



JUL 12 2007

The Honorable Maurice A. John, Sr., President  
Seneca Nation of Indians  
P.O. Box 231  
Salamanca, NY 14779  
Fax: (716) 945-1565

**Re: Approval, Seneca Nation of Indians' Class III Gaming Ordinance**

Dear President John:

This letter responds to your request that the National Indian Gaming Commission (NIGC) Chairman review and approve the amended Seneca Nation of Indians Class III Gaming Ordinance of 2002 (the Ordinance), enacted by the Seneca Nation Council by Resolution No. R-06-09-07-20 on June 9, 2007. Aside from the new definition of "Nation Lands," the Ordinance is identical to the prior approved Nation gaming ordinance and, as amended, is consistent with the requirements of the Indian Gaming Regulatory Act (IGRA) and the NIGC's implementing regulations. Accordingly, the Ordinance is hereby approved.

The Ordinance's definition of "Nation Lands" now contains a site-specific legal description of two parcels consisting of approximately nine acres in Buffalo, New York. The definition also states that the land specified is held by the Seneca Nation of Indians in restricted fee pursuant to the Seneca Nation Land Claims Settlement Act (SNSA). As the Nation acquired the Buffalo Parcels in 2005, this proposed definition requires me to determine the applicability of IGRA's "settlement of a land claim" exception to the general prohibition against gaming on lands acquired into trust after October 17, 1988. 25 U.S.C. § 2719(a). I conclude that the settlement of a land claim exception applies and the lands are eligible for Indian gaming.

**Indian Lands**

The IGRA and NIGC regulations permit gaming only on Indian lands. *See* 25 U.S.C. § 2701(5); 25 U.S.C. § 2702(3), and; 25 C.F.R. § 501.2. "Indian Lands" is defined as:

- (a) Land within the limits of an Indian reservation; or
- (b) Land over which an Indian tribe exercises governmental power and that is either --

- (1) Held in trust by the United States for the benefit of any Indian tribe or individual; or
- (2) Held by an Indian tribe or individual subject to restriction by the United States against alienation.

25 C.F.R. § 502.12

The parcels described in the Ordinance are not within the limits of the Nation's reservation land nor have they been taken into trust by the Secretary of Interior on behalf of the Nation. As such, in order to qualify as Indian lands, the Nation must exercise governmental power over the parcels and hold them subject to restriction by the United States against alienation. I find that the Buffalo parcels meet both criteria.

#### **Restricted Fee**

The SNSA, passed in 1990, settled disputes over certain leases between the Seneca Nation and the village of Salamanca, NY, 25 U.S.C. §1774(b), and appropriated \$60,000,000 to the Nation, 25 U.S.C. §1774d. The SNSA allows the Nation to use settlement funds to acquire "land within the aboriginal area in New York or situated within or near proximity to former reservation lands." 25 U.S.C. 1774f(c). The SNSA then provides that land so acquired will be held in restricted fee:

Unless the Secretary determines within 30 days after the comment period that such lands should not be subject to the provisions of section 2116 of the Revised Statutes (25 U.S.C. 177), such lands shall be subject to the provisions of that Act [section] and shall be held in restricted fee status by the Seneca Nation.

The Department of the Interior has certified that, according to the provisions of the SNSA, the land described in the Ordinance passed into restricted fee by operation of law on December 2, 2005.<sup>1</sup> Because the Department of the Interior is the agency charged with administering the SNSA, *see, Passamaquoddy Tribe v. Maine*, 75 F.3d 784, 794 (D.Me. 1996), the NIGC defers to its determination that the land acquisition met the requirements of the SNSA to be taken into restricted fee. In addition to the Department of the Interior's certification, the U.S. District Court for the Western District of New York held; "The land in the City of Buffalo at issue in this case was purchased by the SNI in 2005 and is held in 'restricted fee'--*i.e.*, it is subject to restriction by the United States against alienation." *Citizens Against Casino Gambling v. Kempthorne*, 471 F.Supp. 2d 295, 304. As restricted fee land, the parcels are held by the Nation subject to restriction by the U.S. against alienation and, therefore, conform to the first requirement of IGRA's "Indian Lands" definition.

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<sup>1</sup> In addition to the verification that the land is held by the Nation in restricted fee, the Department of the Interior submitted to the NIGC documentation that the Nation paid the full value of the land specified in the ordinance with SNSA funds.

## **Governmental Power and Jurisdiction**

As to the second requirement, in order to exercise governmental power, a tribe must have jurisdiction to do so. See, e.g., *Rhode Island v. Narragansett Indian Tribe*, 19 F.3d 685, 701-703 (1<sup>st</sup>. Cir 1994), cert. denied, 513 U.S. 919 (1994), superseded by statute on other grounds; *Narragansett Indian Tribe v. National Indian Gaming Commission*, 158 F.3d 1335 (D.C. Cir. 1998) (in addition to having jurisdiction, a tribe must exercise governmental power in order to trigger [IGRA]). Indian tribes are “invested with the right of self-government and jurisdiction over the persons and property within the limits of the territory they occupy.”) *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130, 140 (1982). Tribes are presumed to have jurisdiction within “Indian Country.” *South Dakota v. Yankton Sioux Tribe*, 522 U.S. 329, 343 (1998); *Rosebud Sioux Tribe v. Kneip*, 430 U.S. 584, 613 (1977). Indian country includes lands that have been "validly set apart for the use of the Indians as such, under the superintendence of the Government." *Oklahoma Tax Comm'n v. Citizen Band Potawatomi Indian Tribe*, 498 U.S. 505, 511 (1991). Indian Country includes land held by an Indian tribe in fee subject to a restriction on alienation in favor of the United States. *Yankton Sioux Tribe v. Gaffey*, 188 F.3d 1010, 1022 (1999).

Here, the Nation has jurisdiction over the Buffalo parcels because the Nation holds the land subject to the Federal Government’s restrictions against alienation, thus making it Indian country. As such, it will be eligible for Indian gaming if the Nation exercises government authority over the land.

In the course of my review, I also considered the Secretary’s November 12, 2002, letter to Nation President Cyrus Schindler in which the Secretary concluded that land in Buffalo, New York, taken into restricted fee under the SNSA qualifies as “Indian Land” for purposes of the IGRA. Letter from Gale Norton, DOI, to Cyrus Schindler, Seneca Nation of Indians at 6 (Nov. 12, 2002). In her letter, the Secretary confirmed that the Buffalo parcels will come within IGRA’s definition of “Indian Lands” if the Nation successfully places the parcels in restricted fee and exercises governmental authority over them. *Id.*

IGRA does not specify how a tribe exercises governmental authority, though there are many possible ways in many possible circumstances. For this reason, the Commission has not formulated a uniform definition of “exercise of governmental power,” but rather decides that question in each case based upon all the circumstances. *National Indian Gaming Commission: Definitions Under the Indian Gaming Regulatory Act*, 57 Fed. Reg. 12382, 12388 (1992).

The courts provide useful guidance. The First Circuit found that exercising governmental power involves “the presence of concrete manifestations of...authority.” *Narragansett Indian Tribe*, 19 F.3d at 703. Examples include the establishment of a housing authority, administration of health care programs, job training, public safety, conservation, and other governmental programs. *Ibid.*

Since acquiring the land in 2005, the Nation's Marshal's Office patrols and polices the parcel. The Nation has fenced the site to restrict access and posted signs indicating that site is subject to the Nation's jurisdiction. The Nation has also enacted several ordinances and resolutions applying Nation law to the parcels. In addition to current exercises of governmental power, by operating and regulating gaming, which is a governmental function under IGRA, the Nation will exercise governmental authority over the lands. Because the land described in the Ordinance has been taken into restricted fee and the Nation exercises governmental authority over it, the land meets IGRA's "Indian Lands" definition.

### **Section 20 Prohibition**

The determination of whether the Buffalo parcels are Indian lands, however, is not the end of the inquiry. Section 20 of IGRA, 25 U.S.C. § 2719, generally prohibits gaming on lands acquired in trust after October 17, 1988, and the Buffalo parcels are not eligible for gaming unless one of the numerous exceptions apply. 25 U.S.C. 2179(b)(1). The question here is whether the parcels were taken into restricted fee as part of a settlement of a land claim.

As a preliminary matter, the settlement of a land claim exception states that the prohibition against gaming on after acquired lands will not apply when lands are taken into trust as part of a settlement of a land claim. 25 U.S.C. §2719(b)(1)(B)(i).

Although section 2719 of IGRA refers only to trust land, the NIGC interprets this section to include land held by an Indian tribe in restricted fee. Where statutory language is ambiguous, a court will defer to the NIGC's reasonable interpretation of the language. *U.S. v Seminole Nation of Oklahoma*, 321 F.3d 939, 944 (10<sup>th</sup> Cir. 2002). Section 2719 reveals such an ambiguity when viewed in the context of Congressional intent. The section can only sensibly be read to include trust land and restricted fee lands. IGRA permits tribes to game on restricted fee land over which the tribe exerts governmental power. 25 U.S.C. §2703(4)(b). If section 2719 only applied to trust lands, Tribes could avoid the prohibition against gaming on lands acquired after October 17, 1988, by taking land into restricted fee rather than having the United States take it into trust. It is unlikely that Congress intended to create such an exception.<sup>2</sup>

Because the Buffalo parcels were acquired in restricted fee after October of 1988, the question here is whether they satisfy IGRA's settlement of a land claim exception. Here, again, I defer to the Secretary's existing interpretation. In the November 12, 2002, letter to President Schindler, the Secretary opined that the land taken into restricted fee in

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<sup>2</sup> In support of this conclusion, I point you to the Secretary's previous determination that Congress did not intend to limit the restriction against gaming on after acquired land, or its exceptions, to only trust acquisitions. Lands held in restricted fee pursuant to an act of Congress are also subject to the requirements of Section 2719 of IGRA. Letter from Gale Norton, DOI, to Cyrus Schindler, Seneca Nation of Indians at 7 (November 12, 2002).

Buffalo, NY pursuant to the SNSA would meet the settlement of a land claim exception. Letter from Gale Norton, DOI, to Cyrus Schindler, Seneca Nation of Indians at 7 (Nov. 12, 2002). According to the Secretary, one of the purposes of the SNSA was to “settle some of the Nation’s land claim issues.” *Id.* As such, the Secretary concluded that land acquired pursuant to the SNSA will be exempt from the prohibition on gaming contained in IGRA because it will be acquired as part of the settlement of a land claim, and thus within the exemption in 25 U.S.C. §2719(b)(1)(B)(i). *Id.*

The Secretary’s interpretation is reasonable. The Nation purchased the land with SNSA funds. The Act is entitled the “Seneca Nation (New York) *Land Claims Settlement*,” evincing Congress’s intent to enact the settlement of a land claim. Additionally, IGRA does not define “settlement of a land claim.” The U.S. District Court, in *Wyandotte Nation v. NIGC*, 437 F. Supp. 2d 1193 (2006), held that the plain meaning of “land claim” does not limit such a claim to one for the return of land, but rather, includes an assertion of an existing right to the land. *Id.* at 1208. The existing right that gave rise to the SNSA was the Nation’s property right to control and define the terms of the leases and the use of the land. Based on the above, I agree that the parcels described in the Ordinance were taken into restricted fee pursuant to the settlement of a land claim and are thus eligible for gaming.

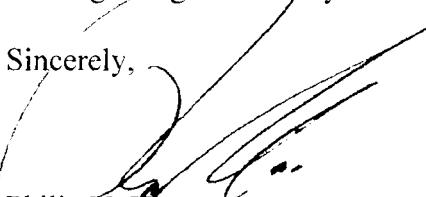
### **Conclusion**

Based on our review of the submitted ordinance, and taking into consideration the Department of the Interior’s earlier decisions regarding the status of the Buffalo parcels, the parcels are Indian lands within the meaning of IGRA and they were acquired through the settlement of a land claim and thus are exempt from the general prohibition on gaming on land acquired after October 17, 1988. Accordingly, the amended Nation Gaming Ordinance is hereby approved.

I realize that a decision and order was issued in the case, *Citizens Against Casino Gambling in Erie County v. Kempthorne, et al.*, 471 F. Supp. 2d 295 (D. NY 2007) remanding the Chairman’s November 2002 approval of the Nation’s gaming ordinance. Although we disagree with the Court’s holding, this site specific ordinance moots the issues in that case.

Thank you for submitting the amended Nation Gaming Ordinance for our review and approval. The NIGC staff and I look forward to working with you and the Nation on future gaming issues. If you have any questions, please do not hesitate to contact me.

Sincerely,

  
Philip N. Hogen  
Chairman

# Seneca Nation of Indians

2007 5/1 NPP

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Clerk - Jacqueline Bowen

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AT THE REGULAR SESSION OF COUNCIL OF  
THE SENECA NATION OF INDIANS HELD ON  
JUNE 09, 2007 AT THE G.R. PLUMMER  
BUILDING ON THE ALLEGANY TERRITORY  
SALAMANCA, NEW YORK, 14779.

CN: R-06-09-07-20

## EXECUTIVES PRESENT:

PRESIDENT -  
CLERK -  
ACTING TREASURER-

MAURICE A. JOHN  
JACQUELINE BOWEN  
TRAVIS JIMERSON

## AMENDING THE DEFINITION OF "NATION LANDS" IN THE SENECA NATION OF INDIANS CLASS III GAMING ORDINANCE / APPROVAL

MOTION: by J. Conrad Seneca, seconded by Linda Doxtator that the Seneca Nation Council approves the following resolution;

WHEREAS, the Indian Gaming Regulatory Act of 1988 ("IGRA"), 25 U.S.C. §§ 2701-2721, requires an approved gaming ordinance as a condition of engaging in gaming activities on Indian lands; and

WHEREAS, the Nation's Council previously adopted and enacted the Seneca Nation of Indians Class III Gaming Ordinance, ("Gaming Ordinance"), which was approved by the Chairman of the National Indian Gaming Commission ("NIGC"); and

WHEREAS, the Gaming Ordinance was subsequently amended, with the most recent amendments having been approved by the Chairman of the NIGC on November 6, 2006; and

WHEREAS, on January 12, 2007, the United States District Court for the Western District of New York in *Citizens Against Casino Gambling in Erie County v. Kempthorne*, vacated that portion (and only that portion) of the NIGC Chairman's approval of the Gaming Ordinance that permits gaming on lands in Buffalo ("Buffalo Parcel"), and remanded the matter to the NIGC for an Indian lands' determination for the Buffalo Parcel; and

WHEREAS, the Nation is of the view that the above referenced decision is erroneous on a number of grounds; and

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WHEREAS, to avoid any further questions or controversy over this matter, the Nation believes it is advisable to amend its Gaming Ordinance to specifically identify the Buffalo Parcel; and

NOW THEREFORE BE IT

RESOLVED, that subsection (u) of Section 4.1 of the Gaming Ordinance be and hereby is repealed and in lieu thereof, the following is hereby promulgated:

(u) "Nation Lands" shall have the meaning found in 25 U.S.C. § 2703(4), and shall also include the Buffalo Parcel, which is the real property in Erie County held by the Seneca Nation of Indians and subject to restrictions by the United States against alienation pursuant to Seneca Nation Land Claims Settlement Act, which is described as follows:

The northern parcel (+/- 4.5 acres) is bounded to the North by Perry Street, to the East by Marvin Street, to the South by the former Fulton Street, and to the West by Michigan Street.

The southern parcel (+/- 4.5 acres) is bounded to the North by the former Fulton Street, to the East by Marvin Street, to the South by South Park Street, and to the West by Michigan Street.

AND BE IT FURTHER

RESOLVED, That the Council authorizes President Maurice A. John, Sr. to submit the foregoing amendments to the Chairman of the NIGC for his review and anticipated approval.

AND BE IT FURTHER

RESOLVED, That the foregoing amendments to the Gaming Ordinance shall become effective immediately upon approval of the Chairman of the NIGC.

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ALL IN FAVOR

MOTION CARRIED

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**CERTIFICATION**

I hereby certify the foregoing extract is a true and correct copy from the minutes of the Regular Session of Council of the Seneca Nation of Indians held on June 09, 2007, on the Allegany Territory, original of which is on file in the Clerk's Office of the Seneca Nation of Indians.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the seal to be affixed at the G.R. Plummer Building, on the Allegany Territory, on the 13<sup>th</sup> day of June 2007.

AMENDING THE DEFINITION OF "NATION" LANDS" IN THE SENeca NATION OF INDIANS  
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*Jacqueline Bowen, Clerk*  
SENeca NATION OF INDIANS  
ATTEST:

{SEAL}

## **SENECA NATION OF INDIANS CLASS III GAMING ORDINANCE**

### **GENERAL PROVISIONS**

#### **SECTION 1 - SHORT TITLE**

This Law may be cited as the "Seneca Nation of Indians Class III Gaming Ordinance".

#### **SECTION 2 - DECLARATION OF TRIBAL POLICY**

§2-1 It is the policy of the Seneca Nation of Indians, hereinafter referred to as "Nation":

- (a) That the Nation shall have the sole proprietary interest in and responsibility for the conduct of any Nation Gaming Operation;
- (b) That all gaming operations on Nation Lands shall be conducted by the Nation, through employees of the Nation or its Management Contractors only;
- (c) That it is the objective of this Law to provide revenue to promote (i) Nation economic development and self-sufficiency and (ii) the health, education, and welfare of Nation members; and
- (d) That the gaming activities provided for by this Law on lands of the Nation shall be conducted in conformance with the requirements of this Law, the Nation-State Gaming Compact Between the Seneca Nation of Indians and the State of New York, the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §§ 2701, et seq., and National Indian Gaming Commission regulations.

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S / MNP*

#### **SECTION 3 – FINDINGS**

§3-1 The Tribal Council finds that —

- (a) Class III gaming may be conducted on lands of the Nation by reason of the fact that the Nation and the State of New York have entered into a gaming compact pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701, et seq.

#### **SECTION 4 – DEFINITIONS**

§4-1 For the purpose of this Law, the following definitions shall apply:

- (a) "Act" shall mean the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701, et seq.
- (b) "Appendix" shall mean an appendix to the Compact. "Appendices" shall mean more than one Appendix.

- (c) "Applicant" shall mean any person who completes an application with the Nation for a gaming license.
- (d) "Chairman" shall mean the Chairman of the National Indian Gaming Commission or his or her designee.
- (e) "Cheating" shall mean operating or playing in a game in a manner in violation of the written or commonly understood rules of the game, with the intent to create for himself/herself or someone in privity with him/her an advantage over and above the chance of the game.
- (f) "Class III Gaming" shall have the meaning found in 25 U.S.C. § 2703(8).
- (g) "Class III Gaming Key Employee" shall mean those employees designated in the gaming operations pursuant to 25 C.F.R. § 502.14, and as defined in Section 1(f) of the Compact.
- (h) "Class III Gaming Primary Management Official" shall mean those employees designated in the gaming operations pursuant to 25 C.F.R. § 502.19.
- (i) "Class III Gaming Service Enterprise" means an entity or individual, other than a Class III Gaming Employee, that provides Class III Gaming services, Class III Gaming supplies or Class III Gaming equipment to a Nation Gaming Operation.
- (j) "Collateral Agreement" shall mean any contract, whether or not in writing, that is related, either directly or indirectly, to a Management Contract, or to any rights, duties, or obligations created between the Nation (or any of its members, entities, or organizations) and a Management Contractor or subcontractor (or any person or entity related to a Management Contractor or subcontractor).
- (k) "Council" shall mean the Tribal Council as described in Section I of the Constitution of the Seneca Nation of Indians.
- (l) "Gaming Facility" means those portions of a structure in which the Nation conducts Class III Gaming pursuant to this Compact. For purposes of this definition, a Gaming Facility shall be deemed to include only those areas of a structure that the Nation uses for Class III Gaming operations. Notwithstanding the foregoing, no areas of a structure exclusively used for Class I or Class II gaming or for non-gaming activities shall be considered part of a Gaming Facility.
- (m) "Gaming License" shall mean the permit granted by the Nation to an applicant for employment with a gaming operation.
- (n) "Gross Gaming Revenues" shall mean the total amount of money wagered less amounts paid out to winners or for prizes.

- (o) "In privity with" shall mean one who acts jointly with another or as an accessory before the fact to an act committed by the other or as a co-conspirator with the other.
- (p) "Management Contract" shall mean any contract, subcontract, or Collateral Agreement between the Nation and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.
- (q) "Management Contractor" shall mean the person or entity holding a contract entered into pursuant to 25 U.S.C. § 2711.
- (r) "Minor" shall mean a person less than eighteen (18) years of age.
- (s) "Nation" means the Seneca Nation of Indians.
- (t) "Nation Gaming Operation" shall mean the enterprise, business or entity operated or authorized by the Nation to operate or conduct any form of Class III gaming on Nation Lands pursuant to the Compact; provided, however, that the Compact shall apply to operations of such enterprise, business or activity only to the extent that such operations are directly related to Class III Gaming undertaken by the Nation pursuant to the Compact.
- (u) "Nation Lands" shall have the meaning found in 25 U.S.C. § 2703(4), and shall also include the Buffalo Parcel, which is the real property in Erie County held by the Seneca Nation of Indians and subject to restrictions by the United States against alienation pursuant to Seneca Nation Land Claims Settlement Act, which is described as follows:
- The northern parcel (+/- 4.5 acres) is bounded to the North by Perry Street, to the East by Marvin Street, to the South by the former Fulton Street, and to the West by Michigan Street.
- The southern parcel (+/- 4.5 acres) is bounded to the North by the former Fulton Street, to the East by Marvin Street, to the South by South Park Street, and to the West by Michigan Street.
- (v) "Net revenues" shall have the meaning as set forth in 25 C.F.R. § 502.16.
- (w) "NIGC" shall mean the National Indian Gaming Commission established pursuant to the Act.
- (x) "Person" shall mean any individual, firm, partnership, corporation, company, or association.
- (y) "Person having management responsibility for a Management Contract" shall mean the person designated in the Management Contract as having management responsibility for the gaining operation, or a portion thereof.

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Deleted: "Nation Lands" shall have the meaning found in 25 U.S.C. § 2703(4)

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- (z) "Secretary" means the Secretary of the Interior.
- (aa) "Seneca Gaming Authority" or "SGA" shall mean the entity established by the Nation responsible for regulating Class III Gaming undertaken by the Nation pursuant to the Compact.
- (bb) "State Gaming Officials" or "SGO" means the officials designated by the State to fulfill the State's responsibility to ensure Nation Gaming Operation and SGA compliance with the terms of the Compact.

## **SECTION 5 - SENECA GAMING AUTHORITY**

§5-1 The Council of the Nation establishes the Seneca Gaming Authority (SGA) for the purpose of regulating Class III gaming conducted on Nation Lands.

- (a) The SGA is recognized as a governmental arm of the Nation and shall perform an essential governmental function which is hereby designated to the SGA by the Nation Council. Commissioners and employees of the SGA shall be recognized as performing said essential governmental functions on behalf of the Nation.
- (b) The SGA shall be comprised of five (5) commissioners to be selected by the Council.
- (c) A vote of at least three commissioners shall constitute a valid vote (quorum) by the SGA.
- (d) The commissioners shall have a staggered term of employment with three (3) of the commissioners having an initial term of four (4) years and two (2) of the commissioners having a term of two (2) years. Compensation for the commissioners shall be established by the Council. Removal of a commissioner shall be for cause which shall be defined by resolution of the Council.
- (e) The commissioners shall have the experience in the gaming industry and the education that will enable them to immediately regulate the Nation's gaming enterprises.
- (f) The funds for the operation of the SGA shall be appropriated from the general fund of the Nation.
- (g) The SGA shall be the exclusive regulatory body for the Nation Gaming Operations' activities and operations conducted in a Gaming Facility pursuant to the Compact. The SGA shall have unrestricted access to all aspects of the Nation Gaming Operations.

§5-2 The SGA shall have responsibility for the on-site regulation of Class III Gaming undertaken by the Nation pursuant to the Compact. The purpose of the SGA is regulatory, not

managerial. The SGA will conduct oversight to ensure compliance with the Nation laws, the Compact and its Appendices, the Act, NIGC regulations, and, if applicable, State laws and regulations. The SGA will serve as the licensing authority for individuals employed in the Nation Gaming Operation and will administer an effective program for background investigations as part of the licensing process, consistent with the Compact and its Appendices. The SGA will also have a role in monitoring compliance with the internal control standards for the Nation Gaming Operation and in tracking revenues. In order to carry out its regulatory duties, the SGA shall have unrestricted access to all areas of the Nation Gaming Operation and to all records. The SGA shall have clear authority to take enforcement actions, including suspension or revocation of an individual gaming license, when appropriate.

§5-3 The Nation recognizes the importance of an independent SGA in maintaining a well-regulated gaming operation. The SGA shall be and act independently and autonomously from the Nation Council in all matters within its purview. No prior or subsequent review by the Nation Council of any actions of the SGA shall be required or permitted except as otherwise explicitly provided in this Law. To avoid potential conflicts of interest between the operation and regulation of the Gaming Facility, the Nation hereby finds that, at a minimum:

- (a) No member of the Nation Council may serve on the SGA;
- (b) No member directly related to or living with any Nation Council member may serve on the SGA;
- (c) SGA commissioners are prohibited from gambling in Nation Gaming Operations; and
- (d) SGA commissioners are prohibited from accepting complimentary items from the Nation Gaming Operations.

§5-4 SGA positions shall be filled by appointment by the Nation Council. Nominees for positions on the SGA must satisfy the suitability standards set forth for Class III Gaming Employees. Such background investigation shall be performed under the direction of the Nation Council or designated official, and as consistent with the Compact and its Appendices.

§5-5 The SGA shall have the power and responsibility to:

- (a) administer the provisions of this Law;
- (b) conduct or cause background investigations to be conducted on all employees of the Nation Gaming Operation;
- (c) issue and renew gaming licenses as provided in this Law and consistent with the Compact and its Appendices, and in any regulation which may be promulgated by the SGA;

- (d) obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;
- (e) revoke, suspend, or condition a gaming license or deny an application for a license for violation of applicable law or Law regulating gaming, or conviction of any offense involving a gaming related crime or moral turpitude;
- (f) collect fees and interest as provided for in this Law;
- (g) assess and collect penalties provided for in this Law;
- (h) adjust the respective amounts of the annual license fees, provided that such fees shall not be increased retroactively;
- (i) audit or cause to be audited expenditures, receipts, and reports of a licensee responsible for managing a Nation Gaming Operation;
- (j) review, on demand, such books and records and inspect the premises and operations of licensees as it deems necessary for the enforcement of this Law;
- (k) draw up such forms as it deems necessary;
- (l) ensure compliance with the Compact and its Appendices, and all Nation, State, and Federal laws, rules and regulations regarding Indian gaming;
- (m) investigate any suspicion of wrongdoing associated with any gaming activities;
- (n) comply with any and all reporting requirements under Nation law, the Act, the Compact and its Appendices, NIGC regulations, and any other applicable law;
- (o) promulgate and issue rules and regulations regarding the conduct of Class III gaming, including compliance with the Compact and its Appendices, Nation law, the Act, and NIGC regulations.
- (p) promulgate and issue regulations on the levying of any fees and/or taxes associated with gaming license applications;
- (q) promulgate and issue regulations on the levying of fines and/or suspension or revocation of gaming licenses for violations of this Law, the Compact and its Appendices, or any other Tribal, State, or NIGC regulations;
- (r) to approve Nation Gaming Operation policies and procedures so as to ensure compliance with this Law, the Compact and its Appendices, the Act, NIGC regulations, or any other applicable law;

- (s) institute such legal proceedings in the name of the Nation in a court of competent jurisdiction as it deems necessary for the enforcement of this Law;
- (t) conduct hearings provided for in this Law;
- (u) deposit all fees, penalties, and interest collected under authority of this Law into an account to the credit of the Nation;
- (v) maintain a correct and full accounting of all fees, penalties, and interest received under authority of this Law, and provide a monthly record of that accounting;
- (w) perform such other duties the SGA deems necessary to properly and fully perform its duties and responsibilities under this Law, the Compact and its Appendices, the Act, NIGC regulations, and any other applicable law; and
- (x) administer, enforce, and interpret the provisions of the Seneca Nation of Indians Class II Gaming Law of 1994 and any amendments thereto or replacements thereof.

§5-6 The SGA shall ensure that all records and information obtained as a result of an employee background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing process. Under no circumstances shall information obtained during the course of an employee background investigation be disclosed to members of management, human resource personnel or others employed by the Nation Gaming Operation. This Section does not apply to requests for such information or records from any Tribal, Federal or state law enforcement or regulatory agency, or for the use of such information or records by the SGA and staff in the performance of their official duties.

§5-7 The following persons are not eligible to serve on the SGA: Nation Council members, while serving as such; employees of the Nation Gaming Operation, while serving as such; gaming contractors (including any principal of a management or other contracting company); persons directly related to any of the above; persons ineligible to be employees; persons convicted of a felony of embezzlement, of theft, or of any other money-related crime or honesty-related crime (such as fraud). The Nation Council shall require a criminal history check with appropriate law enforcement agencies and shall review this criminal history report and make an appropriate suitability determination before appointing an individual to a position on the SGA.

§5-8 The independence of the SGA is essential to a well-regulated gaming operation. For that reason, SGA commissioners may only be removed from office by the Nation Council prior to the expiration of their respective terms for neglect of duty, misconduct, malfeasance, or other acts that would render a member of the SGA unqualified for his/her position. Any allegations of neglect of duty, misconduct, malfeasance, or other acts that would render him or her unqualified for his/her position must be substantiated by a preponderance of the evidence. SGA commissioners will be given an opportunity to provide evidence rebutting the grounds for their proposed removal before the removal is considered. A vote of the Nation Council on the validity of the removal shall be final and not subject to further appeal. A wrongful removal shall entitle

the affected SGA commissioner to compensation for expenses incurred in an appeal and any pay withheld.

§5-9 A vote of at least 3 members of the SGA shall constitute a valid vote (quorum) by the SGA.

§5-10 SGA commissioners shall be compensated at a level determined by the Nation Council. This compensation shall be included in the Nation Gaming Operation's annual estimated budget, and shall be approved by the Nation Council.

## **SECTION 6 - GAMES AUTHORIZED**

§6-1 The Nation shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation.

§6-2 The Nation shall conduct only those Class III games specifically listed in Appendix A of the Compact, in accordance with the specifications set forth in Appendices A and B.

## **SECTION 7 - GAMING LICENSES REQUIRED**

§7-1 A separate gaming license is required for:

- (a) each person having a Management Contract;
- (b) each Class III Gaming Key Employee, Class III Gaming Primary Management Official, Class III Gaming Employee, and Non-Class III Gaming Employee of the Nation's Gaming Operation (collectively referred to as "employees");
- (c) each Class III Gaming Service Enterprise, each Non-Class III Gaming Enterprise, and each Nation Gaming Operation on Nation Lands at which Class III gaming is conducted.

## **SECTION 8 - APPLICATION FOR GAMING LICENSES**

§8-1 Each person having a Management Contract, each Class III Gaming Key Employee and Class III Gaming Primary Management Official whether employed by the Management Contractor or directly by the Nation, and all other employees shall complete an application for an initial gaming license or renewal of an existing gaming license for each Gaming Facility on an application form prescribed by the SGA. The application shall set forth:

- (a) the name under which the applicant transacts or intends to transact business on Nation Lands; and
- (b) the location of the Gaming Facility for which the gaming license is sought; and

(c) the application shall be signed by the applicant if a natural person, or, in the case of an association or partnership, by a member or partner thereof, or in the case of a corporation, by executive officer thereof, or by some other person specifically authorized by the corporation to sign the application, in which case written evidence of the signatory's authority shall be attached. The applicant shall provide evidence of authority of the signatory or any other representative to act for and bind the applicant. If any change is made in that authority, the SGA shall be immediately informed in writing and, until that information is filed with the SGA, any action of the representative shall be presumed to be that of the applicant.

§8-2 Each application shall be accompanied by payment of the appropriate annual license fee, and an appropriate fee to cover the cost of the background investigation conducted pursuant to Section 11 below.

§8-3 The Management Contractor shall file along with the application an organizational chart of its management organization and job descriptions of the employees of the Nation Gaming Operation. The chart shall identify which employees are or will be the Class III Gaming Primary Management Officials and the Class III Gaming Key Employees of the Nation Gaming Operation.

§8-4 An application for a gaming license shall include:

(a) a description of the place, facility, or location on Nation Lands where the applicant will operate a gaming operation or provide Class III Gaming related service, Class III Gaming related supplies or Class III Gaming related equipment to the Nation Gaming Operation, or where the applicant will be employed.

(b) the following privacy notice prescribed by 25 C.F.R. § 556.2:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. § 2701, et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by NIGC members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by the Nation or the NIGC in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a Nation or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in the Nation's being unable to hire you in a employee position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

(c) the following notice regarding false statements are prescribed by 25 C.F.R. § 556.3:

"A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment (U.S. Code, Title 18, Section 1001)."

(d) the following background investigation information from each employee and each Class III Gaming Key Employee and Class III Gaming Primary Management Official:

(1) full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);

(2) currently and for the previous ten (10) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;

(3) the names and current addresses of at least five (5) personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (d)(2) of this Section;

(4) current business and residence telephone numbers;

(5) a description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

(6) a description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

(7) the name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

(8) for each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;

(9) for each misdemeanor conviction or on-going misdemeanor prosecution (excluding minor traffic violations), within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition;

(10) for each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraph (d)(8) or (d)(9) of

this Section, the criminal charge, the name and address of the court involved, and the date and disposition;

(11) the name and address of any licensing or regulatory agency with which the applicant has filed an application for an occupational license or permit, whether or not such license or permit was granted;

(12) a current photograph;

(13) a complete history of the applicant's educational background, including the names of any colleges, universities, trade or vocational schools, and high schools attended;

(14) fingerprints of the applicant to be taken by the Seneca Nation department of law enforcement a state or federal law enforcement agency, for a criminal history check. A criminal history check will include a check of criminal history records information maintained by the Federal Bureau of Investigation pursuant to 25 C.F.R. § 522.2(h);

(15) a statement authorizing law enforcement agencies and prior employers to release information and respond to questions relating to the applicant's records.

(16) all applicants are required to submit to a drug screening test and, if employed, random screening tests thereafter;

(17) any other information that is required by the Compact or its Appendices; and

(18) any other information the SGA deems relevant.

§8-5 Each applicant for a gaming license who has or will have a contract with the Nation to manage a Nation Gaming Operation shall state whether or not he/she already has a Management Contract to operate any Indian or non-Indian gaming operation and, if so, a description of the location of each such operation.

§8-6 A Management Contractor's application shall include information required by 25 U.S.C. § 2710(d) and 25 C.F.R. § 537.1.

§8-7 Existing employee shall be notified in writing that they shall either:

(a) complete a new application form that contains the Privacy Act notice described in Section 8-4(b) above; or

(b) sign a statement that contains the Privacy Act notice described in Section 8-4 (b) above and consent to the routine uses described in that notice.

**§8-8** When a Class III Gaming Key Employee or Class III Gaming Primary Management Official begins work at a Nation Gaming Operation the SGA shall forward a copy of the person's completed application for a gaming license to the NIGC.

## **SECTION 9 - QUALIFICATIONS FOR GAMING LICENSES**

**§9-1** The SGA may issue or renew a gaming license to an applicant who submits a proper and completed application and pays the appropriate annual license fee consistent with the Compact and its Appendices.

**§9-2** Subject to the requirement of payment of annual license fees and the requirements contained in the Compact and its Appendices, each gaming license shall be valid for two (2) years from the date of issuance, provided that, in the discretion of the SGA, a gaming license may be granted for a term to run concurrently with the term of a Management Contract.

**§9-3** A gaming license may not be assigned or transferred and is valid only for use by the person in whose name it is issued and at the Nation Gaming Operation for which it is issued. A gaming license shall be conspicuously displayed at all times at the Nation Gaming Operation for which issued.

**§9-4** Final decisions as to whether a gaming license shall be issued, suspended, or revoked shall be made in accordance with Appendices C, D, and E.

## **SECTION 10 - GAMING LICENSE FEES**

**§10-1** The annual fee for each gaming license issued pursuant to this Law shall be set by regulations promulgated by the SGA. In setting the license fee the SGA shall take into consideration the following items:

- (1) cost of the background investigation;
- (2) administrative cost to the SGA; and
- (3) the applicant's status as Management Contractor, Class III Gaming Primary Management Official, Class III Gaming Key Employee or employee;

**§10-2** The SGA may waive the annual fee on a case-by-case basis.

## **SECTION 11 - BACKGROUND INVESTIGATIONS**

**§11-1** As provided in Appendix C, the SGA shall conduct, or cause to be conducted, a background investigation of each applicant for a position which is designated as a Class III Gaming Key Employee or Class III Gaming Primary Management Official sufficient to make a qualification determination under Section 9 above and paragraph 6 of Appendix C. This shall include verification of information submitted by the applicant. The background investigation will also document all potential problem areas noted, and any disqualifying information. In

conducting the investigation, the SGA shall keep confidential the identity of each person interviewed in the course of the investigation.

§11-2 The procedures set forth in Appendix C regarding background investigations are made applicable here by reference.

§11-3 The SGA shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a Class III Gaming Key Employee or Class III Gaming Primary Management Official for employment in a Nation Gaming Operation. If the SGA determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a Nation Gaming Operation shall not employ that person in a Class III Gaming Key Employee or Class III Gaming Primary Management Official position.

§11-4 Investigative Reports.

- (a) The SGA shall prepare or cause to be prepared, and forward to the NIGC an investigative report summarizing each background investigation of a Class III Gaming Key Employee or Class III Gaming Primary Management Official that the Nation intends to employ.
- (b) The SGA shall forward an investigative report to the NIGC within sixty (60) days after a Class III Gaming Key Employee or Class III Gaming Primary Management Official begins work or within sixty (60) days of the approval of this Law by the NIGC.
- (c) Each investigative report shall include the following:
  - (1) the steps taken in conducting the background investigation;
  - (2) the results obtained;
  - (3) the conclusions reached; and
  - (4) the basis for those conclusions.
- (d) The SGA shall submit to the NIGC, along with the investigative report, a summary of the SGA's qualification determination made under Section 9 above and paragraph 6 of Appendix C.
- (e) if a gaming license is not issued to an applicant, the SGA:
  - (1) shall notify the NIGC; and

- (2) may forward copies of its qualification determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.
- (f) With respect to Class III Gaming Key Employees and Class III Gaming Primary Management Officials, the SGA shall retain applications for gaming licenses and reports (if any) of background investigations for inspection by the Chairman or his or her designees for no less than three (3) years from the date of termination of employment.
- (g) A Nation Gaming Operation shall not employ as a Class III Gaming Key Employee or Class III Gaming Primary Management Official a person who does not have a gaming license ninety (90) days after a license application has been submitted.

#### **§11-5 Granting a Gaming License**

- (a) If, within a thirty (30) day period after the NIGC notifies the SGA that it has no objection to the issuance of a gaming license pursuant to a license application filed by a Class III Gaming Key Employee or a Class III Gaming Primary Management Official for whom the SGA has provided an application and investigative report to the NIGC, the SGA may issue a license to such applicant.
- (b) If, within the thirty (30) day period described in Subsection (a) above, the NIGC provides the SGA with a statement itemizing objections to the issuance of a gaming license to a Class III Gaming Key Employee or to a Class III Gaming Primary Management Official application, the SGA shall reconsider the application, taking into account the objections itemized by the NIGC. The SGA shall make the final decision whether to issue a gaming license to such applicant, consistent with the Compact and its Appendices.

#### **§11-6 Gaming License Suspension**

If, after the issuance of a gaming license, the SGA receives from the NIGC reliable information indicating that a Class III Gaming Key Employee or a Class III Gaming Primary Management Official is not eligible for employment under Section 9 of this Law, the Nation shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

### **SECTION 12 - USE OF NET REVENUES**

**§12-1** Net revenues from gaming permitted under this Law shall only be expended for one or more of the following purposes:

- (a) to fund the Nation's government operations or programs;
- (b) to provide for the general welfare of the Nation and its members;

- (c) to promote economic development;
- (d) to donate to charitable organizations; or
- (e) to support operations of local governmental agencies.

§12-2 If the Council elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary pursuant to 25 U.S.C. § 2710(b)(3).

## **SECTION 13 - RECORDS AND REPORTS**

§13-1 A Nation Gaming Operation shall keep 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 prepared pursuant to the Compact and its Appendices, the Act and NIGC regulations.

§13-2 No later than the thirtieth (30th) day of each month, each gaming operator shall provide, in a report form prescribed by the SGA, a statement of gross revenues, assemble gross revenue and net revenues received or collected at each Nation Gaming Operation during the immediate preceding month.

§13-3 The Nation Gaming Operation shall maintain, in a climate controlled place secure from theft, loss, or destruction, adequate records of its business and accounting operations. The Nation Gaming Operation shall make the records available to the SGA, the SGO, and NIGC officials upon request. The Nation Gaming Operation shall retain the records for not less than seven (7) years. The records shall include, but not be limited to, the records identified in Appendix B.

§13-4 The Nation Gaming Operations shall also comply with the relevant provision of the Compact and its Appendices relating to reports and records.

## **SECTION 14 - ANNUAL AUDIT**

§14-1 The SGA shall cause to be conducted, at least annually, an independent audit of the books and records of each Nation Gaming Operation.

- (a) Audit Standards. The Nation shall engage an independent certified public accountant, licensed in New York to provide an annual audit of the financial statements of each gaming operation on Nation Lands. Such financial statements shall be prepared in accordance with generally accepted accounting principles and the audit(s) shall be conducted in accordance with generally accepted auditing standards. Audit(s) of the gaming operation required under this Section may be conducted in conjunction with any other independent audit of the Nation, provided that the requirements set forth in NIGC regulations are met.

(c) Copies of Audit Reports. The Nation shall submit to the SGA and the NIGC a copy of the audit report(s) and management letter(s) setting forth the results of each annual audit within one hundred twenty (120) days after the end of each fiscal year of the gaming operation(s) resulting from the audit(s) conducted pursuant to Subsection (a) above.

(c) Relationship of Audited Financial Statements to Fee Assessment Reports. The Nation shall reconcile its quarterly fee assessment reports, submitted under 25 C.F.R. Part 514, with its audited financial statements and make available such reconciliation upon request by the NIGC's authorized representative.

§14-2 All gaming related contracts that result in purchases of supplies, services, or concessions for more than Twenty Five Thousand (\$25,000) Dollars in any year (except contracts for professional legal or accounting services) shall be specifically included within the scope of the audit conducted pursuant to this Section.

## **SECTION 15 - GROSS GAMING REVENUES**

§15-1 The Gross Gaming Revenues derived from gaming operations are Nation funds and are to be expended as authorized by the Nation.

## **SECTION 16 - VIOLATIONS**

§16-1 No person shall operate or conduct any gaming activity in a gaming operation within the exterior boundaries of Nation Lands without a gaming license issued by the SGA as required by this Law or the Compact and its Appendices

§16-2 No person shall knowingly submit false or misleading information to the NIGC, the Nation or the SGA in response to any provision of the Act, NIGC regulations, or a Nation Law or resolution that the Chairman has approved under parts 522 or 523 in Title 25 C.F.R.

§16-3 (a) No Management Contractor shall fail to account fully for all moneys received or collected in connection with gaming activities or to file any report required by the Management Contract.

(b) A gaming operation shall allow an authorized representative of the NIGC or an authorized SGA official to enter or inspect a gaming operation pursuant to 25 C.F.R. §§ 571.5 or 571.6, or of Nation Law or resolution approved by the Chairman under parts 522 or 523 in Title 25 C.F.R.

§16-4 No person under the age of eighteen (18) years shall be employed by a gaming operation or shall otherwise be permitted to participate in any gaming activities.

§16-5 No person shall engage in cheating (as that term is defined in §4-1(e) of this Law) in any gaming activity or engage in any fraudulent conduct affecting either the Nation or a customer of a gaming operation.

§16-6 No person, including security department personnel, shall possess, or be permitted to possess any firearm within any Gaming Facility without the prior express written consent of both the Nation Law Enforcement Agency and the State, except for duly authorized personnel of each. The SGA shall post in a conspicuous location at every entrance to each Gaming Facility, a sign stating: "No person shall possess any firearm within this Gaming Facility."

§16-7 Any person who is in privity with a person who violates this Law shall be deemed to be in violation of this Law to the same extent as the violator, and shall be treated accordingly.

§16-8 No person, whether playing in or conducting any gaming activity authorized under this Law, shall:

- (a) use bogus or counterfeit cards, or substitute or use any game cards that have been tampered with;
- (b) employ or have on one's person any cheating device to facilitate cheating in any gaming activity; or
- (c) knowingly cause, aid, abet, or conspire with another person or cause any person to violate any provision of this Law or any rule adopted under this Law.

§16-9 The Nation shall construct, maintain and operate a Gaming Facility in a manner that adequately protects the environment and the public health and safety.

## **SECTION 17 - NOTICE OF VIOLATION**

§17-1 The SGA may issue a notice of violation to any person for violation of any provision of this Law.

§17-2 A notice of violation shall contain:

- (a) a citation to the Law provision that has been or is being violated;
- (b) a description of the circumstances surrounding the violation, set forth in common and concise language;
- (c) measures required to correct the violation;
- (d) a statement that the violation must be corrected within five (5) calendar days from the date the notice was issued;
- (e) a statement of the alleged violator's rights of appeal; and

(f) the amount of civil fines that the alleged violator must pay pursuant to Section 19, below.

## **SECTION 18 - VIOLATION PENALTIES**

**§18-1** In issuing a notice of violation under Section 17 of this Law, the SGA may:

(a) impose a civil fine not to exceed Five Hundred (\$500) Dollars for each violation and, if such violation is a continuing one, for each day, that the violation occurs; and/or

(b) impose a penalty of One Hundred (\$100) Dollars per day for failure to submit to the Commission any report required under this Law when it is due, and One Thousand (\$1,000) Dollars per day for failure to file any such report after three-day notice and demand.

**§18-2** How assessments are made.

The SGA shall review each notice of violation to determine whether a civil fine will be assessed, the amount of the fine, and in the case of a continuing violation, whether such daily violation will be deemed a separate violation for purposes of the total civil fine assessed.

**§18-3** Procedure for assessment of a civil fine:

(a) within five (5) calendar days after service of a notice of violation, the alleged violator shall submit written information about the violation and any corrective measures undertaken to the SGA. The SGA shall consider any information so submitted in determining the facts surrounding the violation and the amount of the civil fine;

(b) the SGA shall serve a copy of the proposed assessment on the alleged violator within ten (10) calendar days after the notice of violation was issued, when practicable; and

(c) the SGA may review and reassess any civil fine if necessary to consider facts that were not reasonably available on the date of issuance of the proposed assessment.

**§18-4** Final assessment:

(a) if the alleged violator fails to request a hearing as provided in Section 20 of this Law, the proposed civil fine assessment shall become a final order of the SGA.

(b) civil fines assessed under this Section shall be paid by the person assessed and shall not be treated as an operating expense of the gaming operation; and

(c) the SGA shall transfer civil fines paid under this Law to a SGA account.

## **SECTION 19 - ENFORCEMENT**

§19-1 The SGA shall take any one or a combination of the following actions with respect to any person who violates any provision of this Law:

- (a) suspend or revoke any gaming license issued by the SGA; or
- (b) bring an action in a court of competent jurisdiction for imposition of one or more of the following sanctions:
  - (1) seizure of any gaming apparatus, proceeds, or other property of a licensee connected with the gaming activities engaged in by the licensee;
  - (2) collection of any unpaid fees, interest, penalties, and of any civil fines unpaid after thirty (30) calendar days; or
  - (3) execution on any nonexempt property of a violator located within the exterior boundaries of Nation Lands.

§19-2 Civil actions may be brought by the SGA pursuant to this Law in any Court of competent jurisdiction to enforce the imposition of any and all sanctions provided for under this Law.

§19-3 Before taking any action authorized in §17 and §18 of this Law, the SGA shall use its best efforts to notify the alleged violator, in person or by letter delivered to his/her last known address, of the charges against him/her, and allow the alleged violator an opportunity for a prompt hearing. If the alleged violator fails to respond, or cannot be found, the SGA may proceed with a hearing notwithstanding, and take such action as it deems appropriate. Said notice of the alleged violation shall be served at least three (3) business days prior to the hearing.

§19-4 Every person who applies for a gaming license and accepts such license thereby acknowledges the civil enforcement jurisdiction and authority of the SGA under this Law to order an execution on his/her nonexempt property, the suspension or termination of his/her further conduct of gaming activities and the seizure of his/her gaming equipment or proceeds or other property, upon a proper finding of the SGA or the court that the person has violated a provision of this Law, despite lack of actual notice, provided that the SGA has used its best efforts to notify the person, in person or by letter delivered to his/her last known address.

## **SECTION 20 - HEARINGS AND APPEALS**

§20-1 This Section provides procedures for appeals to the SGA regarding:

- (a) violation; and
- (b) civil fines assessed by the Commission in this Law; and
- (c) the denial or revocation of gaming licenses;

(d) the Commission shall promulgate regulations regarding procedures.

§20-2 The SGA shall hold a hearing on the denial or proposed revocation of a gaming license held by an employee after it has suspended such license pursuant to this Law, the Compact and its Appendices, and 25 C.F.R. § 558.5. The Licensee shall be notified by the SGA of the time and place for hearing. After the hearing, the SGA shall decide to issue, revoke, or reinstate the gaming license. The SGA shall notify the NIGC of its decision and provide all other notices required by the Compact and its Appendices.

§20-3 Any person aggrieved by a decision made or action taken by the SGA pursuant to this section may petition the SGA for review. Such petition shall specifically set forth the reasons for aggrievement and be filed with the SGA no later than thirty (30) business days after the SGA's decision or action. The SGA shall set the matter for hearing no later than thirty (30) business days and no sooner than three (3) business days after receipt of the petition, and may, upon establishing that it has jurisdiction, affirm, modify, reverse and/or vacate the SGA order.

## **SECTION 21 - SERVICE**

§21-1 The Council hereby designates the President of the Nation as agent for service of process of any official determination, order, or notice of violation.

## **SECTION 22 - RESOLUTION OF DISPUTES BETWEEN THE GAMING PUBLIC AND THE NATION OR THE MANAGEMENT CONTRACTOR**

§22-1 The resolution of claims involving disputes relating to a patron's entitlement to a game prize are to be governed by the procedures set forth in Appendix J.

§22-2 The resolution of claims involving demands or liability for bodily injury and property damages arising out of or relating to the operation of the Gaming Facilities, are to be governed by the procedures set forth in Appendix H.

## **SECTION 23 - APPLICABLE LAW**

§23-1 All controversies involving contracts relating to gaming entered into under the authority of the Council or business arm thereof on Nation Lands shall be resolved, as appropriate, in accordance with:

- (a) the choice of law provision contained in the contract or agreement;
- (b) the Indian Gaming Regulatory Act;
- (c) NIGC regulations; and/or
- (d) Seneca laws and customs within the judicial system of the Seneca Nation.

## **SECTION 24 - SEVERABILITY PROVISION**

§24-1 If any provision of this Law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of Law which can be given effect without the invalid provisions or application, and, to this end, the provisions of this Law are severable.

## **SECTION 25 - EFFECTIVE DATE/REPEAL**

§51-1 This Law shall be effective immediately upon approval by the Chairman of the NIGC.

## **SECTION 26 - MANAGEMENT CONTRACTOR/CONTRACT PROVISIONS**

§26-1 Any or all references or procedures applicable to Management Contractors or contracts becomes effective upon adoption by Council of any Management Contract.

## **SECTION 27 - MINIMUM INTERNAL CONTROL STANDARDS**

§27-1 The Nation acknowledges its obligation to adopt and implement Minimum Internal Control Standards (MICS) for the operation of its gaming operation no less stringent than those found in the regulations of the NIGC at 25 C.F.R. Part 542. The Nation's MICS shall be set out in separate regulations to be promulgated by the SGA.

## **SECTION 28 - PROHIBITION AGAINST INDIVIDUALLY OWNED CLASS III GAMING**

§28-1 No license shall be issued by the SGA for individually owned Class III Gaming operations.

## **SECTION 29 - CONFLICT OF LAWS**

§29-1 Where this Law conflicts with the Compact and its Appendices, the Compact and the Appendices shall prevail provided that they are no less stringent than the Act, NIGC regulations and this Law.