

National Indian Gaming Commission

AGREED TO CIVIL FINE ASSESSMENT

INTRODUCTION

This Agreed To Civil Fine Assessment (the "**Agreement**") is entered into by and between the Chairwoman of the National Indian Gaming Commission (the "**Chairwoman**"), on behalf of the National Indian Gaming Commission (the "**NIGC**") and the Seminole Tribe of Florida, (the "**Tribe**"), respectively, as a consequence of Notice of Violation NOV-10-01.

RECITALS

1. Under the Indian Gaming Regulatory Act ("**IGRA**") and NIGC regulations, the Chairwoman 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 Chairwoman. 25 U.S.C. § 2713(a)(1) & (a)(3), 25 C.F.R. § 573.3(a).
2. On June 3, 2010, the NIGC Acting Chairman issued NOV-10-01.
3. NIGC regulations permit a party to appeal a NOV within thirty days of issuance. 25 C.F.R. § 577.3. The Tribe did not appeal NOV-10-01.
4. IGRA authorizes the Chairwoman to issue civil fines for violations of IGRA, NIGC regulations, or tribal regulations, ordinances, or resolutions approved by the Chairwoman under section 2710 or 2712 of IGRA. 25 U.S.C. § 2713(a)(1).
5. The Chairwoman has authority to levy and collect appropriate civil fines, not to exceed \$25,000 per violation, against the tribal operator of an Indian game or a management contractor engaged in gaming for any violation of any provision of IGRA and NIGC regulations. 25 U.S.C. § 2713(a)(1); 25 C.F.R. § 575.4. "If noncompliance continues for more than one day, the Chairwoman may treat each daily act or omission as a separate violation." 25 C.F.R. § 575.4 (a)(2).

6. In determining the amount of the civil fine, the Chairwoman must consider certain factors, including the good faith efforts of a tribe in attempting to achieve rapid compliance after notification of the violation. 25 C.F.R. § 575.4.
7. The Chairwoman acknowledges that the Tribe has corrected all the violations listed in NOV-10-01, and did so quickly and in good faith using the methods detailed in § 11 of NOV-10-01.
8. In consideration of the Tribe's good faith efforts to correct the violations, and its willingness to ensure future compliance with IGRA's use of net gaming revenue requirements, the Tribe and the Chairwoman agree to perform in accordance with the following terms and conditions.

TERMS OF AGREEMENT

9. In exchange for the terms, conditions, and understandings set forth herein, the Tribe waives any right to seek judicial review or otherwise challenge or contest the Chairwoman's actions under this Agreement, including the right to have the Chairwoman provide her written analysis of the factors to be considered in assessing a civil fine set forth under 25 C.F.R. § 575.4.
10. This Agreement shall become binding and effective on the date that it is signed by the last party to sign the Agreement (the "**Effective Date**").
11. The Tribe admits the violations set forth in NOV-10-01.
12. The Tribe agrees that, within sixty (60) days from the Effective Date, it will either create an internal audit department or engage an outside independent auditor to perform an annual review and audit report of the Tribe's compliance with the net gaming revenue use restrictions found in IGRA, NIGC regulations, the Tribe's Class III gaming ordinance, the Tribe's Revenue Allocation Plan (the "**RAP**"), and Tribal programs that are funded with net gaming revenue (the "**Annual Audit**"). Further, the Tribe agrees that:
 - a. the outside auditor or internal audit department will, in conducting the Annual Audit, use generally accepted auditing standards. The standards and procedures used in the Annual Audit must include a detailed review of the Tribe's programs that are funded by net gaming revenue, as defined at 25 U.S.C. § 2703(9) and 25 C.F.R. § 502.16. This includes, but not limited to, a review of the eligibility criteria of the programs, sample testing of compliance within the programs, and a detailed review of each program where the NIGC has notified the Tribe that potential violations may have occurred.
 - b. Within sixty (60) days of the effective date, the Tribe will submit to the NIGC the procedures that will be used to conduct the audit. If the NIGC has any concerns with the procedures, the NIGC shall notify the Tribe in

writing within 15 days and the Tribe shall work in good faith with the NIGC to remedy such concerns.

- c. the internal audit department or the outside independent auditor will, for a period consisting of three (3) fiscal years, commencing with the fiscal year ending September 30, 2010 (or for such lesser time as the NIGC may determine), compile an annual report setting forth the results of the Annual Audit, which report will be made available to the NIGC upon request. The Tribe shall make good faith efforts to have the annual report of the Annual Audit completed by June 30 of the following fiscal year;
- d. it will maintain and make available to the internal audit department or the outside independent auditor all necessary documentation and records to conduct the annual review and prepare the audit report;
- e. any proposed substantive changes to tribal programs (such as changes to eligibility or benefits) funded with net gaming revenue will, prior to their adoption, be provided to either the General Counsel of the Tribe, or an outside law firm engaged by the Tribe, for review to ensure that such substantive changes comply with IGRA, NIGC regulations, the Tribe's Class III gaming ordinance, and the Tribe's RAP;
- f. it will, based on the findings of the annual audits and audit reports described herein, require repayment to the Tribe of all net gaming revenue paid to a member of the Tribe outside the terms of a program and cease any payments of net gaming revenue to vendors or contractors made outside the terms of a program. The Tribe shall take all reasonable and necessary actions to collect repayment from Tribal members, as well as take any other steps necessary to come into compliance with the requirements of this paragraph;
- g. it will provide annual training for tribal program managers on the policies and procedures of the tribal programs funded with net gaming revenue on which they oversee and work so as to ensure that the program requirements are being adhered to by employees. Training provided by the Tribe will include courses on subjects recommended by its internal audit department or the outside independent auditor to ensure that adequate corrective measures are taken to ensure compliance with federal and tribal laws concerning the use of net gaming revenue;
- h. it will allow the NIGC, for a period of up to 90 days after the issuance of the third audit report (or for such lesser period as the NIGC may determine), upon its request, to review the audit report to confirm that provisions (a)-(f) above have been and are being implemented.

13. The Tribe agrees to the following Civil Fine Assessment:

CIVIL FINE ASSESSMENT- Pursuant to IGRA, and by virtue of the authority vested in the Chairwoman of the National Indian Gaming Commission, the Chairwoman has found the Seminole Tribe of Florida, located in Hollywood, Florida, to be in violation of Section 2710 of Title 25 of the United States Code. Accordingly, the Tribe shall pay a civil fine totaling five hundred thousand dollars (\$500,000.00).

The civil fine shall be payable in three annual installments (the "**Annual Installment**") in the following manner and subject to the following offsets as describe below:

- a. The Annual Installment for the first and second years shall be in the amount of one hundred and sixty-six thousand, six hundred and sixty-seven dollars (\$166,667.00). The Annual Installment for the third year shall be in the amount of one hundred and sixty-six thousand, six hundred and sixty-six dollars (\$166,666.00).
 - b. The Tribe shall be entitled to deduct from each Annual Installment the cost of the Annual Audit, provided however, the deduction for all three annual audits combined shall not exceed two hundred and fifty thousand dollars (\$250,000.00).
 - c. The Tribe shall, within thirty (30) days of receipt of the Annual Audit and invoice for the same, submit payment in an amount equal to the Annual Installment, less the cost of the Annual Audit (subject to the cap set forth in subparagraph b above), along with a copy of the invoice for the Annual Audit, to the NIGC.
 - d. All payments shall be submitted to the NIGC, 1441 L St. NW, Suite 9100, Washington, D.C. 20005, and made payable to the United States Treasury.
14. The Chairwoman agrees upon execution of this Agreement that the NIGC shall not institute further proceedings or actions or assess any additional sanctions against the Tribe or any entity of the Tribe, for the violations listed in NOV-10-01, unless the Tribe fails to comply with this Agreement.
15. If, at any time measured from the Effective Date until the end of the ninety days specified in paragraph 12(h) of this Agreement, any of the terms agreed to in paragraphs 12 and 13 are not met, the NIGC will notify the Tribe of such deficiency and the Tribe shall take all reasonable and necessary steps to cure the same within ninety (90) days. Such notification shall toll the time period set forth in paragraph 12(h), which time period shall again commence once the Tribe has cured the alleged deficiency. If the matter is one which cannot be cured within the ninety (90) day period, the Tribe shall notify the NIGC of the same in writing and the period to cure shall, at the NIGC's discretion, be extended for such reasonable periods as may be necessary to effectuate the cure, provided that during such time the Tribe is acting diligently and in good faith to cure the stated deficiency. In the

event the Tribe refuses to correct the deficiency, or fails to timely do so in accordance with the provisions herein, then the Tribe agrees and consents that a civil fine of one million five hundred thousand dollars (\$1,500,000.00), which will become fully due and payable upon the expiration of the time frame that was allowed for the cure of the deficiency, less the amount the Tribe has already paid to the United States Treasury and as a result of any Annual Audit (subject to the cap set forth in Section 13(b) above) pursuant to this Agreement. In such circumstance, the NIGC shall issue a written notice (also known as a demand letter) to the Tribe pursuant to NIGC debt collection regulations, 25 C.F.R. Part 513. The Tribe agrees that the NIGC and/or U.S. Department of Treasury may proceed with debt collection of the \$1,500,000 civil fine (less amounts already paid as described above) against the Tribe, and may assess interest, penalties, and administrative costs from the date of breach of this Agreement, as provided in 25 C.F.R. § 513.5. In such circumstance, the Tribe shall waive any rights to an oral hearing under 25 C.F.R. § 513.6, but the NIGC shall provide the Tribe with a reasonable opportunity to submit written material supporting a request to reconsider the determination that the Tribe is in breach of the Agreement.

16. The Tribe agrees upon execution of this Agreement to waive the right to further review of matters addressed in this Agreement, including all rights to appeal to the full Commission as set forth in 25 C.F.R. Part 577, and judicial review pursuant to 25 U.S.C. § 2714.

ADDITIONAL COVENANTS

17. This Agreement constitutes the entire agreement between the Chairwoman and the Tribe relating to the NOV-10-01. Any modification or waiver of any term of this Agreement must be in writing and signed by both parties.
18. This Agreement is a final order of the NIGC and a final agency action pursuant to 25 C.F.R. §§ 575.9 & 577.9(d).
19. The NIGC and the Tribe expressly agree and acknowledge that time is of the essence in this Agreement.
20. The parties agree that this Agreement shall be a public document and may be published or disclosed by either party.
21. 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.
22. Whenever in this Agreement either the Chairwoman, the NIGC or the Tribe is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Agreement contained by or on behalf of the Chairwoman, the NIGC and the Tribe shall bind and inure

to the benefit of the respective successors and assigns thereof whether so expressed or not.

For the National Indian Gaming Commission


Tracie L. Stevens
Chairwoman

10-27-2010
Date

For the Seminole Tribe of Florida


Mitchell Cypress
Chairman, Seminole Tribe of Florida

10/20/10
Date