

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into by and between the Seminole Nation of Oklahoma (Nation), a federally-recognized Indian Nation, and Jonodev O. Chaudhuri, Chairman of the National Indian Gaming Commission (Chairman), relating to the matters contained in the Notice of Violation No. NOV-16-1.

RECITALS

1. Whereas, under the Indian Gaming Regulatory Act and NIGC regulations, the NIGC Chairman may issue a Notice of Violation (NOV) to any person for violations 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(a).
2. Whereas, NIGC Minimum Internal Control Standards (MICS) regulations, 25 C.F.R. Part 543 are the primary procedures used to protect the integrity of casino funds and games and are a vitally important part of properly regulated gaming. Inherent in gaming operations are risks associated with customer and employee access to cash, questions of fairness of games, and the threat of collusion to circumvent controls. The MICS promote IGRA’s purposes by ensuring that a Nation is the primary beneficiary of the gaming operation and protecting gaming as a means of tribal revenue.
3. Whereas, the MICS require that the Seminole Nation Gaming Agency (SNGA), the Nation’s gaming regulatory body, ensure that Tribal Internal Control Standards (TICS) are both established and implemented that provide a level of control that equals or exceeds those set forth in the NIGC MICS. 25 C.F.R. §543.3(b).
4. Whereas, the Seminole Tribal Gaming Ordinance requires the Nation’s Chief Tribal Regulator to issue regulations to implement TICS. *Seminole Nation of Oklahoma Tribal Ordinance* No. TO-2011-11, Sections 105(a)(4) and 107(b)(5), codified at Title 15 of the SEMINOLE NATION CODE ANNOTATED.
5. Whereas, NIGC regulations also require that the Nation’s gaming operations develop a System of Internal Control Standards (SICS) to implement the TICS, as approved by the SNGA. 25 C.F.R. § 543.3(c). Thus, both the SNGA and the operations have an obligation to ensure the implementation of the TICS.
6. Whereas, on May 20, 2016, the NIGC Chairman issued NOV-16-1 alleging that, for the fiscal years 2012, 2013, and 2014: the SNGA’s internal audit department failed to adequately produce documentation to evidence the work it performed or the conclusions it reached including the documents examined, testing procedures performed, or the persons interviewed for the completion of routine audit checklists. *See* 25 C.F.R. § 543.23(c)(4). Because of this failure, the SNGA internal audit department could not provide sufficient audit evidence to determine whether the

Nation's three gaming operations were in substantial compliance with the TICS. The NIGC also identified 19 separate MICS violations, as more fully set forth in the NOV.

7. Whereas, the NIGC Chairman alleges 22 violations in the NOV¹. The Nation asserts it had cured many but not all of the 19 separate MICS violations and that a good faith factual dispute exists as to the number of the NOV violations the Nation had cured as of June 19, 2016.
8. The Nation and the NIGC have worked, and continue to work to resolve any remaining deficiencies that still exist, and the Chairman now acknowledges that the Nation has made significant progress and improvement resulting in substantial compliance with the 19 separate MICS violations.
9. Whereas, on June 17, 2016 the Nation appealed NOV-16-1, and the Department of Interior's Office of Hearings and Appeals assigned Presiding Official Joshua N. Epstein to the matter on August 25, 2016. Presiding Official Epstein stayed the appeal to give the parties an opportunity to pursue settlement.
10. Whereas, the Nation and the NIGC Chairman desire to resolve this matter without undertaking the burdens, costs, risks and uncertainties associated with formal administrative fact finding and judicial proceedings.
11. Therefore, the NIGC Chairman and the Nation have agreed to execute this Agreement and perform in accordance with the following covenants and conditions:

TERMS OF SETTLEMENT

12. This Agreement shall be effective upon execution by the parties (Effective Date).
13. The term of this Settlement Agreement shall be three years from the Effective Date.
14. The Nation admits each of the 22 allegations in the NOV.
15. The NIGC Chairman acknowledges that, prior to the execution of this Settlement Agreement, the Nation took significant affirmative steps to correct the violations, and that the Nation has corrected 16 of the violations.

¹ The NIGC Chairman asserts that the violations are counted as one violation for each of 2012, 2013, and 2014 internal audit deficiencies, and the 19 specific MICS violations identified in paragraphs 20-37. Due to a typographical error, the NIGC Chairman counted paragraph number 36 twice in the NOV.

16. While such actions represent a significant step toward compliance, the NIGC Chairman requires the following additional corrective actions:
 - A. The Nation must, no later than 60 days from the execution of this Agreement, hire an outside Certified Public Accounting firm, registered with the Oklahoma Accountancy Board, to perform the SNGA's internal audit function required by 25 C.F.R. § 543.23(c). The CPA firm engaged to perform this function shall not be the same CPA firm engaged to perform the external audit required by 25 C.F.R. § 532.23(d). The NIGC will review the engagement letter to ensure that it meets the Statements on Standards for Attestation Engagements and Agreed-Upon Procedures Engagements. At the beginning of each fiscal year, the Nation shall provide the NIGC with its annual internal audit schedule.
 - B. By December 31, 2016, as required by 25 C.F.R. § 543.23(b)(2)(ix), the SNGE must ensure the completion of an annual fixed asset inventory comparison for each of the gaming operations.
 - C. Within 60 days from the execution of this Agreement, as required by 25 C.F.R. § 543.18(c)(4) the SNGA must demonstrate an understanding of the minimum bankroll formula and apply this to ensure an accurate and consistent calculation of the gaming operations' bankroll requirements. The SNGA shall, quarterly, submit the calculation to the NIGC for verification.
 - D. The gaming operations must ensure, pursuant to 25 C.F.R. § 543.24(d)(l)(v), the continued daily footing and tracing of 100% of redeemed bingo vouchers. .
17. The Nation must maintain compliance with NIGC MICS, the TICS, and the three gaming operations' SICS.
18. The Nation must otherwise comply fully with all IGRA and NIGC regulations.
19. The Nation agrees to periodic on-site review by the NIGC to determine substantial compliance, and agrees to allow entry and inspection pursuant to 25 U.S.C. § 2706(b)(2) and 25 C.F.R. §§ 571.5 and 571.6.
20. Failure to comply with any settlement term may result in the immediate closure of one or more of the Nation's three gaming operations by order of the NIGC Chairman. A substantial deficiency in compliance which relates to only one facility will justify a temporary closure order as to only that facility. The Nation may have any closure decision reviewed by the full NIGC Commission. The Nation reserves its right to administrative and federal appeal of any closure order.

21. The Nation and the NIGC Chairman agree that this Agreement fully resolves the Nation's appeal of NOV 16-1 and that Presiding Official Epstein's certification of this Agreement shall constitute dismissal of the appeal and final agency action pursuant to 25 C.F.R. § 584.10(d). To that end, the Nation waives all rights to pursue an appeal of the Presiding Official's order relative to this Agreement; waives all rights to any further proceedings before the NIGC regarding this matter; and waives all rights to judicial review of NOV 16-01. These waivers do not affect the Nation's right to appeal a closure order that may result from failure to comply with any settlement term, as discussed in paragraph 19, above.
22. After the Effective Date, the NIGC Chairman shall transmit a copy of the Settlement Agreement to Presiding Official Epstein and shall request that he certify this Agreement and dismiss the administrative appeal. The Nation consents to the motion to certify the Settlement Agreement and the NIGC may represent that such consent is given.
23. The Chairman agrees that, upon execution of this Agreement, the NIGC shall not institute further proceedings or actions or assess any additional sanctions against the Nation for actions or omissions arising out of, or related to, the subject matter of NOV 16-1 and occurring prior to the Effective Date.

ADDITIONAL COVENANTS

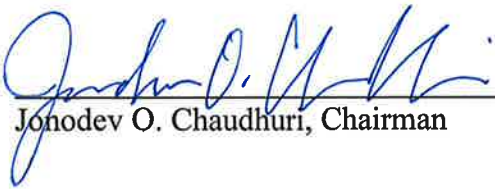
24. This Agreement constitutes the entire agreement between the NIGC Chairman and the Nation relating to NOV 16-01, and supersedes all prior verbal or written agreements and understandings between the parties related to the subject matter hereof. No warranties, representations, covenants, or agreements shall be binding upon any party except as set forth herein. Any modification or waiver of any term of this Agreement must be in writing and signed by all the parties.
25. The NIGC Chairman and the Nation expressly agree and acknowledge that time is of the essence in this Agreement. The recitals herein and above set shall be binding upon the parties, their agents, heirs, personal representatives, successors and assigns.
26. The parties agree that, after the Effective Date, this Agreement shall be a public document and may be published or disclosed by either party.
27. This Agreement may be executed on one or more counterparts and each shall constitute an original. 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 Seminole Nation of Oklahoma

By: 
Leonard M. Harjo, Principal Chief

Date: 12-8-16

For the National Indian Gaming Commission:

By: 
Jonodev O. Chaudhuri, Chairman

Date: 12/13/16

SEMINOLE NATION OF OKLAHOMA

TR 2016-103

A TRIBAL RESOLUTION OF THE SEMINOLE NATION OF OKLAHOMA AUTHORIZING THE EXECUTIVE DEPARTMENT TO EXECUTE A SETTLEMENT AGREEMENT WITH THE NATIONAL INDIAN GAMING COMMISSION (NIGC) TO RESOLVE NIGC NOTICE OF VIOLATION NO. NOV-16-1

BE IT RESOLVED BY THE SEMINOLE NATION COUNCIL ASSEMBLED:

WHEREAS, the Seminole Nation of Oklahoma is federally recognized by the Secretary of the Interior as a Native American Tribe for the purpose of government to government relations, as evidenced by publication: Indian Entities Recognized and Eligible to Receive Services from the U.S. Bureau of Indian Affairs, 79 Fed. Reg. 4,748 (Jan. 29, 2014);

WHEREAS, Article V of the Seminole Nation Constitution empowers the General Council to negotiate with federal, state, and local governments and others on behalf of the Nation, and to enter into any contract on behalf of the Nation in conjunction with any activity that will further the well-being of the members of the Nation;

WHEREAS, the Nation conducts Indian gaming pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701, et seq. and subject to regulation by the NIGC;

WHEREAS, on May 20, 2016, pursuant to its statutory and regulatory authority, the NIGC issued NOV-16-1 to the Nation, alleging that the Nation's gaming operation had committed a number of Minimum Internal Control Standards (MICS) violations;

WHEREAS, on June 17, 2016 the Nation appealed NOV-16-1 to the Department of Interior's Office of Hearings and Appeals, and thereafter the appeal was stayed to give the parties an opportunity to pursue settlement;

WHEREAS, the Nation and NIGC have worked to negotiate terms of a settlement of the dispute, resulting in a proposed settlement as set forth in the attached document;

WHEREAS, the Nation has proposed and the NIGC is considering certain revisions to the proposed settlement terms pertaining to the sample size for sampling of monthly footing and tracing of redeemed bingo vouchers so as to make the terms more practical and desirable to the Nation; and

WHEREAS, the Nation desires to resolve this matter without undertaking the burdens, costs, risks and uncertainties associated with formal administrative fact finding and judicial proceedings.

NOW THEREFORE BE IT RESOLVED, that the General Council of the Seminole Nation of Oklahoma hereby authorizes the Principal Chief to negotiate the final details of and execute a settlement agreement with the NIGC on terms substantively equivalent or more favorable to the Nation than those contained in the attached proposed settlement document in order to fully and finally resolve the dispute arising from NOV-16-1.

CERTIFICATION

PASSED AND APPROVED by the General Council of the Seminole Nation of Oklahoma this 3th day of December 2016, at Mekukey Mission, South of Seminole, Oklahoma, by a vote of 23 Yes, 0 No, and 2 Abstaining, a quorum of Fifteen (15) Council members being present.


Leonard M. Harjo, Principal Chief
Seminole Nation of Oklahoma

ATTEST:


Alvina Coker, General Council Secretary
General Council, Seminole Nation of Oklahoma

