

## National Indian Gaming Commission

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### NOTICE OF VIOLATION

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NOV-25-01

To: Mr. Stephen D. McGiffert, Agent for Service of Process  
Payne & Jones, Chartered  
11000 King Street  
Overland Park, Kansas 66210

Honorable Tim Rhodd, Chairman  
Iowa Tribe of Kansas and Nebraska  
3345 B Thrasher Rd.  
White Cloud, Kansas 66094

I. Notification of Violation

The National Indian Gaming Commission (NIGC) Chair hereby gives notice that the Iowa Tribe of Kansas and Nebraska (Tribe), located in White Cloud, Kansas, and operating the Casino White Cloud, violated the Indian Gaming Regulatory Act (IGRA), NIGC regulations, and the Tribe's amended Gaming Ordinance approved by the NIGC Chair on November 26, 2014 (Gaming Ordinance), by failing to timely submit Audited Financial Statements (AFS) and Agreed Upon Procedures reports (AUP) for fiscal year 2022.

II. Authority

Pursuant to IGRA and NIGC regulations, the NIGC Chair may issue a Notice of Violation (NOV) to any person for violation(s) of any provision of the IGRA, NIGC regulations, or a tribal gaming ordinance or resolution approved by the Chair. 25 U.S.C. § 2713(a); 25 C.F.R. § 573.3.

III. Applicable Federal and Tribal Laws

- A. IGRA requires an annual audit of each gaming operation and requires that a copy of the results of the annual audit be submitted to the NIGC. 25 U.S.C. § 2710(b)(2)(C).
- B. NIGC regulations define *gaming operation* as “each economic entity that is licensed by a tribe, operates the games, receives the revenues, issues the prizes, and pays the expenses. A gaming operation may be operated by a tribe directly; by a management contractor; or, under certain conditions, by another person or other entity.” 25 C.F.R. § 502.10.

- C. NIGC regulations require that a tribe engage an independent certified public accountant (CPA) to provide annual independent audits of the financial statements of each gaming operation located on Indian lands for each fiscal year. 25 C.F.R § 571.12(b).
- D. NIGC regulations further require a tribe to submit a copy of the AFS, with any management letter(s) and other documented auditor communication or reports setting forth the results of the annual audit to the NIGC within 120 days of each gaming operation's fiscal year end. 25 C.F.R. § 571.13(a).
- E. Section 5 of the Tribe's Gaming Ordinance requires that "[t]he Tribe shall cause to be conducted independent audits of gaming operations annually and shall submit the results of those audit reports to the NIGC. All gaming-related contracts that result in the purchase of supplies, services or concessions for more than \$25,000 in any year (except contracts for professional legal and accounting services) shall be specifically included within the scope of the audit conducted under Section 5(A) of this ordinance."
- F. NIGC regulations require the Tribe to submit two (2) copies of the AUP report to the NIGC no later than 120 days after the end of the gaming operation's fiscal year. 25 C.F.R. § 542.3(f)(5)(i).
- G. Section 7(B)(7) of the Tribe's Gaming Ordinance provides that "...the Tribal Gaming Commission shall have the following powers and duties: To enter into contracts with tribal, federal, state and private entities for activities necessary to the discharge of the duties of the Tribal Gaming Commission under this Gaming Ordinance and the Tribal-State Compact and to cooperate with the National Indian Gaming Commission for the enforcement of federal regulations governing gaming on Indian reservations."

#### IV. Role of Audited Financial Statements and Agreed Upon Procedures

- A. Submission of the annual AFS and AUP reports are critical to the NIGC's mission to protect the integrity of Indian gaming. A CPA's ability to conduct an audit in accordance with generally accepted auditing standards and provide an opinion on the financial statements prepared in conformity with Generally Accepted Accounting Principles provides a certain level of assurance as to the security of tribal gaming revenues. An audit report prepared and submitted on a timely basis is evidence of the integrity of the gaming operation and, more specifically, of the adequacy of the books and records, the functioning of internal financial controls, and the disclosure of information having a bearing on the financial statements.
- B. The AUP report reviews the internal controls, which are the primary procedures that protect the integrity of casino funds and games and are a vitally important part of properly regulated gaming. Inherent in gaming operations are concerns

related to customer and employee access to cash, questions of fairness of games, and the threat of collusion to circumvent controls. Submission of the AUP report promotes IGRA's purposes by ensuring that a tribe is the primary beneficiary of the gaming operation and protecting gaming as a means of tribal revenue.

V. Circumstances of the Violation

- A. The Tribe is a federally recognized Indian tribe.
- B. The Tribe operates the Casino White Cloud gaming operation in White Cloud, Kansas.
- C. The fiscal year for Casino White Cloud ends on December 31.
  - 1. The AFS report for Casino White Cloud is due by April 30 of each year.
  - 2. The AUP report for Casino White Cloud is due by April 30 of each year.
- D. The Tribe licensed and conducted gaming activities regulated by IGRA at Casino White Cloud during fiscal year 2022.
  - 1. The Tribe issued a facility license for class II and III gaming to be conducted at Casino White Cloud on June 21, 2012. The facility license is in effect until revoked by the Iowa Tribe of Kansas and Nebraska Gaming Commission (Tribal Gaming Commission).
  - 2. The Tribe submitted quarterly fee worksheets and payments for Casino White Cloud on December 31, 2023, for gaming activity revenue during fiscal year 2022.
- E. Compliance Officer Brian Moody (CO Moody) conducted site visits at Casino White Cloud during fiscal year 2022 to determine compliance with IGRA, NIGC regulations, and the Tribe's Gaming Ordinance.
  - 1. CO Moody conducted a site visit at Casino White Cloud on April 18, 2022. A follow-up letter was sent to Chairman Tim Rhodd dated April 26, 2022.
  - 2. CO Moody conducted a site visit at Casino White Cloud on December 1, 2022. A follow-up letter was sent to Chairman Tim Rhodd dated December 20, 2022.
- F. On April 10, 2023, Assistant General Manager Jolene Anderson sent an email to CO Moody, Tribal Gaming Commissioners, and Tribal leadership. The email included an attached letter from General Manager Steve Durkin addressed to the Tribal Gaming Commission Chairman Bennie Kent. The letter addressed an ongoing forensic audit being conducted for unaccounted funds in the cage/vault

which had been noted in the fiscal year 2021 AFS report. The accounting firm REDW had been retained to assist Clifton Larson Allen LLP (external audit firm) in performing the forensic audit. General Manager Durkin stated at the close of the letter that he was notifying the Tribal Gaming Commission, NIGC, and the Iowa Tribe executive committee that because the fiscal year 2022 AFS and AUP audits would not be submitted by the due date, an extension would be requested.

1. On April 12, 2023, CO Moody sent an email to the Tribal Gaming Commission. The email encouraged the Tribal Gaming Commission and the Tribe to do everything possible to submit the required fiscal year 2022 audits in a timely manner. CO Moody also pointed out that the NIGC regulations do not provide extensions to the required audits submission due dates. Additionally, in the Letter of Concern dated September 16, 2022, and issued to the Tribe due to late submission of the fiscal year 2021 audits, CO Moody stated that a late submission of the fiscal year 2022 audits would result in the Compliance Division recommending that the Chair issue a NOV to the Tribe.
2. On April 12, 2023, General Manager Durkin sent a letter to Bennie Kent, Iowa Tribe Gaming Commission Chair. The letter addressed the late fiscal year 2022 audits and confirmed that after consulting with the external audit firm, the Tribe would not be able to submit the audits in a timely manner. General Manager Durkin gave an estimated submission date of mid-June of 2023.
3. On April 21, 2023, General Manager Durkin sent an email to CO Moody, the Tribal Gaming Commission, and Iowa Tribal leadership with a letter attached from REDW addressing the forensic audit and fiscal year 2022 external audit. The letter stated "...we recommend the Casino retain accounting and advisory services that specialize in Tribal casino operations. Such advisors can provide the Casino with further assistance with (i) adjusting journal entries as needed and identified, (ii) preparing balance sheet reconciliations for general ledger accounts and (iii) assisting the Casino in preparing for its audit for the year ended December 31, 2022."
4. On May 2, 2023, Tribal Gaming Commission Chair Kent sent an email to CO Moody providing notification that Controller Debbie Roberts had resigned her position and accounting staff employee James Knight was promoted to Controller.
5. On June 13, 2023, CO Moody sent an email to Tribal Gaming Commission Chair Kent and requested an update on the status of the external audits, as General Manager Durkin had indicated a completion date of mid-June in earlier correspondence dated April 12, 2023. On June 14, 2023, Commission Chair Kent responded by email to CO Moody notifying him that Wipfli accounting firm had been engaged to complete the fiscal year 2022 audit and Clifton Larson Allen LLP had been notified that the Tribe would no longer utilize their services.

6. On July 17, 2023, General Manager Durkin sent an email to CO Moody advising that REDW was completing the necessary documentation for the fiscal year 2022 audit that week. He also confirmed that Wipfli accounting firm had been engaged to complete the fiscal year 2022 audit.
7. On August 14, 2023, CO Moody sent an email to Tribal Gaming Commission Chair Kent requesting an update on the audit status. Tribal Gaming Commission Chair Kent replied that Wipfli had indicated they would be completing the AUP audit by the end of the week. Also, Wipfli would be onsite to finish the financial review by the end of the month.
8. On September 15, 2023, CO Moody requested an update on the audit status from Tribal Gaming Commission Chair Kent and GM Durkin. On September 18, 2023, Controller James Knight emailed CO Moody and provided a brief update that REDW was providing financial documents and information to Wipfli for the completion of the AFS audit submission.
9. On September 21, 2023, Tribal Gaming Commission Chair Kent sent an email to CO Moody providing an update on the audits. Assistant General Manager Jolene Anderson notified Chair Kent that Wipfli would be onsite for the next two weeks to complete the fiscal year 2022 audits. The Tribe indicated that the goal to complete the fiscal year 2022 audits was October 21, 2023.
10. On October 20, 2023, CO Moody emailed Tribal Gaming Commission Chair Kent to request an update on the status of the audits, based on the anticipated completion date of October 21. On October 21, 2023, Chair Kent responded by email and included a response from Assistant General Manager Anderson which advised that the audits would not be completed until the end of October or first of November at the earliest. The email also included an attached audit status document.
11. On December 5, 2023, CO Moody performed an in-person site visit at the Iowa Tribe Tribal Gaming Commission offices and Casino White Cloud. During the site visit, CO Moody stressed the importance of completing and submitting the AUP and AFS audits for fiscal year 2022 as quickly as possible. CO Moody reminded Commissioners Kent and Robidoux that the LOC addressing the late fiscal year 2021 audits required the fiscal year 2022 audits be submitted on time, and that if the fiscal year 2022 audits were not submitted on time, the Compliance Division would recommend that the Chair issue a NOV. CO Moody requested to be updated on the status of the audits during the visit.
12. On December 6, 2023, Tribal Gaming Commission Chair Kent forwarded an email from Assistant General Manager Anderson to CO Moody notifying the TGRA that everything had been submitted to Wipfli for completion of the audit documents for fiscal year 2022.

13. On January 22, 2024, CO Moody sent an email to Tribal Gaming Commission Chair Kent requesting an update on the status of the fiscal year 2022 audit submissions. On January 25, 2024, TGRA Chair Kent replied by email and stated that Wipfli indicated that they were finishing up the external audits for fiscal year 2022 and they should be able to make the audit submissions by February 9, 2024, or possibly sooner if their reviewers can get to them.
14. On February 26, 2024, CO Moody sent an email to Tribal Gaming Commission Chair Kent in response to his email inquiry as to whether the AFS and AUP audits had been submitted by February 9. CO Moody advised that they had not been submitted, noted that the fiscal year 2022 audits were now 301 days late, and encouraged Chair Kent to advise Tribal Leadership of the importance of submitting the audits as soon as possible.
15. On May 7, 2024, CO Moody sent an email to Tribal Gaming Commission Chair Kent requesting an update on the fiscal year 2022 AFS and AUP audits. On May 8, 2024, Chair Kent responded by email and advised that the audits were in the process of being signed he had been told, and that he would let me know when they had been submitted to the NIGC. On May 8, 2024, a follow up email was sent from Tribal Gaming Commissioner Robidoux to CO Moody which included an email from General Manager Jolene Anderson confirming that the fiscal year 2022 audits were being finalized for submission.

G. Failure to Timely Submit Fiscal Year 2022 AUP

1. The fiscal year 2022 AUP report for Casino White Cloud was due on April 30, 2023.
2. On May 9, 2024, the NIGC received the fiscal year 2022 AUP for Casino White Cloud 374 days late.

H. Failure to Timely Submit Fiscal Year 2022 AFS

1. The fiscal year 2022 AFS for Casino White Cloud was due April 30, 2023.
2. On May 9, 2024, the NIGC received the fiscal year 2022 AFS for Casino White Cloud 374 days late.

VI. Measures Required to Correct the Violations

- A. No remedial action will correct the violations of failing to timely submit the AFS and AUP for fiscal year 2022.

VII. Appeal

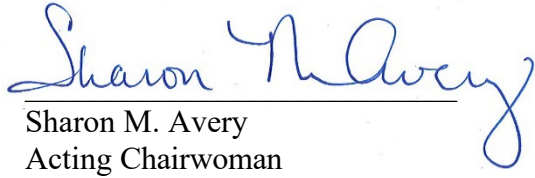
- A. The Tribe may appeal this action within 30 days of service of this NOV-25-01. 25 C.F.R. §§ 584.3(a), 585.3. The Tribe may either: (1) request a hearing before a Presiding Official under 25 C.F.R. Part 584 or (2) may submit a written waiver of its right to an oral hearing and instead elect to have the matter determined by the Commission solely on the basis of written submissions pursuant to 25 C.F.R. Part 585.
- B. An appeal must reference this NOV-25-01 and be submitted to the NIGC at the following address:

NIGC Attn: Office of General Counsel  
1849 C Street NW  
Mail Stop # 1621  
Washington, DC 20240
- C. The Tribe has a right to the assistance of counsel in such an appeal. 25 C.F.R. § 580.3.
- D. If the Tribe elects a hearing before a Presiding Official, within 10 days after filing the notice of appeal, it must file with the Commission a list of the names of proposed witnesses who will present oral testimony at the hearing, the general nature of the expected testimony, and whether a closed hearing is requested and the reason therefor; and a brief which states succinctly the relief desired and the grounds in support thereof including, when available, supporting documentation and evidence in the form of affidavits. 25 C.F.R. § 584.3(b).
- E. If the Tribe submits a notice of appeal with the Commission, such notice must reference the action or decision from which the appeal is taken and must include a written waiver of the Tribe's right to an oral hearing before a presiding official and an election to have the matter determined by the Commission solely on the basis of written submissions. 25 C.F.R. §§ 584.3(c), 585.3. The appeal brief must be filed within 30 days of the service of the record and shall succinctly state the relief sought and supporting ground(s), and may include supporting documentation. 25 C.F.R. § 585.3

#### VIII. Fine and Submission of Information

Each violation cited above may result in the assessment of a civil fine against the Tribe in an amount not to exceed \$65,655 per violation per day. 25 C.F.R. § 575.4. Under 25 C.F.R. § 575.5(a), the Tribe may submit written information about the violations to the Chair within 15 days after service of this NOV (or such longer period as the Chair may grant for good cause). The Chair shall consider any information submitted in determining the facts surrounding the violations and the amount of the civil fine, if any.

Dated this 24th of September 2025.


  
Sharon M. Avery  
Acting Chairwoman

## Certificate of Service

I certify that NOV-25-01 was sent by first class mail, certified U.S. mail, return receipt requested, and by email on this 24<sup>th</sup> day of September 2025 to:

Mr. Stephen D. McGiffert, Agent for Service of Process  
Payne & Jones, Chartered  
11000 King Street  
Overland Park, Kansas 66210  
smcgiffert@paynejones.com

Honorable Tim Rhodd, Chairman  
Iowa Tribe of Kansas and Nebraska  
3345 B Thrasher Rd.  
White Cloud, Kansas 66094  
trhodd@iowas.org

  
Shakira Ferguson  
Legal Staff Executive Administrator