fine against the Tribe for the notice of violation, NOV-18-01.
10. The Tribe waives all rights to further pursue an appeal of NOV-18-01 or CFA-18-01 before the Commission, waives all rights to pursue an appeal to a presiding official, and waives all rights to judicial review of such proceedings.
11. In exchange for the terms, conditions, and understandings set forth in this Agreement, the Tribe waives its right to any administrative review of this settlement, under 25 C.F.R. §§ 584 and 585, to seek reduction or waiver of a civil fine, under 25 C.F.R. § 575.6, and the right to seek judicial review, under 25 U.S.C. § 2714, including the right to have the Chairman provide his written analysis of the factors to be considered in assessing a civil fine set forth under 25 C.F.R. § 575.4.
12. The Tribe agrees that this Agreement does not restrict the NIGC Chairman from issuing new notices of violations and other enforcement actions for new violations of IGRA, applicable NIGC regulations, and/or the Tribe's gaming ordinance.

IV. TERM OF THE AGREEMENT

This Agreement shall terminate upon the fulfillment of all terms listed in Article III.

V. ADDITIONAL COVENANTS

1. This Agreement constitutes the entire agreement between the Chairman and the Tribe relating to NOV-18-01 and CFA-18-01 and supersedes all prior verbal or written agreements and understandings between the parties related to the subject matter. 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, including the modification or waiver of term, must be in writing and signed by the parties.

2. The Tribe agrees that this Agreement shall be deemed a final order of the Commission and a final agency action, under 25 C.F.R. § 573.5(b).
3. The Tribe and the Chairman agree that the Tribe's assent to this Agreement does not preclude the Tribe from challenging the Chairman's jurisdiction to issue any future Notices of Violation and Civil Fine Assessments to the Tribe under 25 C.F.R. § 571.13 or any other NIGC regulation.
4. The Chairman and the Tribe expressly agree and acknowledge that time is of the essence in this Agreement. The recitals herein and set above shall be binding upon the parties, their agents, heirs, personal representatives, successors and assigns.
5. A signature produced by facsimile shall be deemed to be an original signature and shall be effective and binding for purpose of the Agreement.

For the Moapa Band of Paiutes:

By: Gregory Anderson, Sr.
Chairman, Moapa Band of Paiutes

Signed: Gregory Anderson Sr
Date: 05/09/2018

For the National Indian Gaming Commission:

By: Jonodev O. Chaudhuri
Chairman, National Indian Gaming Commission

Signed: Jonodev O. Chaudhuri
Date: 5/9/18