

NOTICE OF PROPOSED CIVIL FINE ASSESSMENT

Ref: CFA-06-06 (Street)

To: Edward Street
206 North Barnes
Tonkawa, OK 74653

Oakland Enterprises
Edward Street
1000 Allen Drive, P.O. Box 147
Tonkawa, OK 74653

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 hereby provides notice of his intent to assess a civil fine against Edward Street (dba Oakland Enterprises) (Respondent), for violations of 25 U.S.C. § 2711, as set forth in detail in Notice of Violation No. NOV 06-06, issued on February 2, 2006, a copy of which is attached hereto (Exhibit 1). NOV 06-06 was issued because Edward Street and Oakland Enterprises managed the tribal casino without a contract approved by the Chairman.
2. Pursuant to 25 U.S.C. § 2713 (a) and 25 C.F.R. § 575.4, the Chairman of the NIGC 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. Respondents have not made any submission to the Chairman.
4. The Chairman has considered the factors set forth in 25 C.F.R. § 575.4 and the written information submitted by the Tribe and finds as follows:
 - i. Economic benefit of noncompliance. Respondents have substantially benefited from noncompliance. Respondents have managed the Tonkawa Bingo and Gaming since November of 1999 without a contract approved by the Chairman of the NIGC. For the years 2000 through 2004, Respondents have been compensated 2.6 million dollars. We have not received audited financial statements for the fiscal year ending December 31, 2005, so we cannot ascertain earnings for that period. Additionally, the \$2.6 million does not reflect benefits paid to Eddie Street, such as travel expenses.
 - ii. 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. Managing a tribal gaming facility without a contract that has been approved by the NIGC Chairman is

a substantial violation. 25 C.F.R. § 573.6(a)(7). The contract approval process allows the NIGC to protect tribes by first performing a background investigation to determine whether a management contract is suitable to be involved in gaming and second to review the terms of a contract to ensure that the tribe is the primary beneficiary of the gaming operation. In this instance, it appears that Eddie Street and Oakland Enterprises, and not the tribe, was the primary beneficiary of the gaming activity.

iii. History of violations. The Chairman has not issued any prior Notices of Violation to the Respondents for this violation or any other violation.

iv. Negligence or willfulness. Respondents' violation in this case was not the result of negligence and was willful. The Respondent was made aware in 1999 that he and his company could not manage a tribal gaming operation without a contract that had been approved by the NIGC Chairman. In 2000, the Respondents were issued a warning notice informing him again that managing without a contract approved by the NIGC Chairman was a violation of IGRA. Additionally, Respondent was verbally warned that managing without a contract approved by the Chairman was a violation of IGRA. Despite these numerous warnings, Respondents continued to manage the Tonkawa Bing and Gaming without an approved management contract.

v. 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. The Tonkawa Tribe complied with the Order of Temporary Closure. To date, Respondents have not contacted the NIGC in anyway.

5. WHEREFORE, the Chairman, having carefully reviewed the above factors, has determined that a fine in the amount of Two Million Six Hundred Thousand Dollars (\$2,600,000.00) is assessed on the Respondent for managing a tribal gaming facility without a contract approved by the Chairman.
6. This fine shall be due in full by March 6, 2007. Checks should be sent to the National Indian Gaming Commission, 1441 L Street, N.W., Suite 9100, Washington D.C. 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. The above-described amount represents an appropriate balancing of the other factors cited above.
8. 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 11th day of April 2006.

Philip N. Hogen
Chairman

John R. Hay
Staff Attorney