

PROPOSED CIVIL FINE ASSESSMENT

Ref. No: CFA-98-01

Date: February 12, 1998

To: Seminole Nation of Oklahoma
Post Office Box 1498
Wewoka, Oklahoma, 74884
Jerry Haney, Principle Chief
Respondent

1. Under the authority of 25 U.S.C. 2713(a) of the Indian Gaming Regulatory Act (IGRA) and 25 C.F.R. Part 575, the Chairman of the National Indian Gaming Commission (Commission) hereby provides notice of his intent to assess a civil fine against the Seminole Nation of Oklahoma, Wewoka, Oklahoma (hereinafter referred to as the Respondent), for violations of 25 C.F.R. 573.6(a)(11) as set forth in detail in Notice of Violation No. 98-01 issued on January 13, 1998.

2. Under 25 U.S.C. 2713(a) and 25 C.F.R. 575.4, the Chairman may assess a civil fine, not to exceed \$25,000 per violation per day, against a tribe, management contractor, or individual operating Indian gaming for each violation cited in a Notice of Violation issued under 25 C.F.R. 573.3. In the subject proceeding, the gaming operations are owned by the Seminole Nation of Oklahoma and are located on tribal lands in Seminole and Wewoka, Oklahoma. The Respondent is the tribal owner and operator and has managed the Seminole Nation Bingo and the Wewoka Trading Post gaming operations since November 7, 1997 and November 18, 1997, respectively.

In arriving at a proposed civil fine, the Chairman has considered the factors prescribed in 25 C.F.R. 575.4, as follows:

i. Economic benefit of noncompliance. The Chairman has determined that there are 30 "Reels of Skill" gaming machines operating at the various Seminole facilities identified in Notice of Violation 98-01. The Chairman has not been furnished financial records by the Tribe which identify the amount of revenue generated from these machines.

ii. Seriousness of the violation. This is a serious violation. The Respondent installed the "Reels of Skill" machines, which are a form Class III gaming, throughout its Tribal facilities. There is no compact between the Tribe and the State of Oklahoma. By offering Class III games in the absence of a tribal-State compact the Respondent is disregarding the basic regulatory scheme of the IGRA and creating an unfair competitive advantage over Oklahoma gaming tribes which have elected not to operate illegal gaming machines in their facilities.

iii. History of violations. The Respondent has no history of previous violations.

iv. Negligence or willfulness. The Respondent has offered the "Reels of Skill" gaming machine in its operations since November 7, 1997. On January 13, 1998, the Respondent was officially notified by the NIGC that these machines had been determined to be a form of Class III gaming and required a compact with the State of Oklahoma in order to be played lawfully. The fact that the Respondent knowingly disregarded this Notice demonstrates that this was a willful violation.

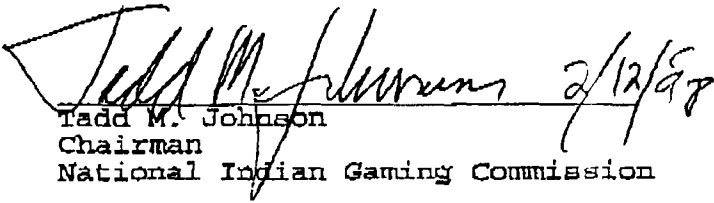
v. Good faith. The Chairman of the Commission may adjust a fine based on the degree of good faith of the Respondents in attempting to achieve rapid voluntary compliance after a Notice of Violation has been issued. The Chairman has determined that subsequent to the issuance of the January 13, 1998, Notice of Violation, the Respondent has continued to offer the game of "Reels of Skill" at its gaming operation. The Respondent, therefore, has not demonstrated a good faith effort to come into compliance with the IGRA.

THEREFORE, the Chairman, having carefully reviewed the above factors, has determined that a fine in the amount of \$30,000 is assessed on the Respondent. This amount represents an appropriate balancing of the factors cited above.

Under 25 C.F.R. 575.4, fines for violations may be assessed in an amount up to \$25,000 per violation. For purposes of assessing this fine, the Chairman has determined that a violation occurred in each instance in which the Seminole Nation of Oklahoma operated a "Reels of Skill" machine in its gaming facilities. The Chairman hereby proposes to issue a fine of \$1,000 for each of these violations. The Chairman, therefore, proposes to assess a fine against the Respondent in the total amount of \$30,000.

Under 25 C.F.R. 577.3, the respondent may appeal the proposed fine to the full Commission within 30 (thirty) days after service of this Notice of Proposed Civil Fine Assessment, by submitting a notice of appeal to the National Indian Gaming Commission, 1441 L Street, N.W., Suite 9100, Washington, D.C. 20005. The respondent has a right to assistance of counsel in such an appeal. A notice of appeal must reference this Notice of Proposed Civil Fine Assessment. Within ten (10) days after filing a notice of appeal, the respondent must file with the Commission a supplemental statement that states, with particularity, the relief desired and the grounds therefore and that includes, when available, supporting evidence in the form of affidavits. If the respondent wishes to present oral testimony or witnesses at the hearing, the respondent must include a request to do so with the supplemental statement. The request to present oral testimony or witnesses must specify the names of proposed witnesses and the general nature of their expected

testimony, and whether a closed hearing is requested. The respondent may waive his or her right to an oral hearing and instead elect to have the matter determined by the Commission solely on the basis of written submissions.


Tadd M. Johnson
Chairman
National Indian Gaming Commission

TOTAL P.016