

NATIONAL INDIAN GAMING COMMISSION

SETTLEMENT AGREEMENT

SA-23-03

This Settlement Agreement (Agreement) is entered into by and between the Apache Tribe of Oklahoma (Tribe), through its duly authorized representatives, and the Chairman of the National Indian Gaming Commission (Chairman), collectively referred to as the Parties. By this Agreement, the Parties agree to resolve the issues related to Notice of Violation 23-02 (NOV-23-02) and other matters.

RECITALS

1. Pursuant to the Indian Gaming Regulatory Act (IGRA) and NIGC regulations, the Chairman may issue a notice of violation to any person for violations of any provision of IGRA, NIGC Regulations, or any tribal gaming ordinance or resolution approved by the NIGC Chairman.¹
2. Pursuant to IGRA and NIGC regulations, the NIGC Chairman has authority to levy and collect appropriate civil fines, not to exceed \$61,983.00 per violation, against the tribal operator of an Indian gaming facility or a management contractor engaged in gaming for any violation of any provision of IGRA and NIGC regulations.² “If noncompliance continues for more than one day, the Chairman may treat each daily illegal act or omission as a separate violation.”³
3. IGRA and NIGC regulations require an annual audit of each gaming operation and that tribes submit a copy of the results of the annual audits to the NIGC.⁴
4. NIGC regulations require a tribe to engage an independent certified public accountant (CPA) to conduct an annual audit of the financial statements for each gaming operation located on Indian lands for each fiscal year.⁵
5. NIGC regulations require gaming operations to maintain permanent books of account or records, including inventory records of gaming supplies, sufficient to establish the amount of gross and net income, deductions and expenses, receipts and disbursements, and other information required in any financial statement, report, or other accounting

¹ 25 U.S.C. § 2713(a); 25 C.F.R. § 573.3(a).

² 25 U.S.C. § 2713(a)(1); 25 C.F.R. § 575.4; 88 FR 41025 (June 23, 2023).

³ 25 C.F.R. § 575.4(a)(2).

⁴ 25 U.S.C. § 2710(b)(2)(C).

⁵ 25 C.F.R. § 571.12(b).

prepared pursuant to IGRA or NIGC regulations. These records must be available for inspection by the NIGC, and for no less than five years.⁶

6. The Tribe is a federally recognized Indian tribe with its headquarters located in Anadarko, Oklahoma. The Apache Gaming Commission (AGC) is a duly created agency of the Tribe that has been granted the authority and responsibility by the Apache Business Committee (ABC) to regulate all gaming activities conducted by the Tribe on the lands within the Tribe's jurisdiction.⁷
7. The Tribe owned and operated the Silver Buffalo Casino (SBC) in Anadarko, Oklahoma. The Tribe closed the SBC in July of 2013 and has not reopened it.
8. The Tribe owns and operates the Golden Eagle Casino (GEC) in Apache, Oklahoma. The Tribe temporarily closed GEC in July of 2013 and reopened it on January 10, 2017.
9. On April 19, 2023, the Chairman issued NOV-23-02 for the following violations: failure to submit compliant Fiscal Year 2013 Audited Financial Statements (AFS) and Agreed Upon Procedures (AUP) Reports for both the SBC and GEC; failure to submit a compliant AFS for the GEC in 2017 and 2018; submission of the 2019 AUP report for the GEC 181 days late; submission of the 2019 AFS for the GEC 187 days late; and failure to maintain books of account or records.
10. On May 17, 2023, the Tribe submitted its timely Notice of Appeal of NOV-23-02.
11. The Chairman and the Tribe desire to resolve the issues related to NOV-23-02 and other matters, including non-compliance with background and licensing regulations, permitting a third party to manage part of the GEC without an approved management contract, and failure to submit a management contract within 60 days of execution, thereby avoiding unnecessary expense or delay.
12. Therefore, the Chairman and the Tribe agree to execute this Agreement and preform in accordance with the following conditions and covenants.

CIRCUMSTANCES OF THE ADDITIONAL VIOLATIONS

Background and Licensing

13. IGRA and the NIGC regulations require the Tribe to perform background investigations for all key employees and primary management officials, and to notify the NIGC of the results of the background checks before issuing or denying a gaming license.⁸

⁶ 25 C.F.R. § 571.7(a)-(c).

⁷ *Apache Tribe of Oklahoma Amended and Restated Gaming Ordinance*, Section 6(B) (2016).

⁸ 25 U.S.C. § 2710(b)(2)(F); 25 C.F.R. §§ 502.14, 502.19, 556.4, 558.3(b), and 558.3(d).

14. NIGC regulations provide that tribes must submit a notice of issuance of the license to the NIGC within 30 days of issuing a license to a key employee or primary management official.⁹
15. NIGC regulations provide that a key employee or primary management official who is not licensed after 90 days cannot perform the duties, functions, or responsibilities of a key employee or primary management official.¹⁰
16. NIGC regulations provide that a tribe shall retain license applications, including fingerprints, investigative reports, and eligibility determinations for inspection by the Chair or his or her designee for no less than three years from the date of termination of employment.¹¹
17. In October 2021, the Tribe's compliance with the background and licensing regulations began to decline. By April 2022, the Tribe stopped submitting fingerprints to the NIGC as part of background investigation and licensing process.
18. On August 24, 2022, and September 12, 2022, the NIGC reviewed licensing files for key employees and primary management officials and found the following: licensing files for key employees and primary management officials did not contain the required investigative reports; notice of results were not submitted to NIGC for applicants who were fingerprinted; key employees and primary management officials were permitted to work for more than 90 days without a license; and notice of the issuance of licenses for some key employees and primary management officials had not been submitted to NIGC within 30 days.
19. On October 20, 2022, the NIGC determined that between October 1, 2021, and September 20, 2022, the GEC employed 19 individuals who worked for more than 60 days as a key employee or primary management official without submitting a notice of results to the NIGC. Of these employees, the Tribe failed to submit a notice of issuance of license to NIGC for 17 individuals who worked beyond 90 days. By December 7, 2022, all the submissions for these 17 key employees and primary management officials were received by NIGC.
20. The Tribe employed its general manager for 385 days without a complete background investigation and allowed the general manager to work 402 days without submitting fingerprints and a license issued by the Tribe.
21. It is a substantial violation for a gaming operation to operate for business without either background investigations completed for, or tribal licenses granted to, all key employees and primary management officials, as provided in 25 C.F.R. § 558.3(b).¹²

⁹ 25 C.F.R. § 558.3(b).

¹⁰ 25 C.F.R. § 558.3(c).

¹¹ 25 C.F.R. §§ 558.3(e); 556.6(a).

¹² 25 C.F.R. § 573.4(a)(5).

Failure to Submit a Management Contract for Approval

22. A management contract is “any contract, subcontract, or collateral agreement between an Indian tribe and a contractor...if such contract or agreement provides for the management of all or part of a gaming operation.”¹³
23. IGRA requires that tribes obtain the approval of the NIGC Chairman to enter into a management contract for the operation and management of a gaming operation.¹⁴ It is a substantial violation for a management contractor to operate a gaming operation without an approved management contract.¹⁵
24. NIGC regulations reiterate this requirement, mandating “[s]ubject to the Chairman’s approval, an Indian tribe may enter into a management contract for the operation of a class II or class III gaming activity.”¹⁶
25. Management contracts must be submitted to the NIGC Chairman for review within 60 days of execution by the parties.¹⁷ Management contracts become effective upon approval by the NIGC Chairman.¹⁸ Unapproved management contracts are void.¹⁹
26. In September 2016, the Tribe adopted Resolution ABC-2016-010 (Resolution) and granted exclusive gaming rights to L. Steven Haynes (Haynes) and Hangar R Investors, LLC (Hangar R) for SBC and GEC. The Resolution stated that the parties would enter into “definitive agreements” at a later date to establish the details for transferring ownership of the gaming operations to Haynes.
27. In October 2016, the Tribe entered into five agreements with Hangar R and Haynes Investments, LLC (Haynes Investments), both owned in whole or in part by L. Steven Haynes, regarding the operation and ownership of the Tribe’s gaming operations. The agreements included a Consulting Agreement, a Master Gaming Equipment Lease Agreement, a Revolving Line of Credit and Promissory Note Agreement, an Unjust Enrichment and Sovereign Immunity Agreement, and a Gaming License Agreement (collectively, 2016 Agreements).
28. According to the 2016 Agreements, Hangar R would initially act as a consultant for the Tribe regarding the operation of the GEC, SBC, and Silver Buffalo Convenience Store. The Gaming License Agreement contemplated an eventual transfer of ownership and operation of the gaming operations to Haynes Investments. Haynes Investments would operate the gaming operations as individually owned operations and pay a portion of the gaming revenues to the Tribe. Before the ownership transfer, Hangar R would act as the exclusive supplier of gaming machines. Hangar R agreed to loan \$500,000.00 to the

¹³ 25 C.F.R. § 502.15.

¹⁴ 25 U.S.C. §§ 2710(d)(9) and 2711(a).

¹⁵ 25 C.F.R. § 573.4(a)(7).

¹⁶ 25 C.F.R. § 533.1.

¹⁷ 25 C.F.R. § 533.2.

¹⁸ 25 C.F.R. § 533.1(a).

¹⁹ 25 C.F.R. § 533.7.

Tribe to renovate and re-open the GEC until ownership of the gaming operations was transferred to Haynes Investments at which time the loan would be forgiven. After the ownership transfer, Haynes Investments would hold an exclusive gaming license for the three facilities for 25 years, plus another 25 years at Hangar R's election, including a zone of exclusivity surrounding each facility.

29. The 2016 Agreements permitted Hangar R to exert management control over the GEC including the exclusive right to provide 100% of the gaming machines, hardware, and software at the gaming operations. The Tribe had no contractual right to determine the number, type, payout structure, mix, or placement and game floor configuration of the machines. Hangar R would determine the number and mix of gaming machines determined by the popularity of the gaming machines. Hangar R was also entitled to subcontract with gaming machine vendors as part of its exclusivity. In addition, Hangar R was responsible for marketing and promoting the gaming machines at the GEC.
30. The 2016 Agreements provide for management of the GEC and constitute a management contract and were not submitted to the Chairman for review within 60 days of their execution.

Management without an Approved Contract – Gaming Operation Management Software

31. The Tribe reopened the GEC on January 10, 2017, with assistance from Haynes and his associated entities, including Hangar R, Hawker Financial Inc. (Hawker), and Haynes Investments. After reopening the GEC, Haynes and Randall Crawford (Crawford), an associate of Haynes, had access to and control of the gaming management system.
32. Control of a gaming operation's gaming management system is an essential management function of a gaming operation. Haynes and Crawford either individually, as an employee, or as a director of Hangar R controlled the GEC's gaming management system accounts at various times between the GEC's reopening on January 10, 2017, through March 1, 2017, without an approved management contract. Furthermore, the Tribe allowed Haynes and Crawford to undertake such actions in the absence of an approved management contract.

Management without an Approved Contract – Control of Banking Account

33. Prior to reopening GEC, the ABC passed a series of resolutions that allowed Hangar R to open banking and payroll accounts for the GEC and authorized Hawker, an entity created solely to provide a banking relationship for the GEC, and Hangar R to provide consulting financial services including but not limited to a banking relationship (operating and payroll accounts), payroll, accounts payable, and financial reporting for the GEC.
34. On January 4, 2017, Liberty Bank opened two banking accounts. The accounts had three authorized signers: (1) Douglas Boone, GEC General Manager, (2) Crawford, and (3) Henry Redlich III (Redlich). Both Crawford and Redlich are associated with Hangar R and were not employees of the gaming operation.

35. Crawford had control of the GEC's operating account held at Liberty Bank and directed the issuance of payments including the following: an online bill payment of \$5,800.00 to Sprung Instant Structures, Inc. on February 13, 2017; and a check in the amount of \$958.00 signed by Crawford on February 20, 2017, to the State of Oklahoma.
36. On March 6, 2017, Crawford sent an email to Liberty Bank requesting to add the ABC Vice-Chair to GEC's operating and payroll accounts.
37. Control of a gaming operation's bank accounts is an essential management function. Through their direct actions, Crawford either individually, as an employee of Hawker or Hangar R, or as a director of Hangar R, planned, directed, and/or controlled GEC's banking accounts at various times from January 10, 2017, through March 6, 2017, without an approved management contract. Furthermore, the Tribe allowed Crawford to undertake such actions in the absence of an approved management contract.

Management without an Approved Contract - Control over Employees

38. Crawford sent a series of emails to GEC employees between January 13, 2017, and January 29, 2017, directing them to complete various tasks for the GEC, which they completed.
39. Control and direction over a gaming operation's employees is an essential management function. Through their direct actions, Crawford either individually, as an employee of Hangar R, or as a director of Hangar R, planned, directed, and/or controlled the gaming operation's employees at various times without an approved management contract. Furthermore, the Tribe allowed Crawford to undertake such actions in the absence of an approved management contract.

Management without an Approved Contract - Compliance with State Requirements

40. In February 2017, Crawford contacted the Oklahoma Gaming Compliance Unit requesting information relating to GEC and later filed a sales tax return on behalf of the GEC. Ensuring compliance with state regulations, including tribal-state gaming compact requirements, is an essential management function of a gaming operation. Through their direct actions, Crawford either individually, as an employee of Hangar R, or as a director of Hangar R, planned, directed, and or controlled the GEC's compliance with state requirements, including GEC's compliance under its tribal-state gaming compact at various times between January 10, 2017 through February 16, 2017. Furthermore, the Tribe allowed Crawford to undertake such actions in the absence of an approved management contract.

TERMS AND CONDITIONS

Term and Scope of Agreement

41. The Tribe agrees the NIGC has jurisdiction over these matters.
42. This Agreement shall become effective on the date it is signed by all Parties (Effective Date).
43. This Agreement shall terminate upon the successful fulfillment of all terms and covenants of this Agreement.
44. The Parties agree the Chairman shall have sole discretion to determine whether the Tribe has met the requirements of this Agreement.
45. This Agreement shall apply to the GEC for a five-year period commencing on the Effective Date and ending on that day which is five years later and shall apply to any new facilities from the day gaming commences for a period of five years (Term). Upon written notice to the Tribe of a violation of this Agreement, the Term of this Agreement shall be extended one day for each day that a violation is not cured by the Tribe.
 - a. Until this Agreement is terminated, NIGC will review the Tribe's operation and regulation of each gaming facility at periodic intervals to determine whether the Tribe is in compliance with IGRA, NIGC regulations, the Tribe's gaming ordinance, and this Agreement.
 - b. The Tribe agrees no additional facility, besides GEC, will be developed, opened, or operated by the Tribe during the Term unless the development and opening of the new facility has been reviewed by the NIGC. This review requires the Tribe to submit any agreement referenced in paragraph 49 to the NIGC Oklahoma City Region Director at least 60 days prior to opening a new facility. The NIGC will review the agreement to determine whether it constitutes a management contract requiring the approval of the Chairman, and to determine whether that the Tribe maintains the sole proprietary interest in any gaming conducted in connection with any such agreement. The Tribe agrees that it will not open a new facility during the 60-day review period. If during the 60-day review period the Tribe receives notice from NIGC indicating that the agreement violates IGRA, NIGC regulations, or this Agreement, the Tribe will not operate under the agreement until the identified concerns are addressed and the NIGC determines in writing that the agreement does not violate IGRA, NIGC regulations, or this Agreement. The provisions of this Agreement will apply to any new facility to be developed or opened during the Term of this Agreement, including but not limited to:

1. The Lonestar Casino, located in Devol, Oklahoma; and
2. The Trading Post, located in Anadarko, Oklahoma.

- c. The facility license notice requirements for the two new facilities referenced in subpart b have been made timely and in compliance with 25 C.F.R. Part 559.
 - d. The Tribe previously disclosed and submitted a copy of the Business Development Lease, approved by the Bureau of Indian Affairs on September 16, 2021, and Sublease Agreement by and between the Apache Tribe of Indians of Oklahoma and Casino Enterprises LLC, dated August 8, 2020, as exhibits to the facility license notification submitted under 25 C.F.R. Part 559 for the Lonestar Casino. The Tribe agrees to produce the Business Development Lease agreement and Sublease Agreement, including any amendments upon request.
 - e. The Tribe submitted the Tribal Internal Control Standards (TICS) for the Lonestar Casino on September 11, 2023.
 - f. Development and approval of any new facility will be in accordance with processes and approvals consistent with the Tribe's laws, ordinances, codes, and resolutions. Facility license notices will be made timely and in compliance with 25 C.F.R. Part 559.
46. The Term will be tolled for the duration of any closure of any of the Tribe's gaming facilities or duration of any non-compliance with this Agreement.

NIGC Review of Contracts

- 47. The Tribe admits it entered into contracts with Hangar R and Haynes Investments that allowed Hangar R and Haynes Investments to exert management control over the Tribe's gaming operations and failed to submit these contracts to the Chairman for review within 60 days of execution of the agreements in violation of the IGRA and NIGC regulations.
- 48. The Tribe agrees that it will not conduct gaming operations under a management contract unless the management contract is approved by the Chairman, pursuant to 25 U.S.C. §§ 2710(d)(9) and 2711, and 25 C.F.R. Part 533.
- 49. The Tribe agrees it will submit all executed and unexecuted agreements, and any modifications or amendments thereto either directly or indirectly related to any gaming operations, including but not limited to development or consultation arrangements, financing, and lending, to the NIGC Oklahoma City Region Director to review and determine whether the agreement(s) constitute(s) a management contract requiring the approval of the Chairman, and a determination that the Tribe has the sole proprietary interest in any gaming conducted in connection with any such agreement(s). NIGC will provide written notice identifying any potential IGRA or NIGC regulations violations or other concerns in an agreement, if any, and the Tribe agrees to remediate those potential violations or concerns within 30 days of the written notice.

- a. All such executed agreements that the Tribe has entered into prior to the Effective Date of this Agreement will be submitted within 30 days of the Effective Date.
- b. All such unexecuted agreements will be submitted to the NIGC Oklahoma City Region Director 60 days prior to the intended execution date.
- c. The Tribe agrees to provide a signed statement identifying all unexecuted and executed agreements for each of its gaming facilities within 30 days of the Effective Date.

Restricted Associations

50. The Tribe admits that it allowed Hangar R, Haynes, and Crawford to manage its gaming facilities without a management contract approved by the NIGC Chairman. The Tribe, including all tribal entities, agrees that with regard to L. Steven Haynes, Hangar R Investors, Henry Redlich III, Randall Crawford, and Hawker Financial, including all known and future principals, officers, employees, and agents thereof, or any entity owned in whole or part or otherwise associated with the above individuals or entities, that it shall:
- a. Prohibit any of the above individuals and entities from any association of any kind with any of the Tribe's gaming facilities, any gaming activity, and any tribal gaming operation owned or licensed by the Tribe.
 - b. Not employ or retain any of the above individuals or entities to operate, manage, consult, or provide any type of materials, machines, or services related directly or indirectly to the operation or management of any tribal gaming operation owned or licensed by the Tribe.
 - c. Prohibit any of the above individuals or entities from developing, financing, or otherwise having a direct or indirect financial interest in any existing or future gaming facility or operation, or to provide any type of materials, machines, goods of any type, or services to the Tribe's existing gaming facility or any new facilities.
 - d. Not enter into any type of arrangement with the above individuals and entities for such persons' or entities' past gaming-related services to the Tribe or any tribal entity, or for the prohibition of such gaming-related services in the future.
 - e. Not have any type of relationship involving Indian gaming with the above individuals or entities.

Financial Records System – Establish, Maintain, and Audit

51. The Tribe admits it was required to submit to the NIGC annual independent audit reports, AFS, and AUP reports for all gaming operations within 120 days of the fiscal year end for fiscal year 2013, 2017, 2018, and 2019.

52. On October 21, 2019, the NIGC Audit Program conducted an Internal Control Assessment of the GEC, with the resulting report identifying 69 findings. As of the date of this Agreement, the Tribe has corrected all but 3 of the 69 findings.
- a. The Chairman acknowledges that such actions represent a significant step toward compliance. In order to address the remaining findings and maintain compliance, the Tribe agrees to:
 - i. Establish and maintain a financial records system as required by 25 C.F.R. § 571.7(a) and minimum internal control standards (MICS) for audit and accounting as required by 25 C.F.R. §§ 542.19 and 543.23; and
 - ii. Obtain the assistance of a qualified auditing firm and establish a system for maintaining permanent books of account or records, including inventory of gaming machines, equipment, and supplies, and gaming related expenditures and/or disbursements sufficient to establish the amount of gross and net income, deductions and expense, receipts and disbursements, and other information required in any financial statement, report, or other accounting prepared pursuant to the IGRA and NIGC regulations.
53. The Tribe will provide a description of its financial records system for the GEC, as required by 25 C.F.R. § 571.7(a), and a copy of its financial records policy to the NIGC Oklahoma City Region Director for review within 60 days of the Effective Date of this Agreement. NIGC will provide written notice to the Tribe of any deficiencies, and the Tribe will address such deficiencies within 30 days.
54. The Tribe will provide a description of its financial records system and a copy of its financial records policy for any new facility to the NIGC Oklahoma City Region Director at least 60 days prior to the commencement of gaming. NIGC will examine all available relevant purchasing, inventory, and other financial records during a 60-day review period to assure compliance with the Tribe's financial records policy.
- a. The Tribe agrees that it will not open a new facility during the 60-day review period. The Tribe will address any deficiencies identified by the NIGC within 30 days of the NIGC providing the Tribe with a written notice identifying any deficiencies.
55. NIGC may periodically examine records of each gaming facility to assure continued compliance with the financial records policy.
56. The Tribe shall employ or contract a qualified internal auditor(s) to monitor compliance with NIGC's MICS regulations and 25 C.F.R. §§ 542.22, 542.32, 542.42 and 543.23. If the Tribe chooses to contract a qualified internal auditor, it agrees that the internal auditor will not work for the same CPA firm engaged to conduct the AFS and AUP. During the Term, the internal auditor(s) shall review each gaming facility's financial records system

on a monthly basis and shall provide the NIGC Oklahoma City Region Director copies of any and all reports generated by the internal auditor(s) as a result of each monthly review.

Audits and Agreed Upon Procedures

57. The Tribe will establish a valid and sound system of internal controls for each gaming facility. The Tribe will provide copies of the following: TICS; the gaming operation's internal control standards; and the procedures implementing the internal control standards. The above will be submitted to the NIGC Oklahoma City Region Director within 60 days of the Effective Date of this Agreement and 60 days before the planned opening of any new facility.
- a. NIGC will review the TICS and the gaming operation's internal control standards and procedures within 60 days. The Tribe agrees that it will not open a new facility during the 60-day review period. The Tribe will address any deficiencies identified by the NIGC within 30 days of the NIGC providing the Tribe with a written notice identifying any deficiencies.
 - b. Regarding the GEC, the Tribe will address any deficiencies identified by the NIGC within 30 days of the NIGC providing the Tribe with a written notice identifying any deficiencies.
58. The Tribe will complete annual outside audits and timely submit the financial statements and audits, with any management letter(s) and other document(s)/report(s), setting forth the results of the annual audit to the NIGC consistent with 25 C.F.R. § 571.12.
- a. The Tribe shall engage an independent CPA, licensed and in good standing, to perform the AUP to verify that the gaming operation is compliant with the minimum internal control standards as required by 25 C.F.R. §§ 571.12, 542.3(f), and 543.23(d).
 - b. The CPA shall report each event and procedure discovered by or brought to the CPA's attention that the CPA believes does not satisfy the minimum standards and comply with 25 C.F.R. §§ 542.3(f) and 543.23(d), as practicable.
 - c. The Tribe shall submit the AUP report to the NIGC within 120 days after the end of the fiscal year.
59. During the Term, the Tribe agrees to engage an audit firm to prepare the AFS and AUP for each gaming operation no later than 90 days before the gaming operation's fiscal year end.
- a. The engagement letter must provide that the completed AFS and AUP are due to the Tribe no later than 15 days before the AFS and AUP are due to the NIGC.

- b. The engagement letter must reference the specific date on which the Tribe's AFS and AUP are due to the NIGC pursuant to IGRA and NIGC regulations.
60. During the Term, the Tribe agrees to provide the NIGC Oklahoma City Region Director with a copy of the executed engagement letter with the audit firm that will prepare the AFS and AUP. The Tribe will provide a copy of the executed engagement letter to the NIGC Oklahoma City Region Director no later than 60 days before the gaming operation's fiscal year end.

Background Investigations and Licensing of Key Employees and Primary Management Officials

61. The Tribe agrees it is required to submit to the NIGC notice of results and eligibility determinations for key employees and primary management officials. The Tribe agrees it is required to issue licenses for any key employees or primary management officials within 90 days of that employee beginning work. The Tribe agrees it failed to submit or failed to timely submit notices of results, eligibility determinations, and notice of licenses issued for its key employees and primary management officials. The Tribe agrees that it employed key employees and primary management officials without a gaming license for more than 90 days. The Tribe agrees that the failure to make these submissions is a violation of IGRA, a substantial violation of NIGC regulations, and a violation of the Tribe's gaming ordinance.
62. The Tribe represents that prior to this Agreement, the Apache tribal administration became aware of potential employee licensing problems. The Tribe took corrective action including appointing a new background and licensing agent in early 2023. The AGC took action to correct the licensing problems including requesting and attending site-specific training offered by the NIGC for background and licensing. The Apache tribal administration and AGC are addressing the licensing violations and improving its processes to comply with the terms of this Agreement.
63. The Tribe agrees to establish and maintain procedures to perform background investigations and license key employees and primary management officials within 60 days of the Effective Date of this Agreement.
64. The Tribe agrees to come into compliance with background and licensing requirements within 60 days of this Agreement.
65. The Tribe agrees it will not commence gaming operations at a new facility until the following conditions are met with respect to such gaming facility:
- a. Background investigation requirements identified in 25 C.F.R. Part 556 and the Tribe's gaming ordinance are met for all key employees and primary management officials to be employed at the time of opening of such new facility; and
 - b. All key employees and primary management officials to be employed at the new facility are duly licensed pursuant to 25 C.F.R. Part 558 and the Tribe's gaming

ordinance with licenses issued at the time a new facility opens and commences gaming operations.

66. The Tribe further agrees and acknowledges that the primary management officials and/or board members of any tribal entity that is involved in operating the Tribe's gaming facilities will be subject to all background, investigative, suitability, and licensing requirements of 25 C.F.R. Parts 556 and 558. The Tribe agrees to comply with the Criminal History Record Information Memorandum of Understanding and ensure timely payment of all fingerprint fees.
67. The Tribe will establish a records retention policy for all gaming related license applications, background investigations, suitability determinations, and issued, denied, suspended, or revoked licenses that is compliant with the requirements of 25 C.F.R. §§ 556.6(a) and 558.3(f).
 - a. The Tribe will provide a copy of its records retention policy to the NIGC Oklahoma City Region Director for review within 60 days of the Effective Date of this Agreement and NIGC will examine the Tribe's available records to assure compliance with the Tribe's policy. The NIGC will provide written notice of any deficiencies in the policy and the Tribe agrees to address any deficiencies within 30 days of the NIGC providing written notice of such.
 - b. NIGC will examine records periodically, throughout the Term, to assure continued compliance with the policy.

Vendor Licensing

68. The Tribe agrees to establish and maintain a vendor-licensing program that includes procedures for the background investigation and licensing of suppliers of gaming machines, equipment, and services directly related to the use and operation of gaming machines and equipment, including advisory and consulting services.
69. The Parties to this Agreement specifically intend that the vendor licensing requirement described in Paragraph 71, applies to each developer, consultant, and lender, assisting the Tribe with opening any new facility during the Term.
 - a. The Tribe will exercise due diligence in making a licensing determination for each developer, consultant, or lender assisting the Tribe on gaming related matters and whose anticipated fee will be in excess of \$25,000.00 per year.
 - b. In exercising this due diligence, the Tribe will conduct a background investigation and render a suitability determination for: (1) each person who is a director or principal management official of a corporation that is a party to such a development, consulting, or lending agreement, and (2) each person with a direct or indirect financial interest in such development, consulting, or lending agreement, except regulated banking institutions.

- c. In making these determinations the Tribe shall be guided by the provisions in the Oklahoma Tribal-State Compact, Part 10(B). The Tribe will make available for review by the Chairman, or his designee, all background investigation materials and suitability determinations for each developer, consultant, or lender assisting the Tribe in connection with opening any new gaming facility during the Term.

Gaming Machine Inventory

70. Throughout the Term, the Tribe agrees to:

- a. Maintain a current gaming machine inventory containing the owner of the machine, the machine manufacturer's name, the unique serial number, the name and description, and floor location for each game and gaming device placed in operation at GEC or to be placed in operation at any new facility. The Tribe agrees to provide a copy of such inventory to the NIGC Oklahoma City Director upon request.
- b. Maintain a floor plan showing the location of all gaming devices at GEC or anticipated location at any new facility. The Tribe agrees to keep the floor plan current and provide a copy of such floor plan to the NIGC Oklahoma City Region Director upon request.
- c. Require vendors offering any electronic gaming system, including the devices set forth above, to certify to the AGC, prior to play of the devices in any of the Tribe's gaming facilities, that the components of the system are communicating effectively, are correctly recording all cash and/or cashless transactions involved in game play, and otherwise comply with the requirements of the MICS, 25 C.F.R. Parts 542 and 543. The AGC will confirm this certification report and provide a copy of the report to the NIGC Oklahoma Region Director upon request.

Independent and Adequately Funded TRGA

- 71. The Tribe shall establish and maintain an independent, adequately staffed Tribal Gaming Regulatory Authority (TGRA) with a stable and adequately funded annual budget. The TGRA shall have independent authority and sole discretion to utilize and spend for its day-to-day operations in discharge of its vested regulatory powers and duties regarding the operation and maintenance of each authorized gaming facility and the related conduct of the gaming operations under IGRA, NIGC regulations, and the Tribe's gaming ordinance and regulations. It is anticipated that the AGC may continue to serve as the TGRA.
- 72. The Tribe shall conduct and regulate gaming operations at each authorized gaming facility in material compliance with the provisions of this Agreement, IGRA, NIGC regulations, the Tribe's gaming ordinance and gaming regulations, the TICS, and the Tribal-State Compact.

- a. In the event that management of an authorized gaming facility, the AGC, or the Tribe determines that gaming operations at a gaming facility are being conducted or regulated in material violation of any provisions of IGRA, NIGC regulations, the Tribal gaming ordinance or gaming regulations, the TICS, the Tribal-State Compact, or this Agreement, the Tribe shall promptly notify the NIGC Oklahoma City Region Director of the violation(s) and take immediate steps to correct the violation(s) as soon as possible.
 - b. In the event the NIGC thereafter determines that any such self-reported violation(s) have not been timely corrected or determines that there are other violations, then the NIGC may provide the Tribe with prompt written notice of the violation(s) and 30 days to correct the violation(s) unless otherwise agreed, or if the violation is a "substantial violation" as that term is used in 25 C.F.R. § 573.4, in which case the Chairman may establish a shorter period.
 - c. Following the period to correct the violation(s), if the Chairman determines that the violation(s) has not been cured, the Chairman may take enforcement action against the Tribe and other liable parties, in accordance with the IGRA and NIGC regulations.
73. The Tribe will review NIGC Bulletin 2022-5, Independence of Tribal Gaming Commissions and their Functions. The Tribe will ensure that the AGC has sufficient authority and ability to act independently of the ABC and any other tribal entity in regulating tribal gaming.
- a. Within 60 days of the Effective Date of this Agreement, the Tribe will:
 - i. Provide a written explanation about the AGC's independent role to the NIGC;
 - ii. Establish a budget for the AGC sufficient to carry out its responsibilities; and
 - iii. Provide a written explanation to the NIGC on how the amount budgeted to the AGC will allow it to carry out its responsibilities.
 - b. The NIGC Oklahoma Region Director will review the explanation of the AGC's role, budget, and explanation of how the budget to the AGC allows it to carry out its responsibilities and provide the Tribe with written notice of any concerns. The Tribe agrees to adequately address any concerns within 30 days of the NIGC providing written notice of such in compliance with NIGC Bulletin 2022-5. In addition, throughout the Term, the NIGC may periodically monitor the regulation of the Tribe's gaming activity to ensure that the AGC has sufficient funding, sufficient authority, and the ability to act independently of the ABC or any other tribal entity.
 - c. The Tribe shall safeguard the independence of AGC by shielding it from improper influence of its legitimate exercise of authority or its ability to lawfully discharge its powers, duties, and responsibilities in accordance with the Tribe's gaming ordinance

and regulations, provided that nothing in this Agreement shall be construed to prevent the Tribe from removing any member of its gaming commission in accordance with the Tribe's gaming ordinance.

Internal Control Standard Training

74. The Tribe agrees to provide training on internal control standards relating to 25 C.F.R. Parts 542, 543, 571, and the Tribe's approved internal controls to all employees who are directly involved in the conduct of the games or the support thereof. For GEC, such training will be completed within 90 days of the Effective Date of this Agreement. For new facilities such training will be completed 14 days prior to commencement of gaming operations. Any new key employees and primary management officials must have completed training in relevant internal control standards prior to commencing related duties. The Tribe will submit documentation of the training sessions and attendees' names and titles to the NIGC Oklahoma City Region Director within 14 days of completion of such training.
75. The Tribe further agrees to maintain the level of competency among its staff by providing internal controls training within six months of hiring new employees into gaming-related positions. The Tribe will send documentation of the training and attendees to the NIGC Oklahoma City Region Director within 30 days of such training.

Additional Covenants

76. Considering the preceding admissions related to NOV-23-02, including failure to submit annual independent audit reports, AFS, AUPs, and the other noted violations and admissions, the Tribe agrees to pay a civil fine in the amount of One Hundred Thousand dollars (\$100,000.00).
77. The Tribe agrees to pay a portion of the civil fine in the amount of Twenty-Five Thousand (\$25,000.00) within 30 days of the Effective Date of this Agreement payable to the United States Treasury and shall be sent to the following address:

National Indian Gaming Commission
Attention: Office of General Counsel
1849 Street, NW
Mail Stop 1621
Washington, D.C. 20240

78. The Chairman agrees to suspend the remaining civil fine in the amount of Seventy-Five Thousand (\$75,000.00) pending compliance with the terms of this Agreement.
79. Upon successful completion, as determined by the Chairman, the suspended civil fine amount of Seventy-Five Thousand (\$75,000.00) shall be forgiven.

80. If the Tribe breaches any provision of this Agreement and fails to correct it within the given timeframes in this Agreement, the Tribe agrees and consents that the suspended fine amount of Seventy-Five Thousand dollars (\$75,000.00) will become fully due and payable on the first day after the cure period ends, if any, of the breach. In such circumstance, the NIGC shall issue a written notice to the Tribe pursuant to NIGC debt collection regulations.²⁰ The Tribe agrees that the NIGC or U.S. Department of Treasury may proceed with the debt collection of the Seventy-Five Thousand (\$75,000.00) civil fine (less amounts already paid) against the Tribe and may assess interest, penalties, and administrative costs from the date of breach of this Agreement.

81. Any documents required to be submitted to the NIGC Oklahoma Region Director under this Agreement must be delivered electronically to the following addresses:

- a. Anthony Wheeler, Region Director: Anthony.wheeler@nigc.gov; and
- b. Rodney Casteel, Compliance Officer: Rodney.casteel@nigc.gov.

82. All notices and other communications to the NIGC must be delivered to the following:

E. Sequoyah Simermeyer, Chairman
National Indian Gaming Commission
1849 C Street, NW
MS 1621
Washington, D.C. 20240

With a copy to Anthony Wheeler, Region Director, and Rodney Casteel, Compliance Office, at the email addresses above.

83. All notices and other communications to the Apache Tribe of Oklahoma must be delivered to the following:

Durell Cooper, Chairman
Apache Tribe of Oklahoma
620 E Colorado Ave.
Anadarko, OK 73005


With a copy to:

Klint A. Cowan
512 NW 12th Street
Oklahoma City, OK 73103
kcowan@lippes.com

²⁰ 25 C.F.R. Part 513.

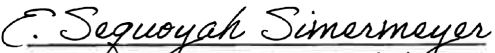
84. The Tribe agrees to voluntarily close its gaming facility if the Chairman determines that the Tribe failed to comply with any term of this Agreement as to that facility. Violations shall be determined by the Chairman, and written notice shall describe the violation(s) and provide the Tribe with 30 days to cure the violation(s) or demonstrate that a violation did not occur. If the violation is a substantial violation, pursuant to 25 C.F.R. § 573.6, then the Chairman may establish a shorter cure period or order an immediate temporary closure. The Tribe may not reopen its gaming facility until the Chairman determines that compliance with IGRA, NIGC regulations, the Tribe's gaming ordinance, and this Agreement has been met and written confirmation is sent to the Tribe.
85. The Tribe will fully cooperate in any investigation conducted by the NIGC or other governmental agencies concerning its operations or possible financial irregularities at the Tribe's gaming facilities and agrees to produce all relevant records or witnesses requested during those investigations.
86. The Parties agree that after the Effective Date, this Agreement shall be a public document and may be published or disclosed by either Party.
87. This Agreement constitutes the entire agreement between the Chairman and the Tribe. No warranties, representations, covenants, or agreements shall be binding upon any party except as set forth herein. Any modification or waiver of any term to this Agreement must be in writing and signed by all the Parties.
88. This Agreement shall be deemed a final order of the Commission and a final agency action pursuant to 25 C.F.R. § 573.5(b).
89. This Agreement does not prevent the Chairman from issuing notices of violation and other enforcement actions for other violations of IGRA, NIGC regulations, and/or the Tribe's gaming ordinance.
90. The Tribe agrees upon execution of this Agreement to waive its right to any further proceedings before the Presiding Office regarding NOV-23-02 and specific matters settled by this Agreement, including all rights to appeal as set forth in 25 C.F.R. Parts 580-585 and judicial review pursuant to 25 U.S.C. § 2714.
91. In exchange for the terms and conditions sets forth in this Agreement, the Tribe waives its right to any further administrative review of this settlement, under 25 C.F.R. Parts 584 and 585, and/or to seek reduction or waiver of a civil fine under 25 C.F.R. § 575.6.
92. The Chairman and the Tribe expressly agree and acknowledge that time is of the essence in this Agreement, and further stipulate to file a joint motion seeking the Presiding Official's certification of this Agreement, and that such certification shall constitute dismissal of the Tribe's appeal of NOV-23-02. The Agreement shall be binding upon the Parties, their agents, heirs, personal representatives, successors and assigns.

For the Apache Tribe of Oklahoma:

By: 
Durrell Cooper, Chairman
Apache Tribe of Oklahoma

Date: 10-30-23

For the National Indian Gaming Commission:

By: 
E. Sequoyah Simermeyer, Chairman
National Indian Gaming Commission

Date: 10/31/23