

NOTICE OF VIOLATION

VIA FACSIMILE AND CERTIFIED MAIL

Ref. No. : NOV-97-M02  
May 30, 1997

James P. Weisman  
President  
JPW Consultants, Inc.  
3801 North 44th Avenue  
Hollywood, Florida 33021

Respondent

1. The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the JPW Consultants, Inc. (hereafter referred to as "JPW" or the "Respondent"), manager of Seminole Indian Bingo of Hollywood (hereafter referred to as the "Hollywood gaming operation") is in violation of the Indian Gaming Regulatory Act (IGRA) and NIGC regulations<sup>1</sup> as set forth below.
2. The circumstances of the violations are:

The Seminole Tribe of Florida (Tribe) is a federally recognized Indian Tribe. From July 4, 1996, through February 3, 1997, the Tribe has owned a gaming operation known as Seminole Indian Bingo of Hollywood located on tribal lands in Hollywood, Florida. JPW is a Florida corporation engaged in the business of managing gaming operations on Indian lands. During this time, the Tribe's gaming operation has been managed and directed by JPW.

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<sup>1</sup>NIGC regulations are set forth in Chapter III, Title 25, Parts 500-599 of the Code of Federal Regulations. All sections of NIGC regulations cited in this Notice refer to pertinent parts of Title 25. NIGC regulations implement provisions of the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq., signed into law on October 17, 1988.

3. The Respondent is in violation of the NIGC regulations as follows:

(a) Under NIGC regulations a tribe may enter into a management contract for the operation of a class II or class III gaming facility. All management contracts executed after February 22, 1993, are to be submitted to the Chairman of the NIGC for review upon execution. 25 C.F.R. 533.2(b). Such contracts become effective upon approval by the Chairman. Id. at 533.1(a).

JPW's operation of the Hollywood gaming operation fails to meet the requirements of Section 533.1. On May 15, 1996 the Tribe adopted resolution No. C-153-96 approving a management agreement between the Respondent and the Tribe which provided for JPW to manage the Hollywood gaming operation. Under this agreement JPW exercised broad managerial authority over all aspects of the Hollywood gaming operation including the authority to direct and control all casino employees. Since at least July 2, 1996, the Tribe and JPW have been operating under the Agreement and JPW has continuously managed the Hollywood gaming operation from July 2, 1996 to the present date. On February, 7, 1997, the Agreement was submitted to the Chairman of the NIGC.

The Agreement between JPW and the Tribe has never been approved by the Chairman of the NIGC. A management contractor's operation of any gaming facility without a management contract approved by the Chairman pursuant to 25 C.F.R. Part 533 constitutes a substantial violation of NIGC regulations. See 25 C.F.R. 573.6(a)(7). JPW has operated gaming at the Hollywood gaming operation without obtaining approvals necessary to fulfill the provisions of the IGRA and the requirements set forth in Section 533.1 of the NIGC regulations. Accordingly, JPW is unlawfully managing a gaming facility on Indian lands.

(b) Class III gaming is all forms of gaming that are not class I or class II gaming. See 25 C.F.R. 502.4. Class III gaming includes, but is not limited to, any slot machines as defined in 15 U.S.C. 1171(a)(1) and any electronic or electromechanical facsimiles of any game of chance.<sup>2</sup>

Since January 28, 1997, the Respondent has offered video pull tab machines, Superpick lotto machines, and Touch 6 Lotto machines for play at the Hollywood gaming operation. In addition, the Respondent has operated poker games in the Hollywood facility which are not consistent with state limitations. Each of these gaming machines and card games

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<sup>2</sup>An electric or electromechanical facsimile is any gaming device as defined in 15 U.S.C. 1171 (a)(2) and (3). See 25 C.F.R. at 502.8.

constitute a Class III gaming activity under the IGRA and NIGC regulations. The Tribe does not have an approved tribal-State compact with the State of Florida which authorizes the playing of class III machines at the Hollywood gaming operation.

Accordingly, the Respondent is operating class III games in the absence of an approved tribal-state compact in violation of 25 U.S.C. 2710(d) and 25 C.F.R. 573.6(a)(11).

4. The measures required to correct the violations are:

The Respondent shall cease all management and class III gaming activities at the Hollywood gaming operation effective immediately.

5. The violations cited in this Notice of Violation may result in the closure of the Hollywood gaming operation or the assessment of civil fines against the Respondent in an amount not to exceed \$25,000 per violation per day. The Respondent may submit written information about the violation to the Chairman within fifteen (15) days after service of this Notice of Violation (or such period as the Chairman may grant for good cause). Id. at 575.5(a). The Chairman shall consider any information submitted in determining the facts surrounding the violation, and the amount of the civil fine. Such information should be submitted to: Chairman, National Indian Gaming Commission, 1441 L Street, NW, Ninth Floor, Washington, DC 20005.

6. The Respondent may appeal the allegations contained in this Notice of Violation to the full Commission within thirty (30) days after service of this Notice. Id. at 577.3. The Respondent may appeal these allegations by submitting a notice of appeal to the Commission at the address shown in Sec. 5 above. The Respondent has the right to be represented by counsel in such appeal. A notice of appeal must reference this Notice of Violation. Within ten (10) days after filing a notice of appeal, the Respondent must file with the Commission a supplemental statement that states with particularity the relief desired and the grounds therefore and including, when available, supporting evidence in the form of affidavits.

If the Respondent wishes to present oral testimony or witnesses at a hearing, the Respondent must include a request to do so with the supplemental statement. The request to present oral testimony or witnesses and the general nature of their expected testimony, and whether a closed hearing is requested and why. The Respondent may waive the right to an oral hearing and instead elect to have the matter determined by the Commission solely on the basis of written submissions.

7. A copy of the regulations published in the Federal Register on January 22, 1993, is included with this Notice of Violation for your information. The copy contains the full text and explanations of the regulations cited in this Notice of Violation.

*Ada E. Deer*

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Ada E. Deer  
Acting Chair  
National Indian Gaming Commission