

NOTES TO THE NATION AUGUST 17, 2008

ACCOUNTING DEBACLE GROWS WORSE

If you have been following the Notes to the Nation for the last few months, you should have a pretty good idea of what is happening with accounting issues at the Osage Casinos. Employees of the Nation have been reporting irregularities and have been expressing concern about what is happening. I have said in no uncertain terms that I believed that the problem was growing worse and we need to call Finley and Cook back to address the growing problem.

Earlier this year the Gaming Board terminated the accounting firm of Finley and Cook and brought the accounting in house. Finley and Cook was dismissed on April 1 this year. Our problems began immediately. *There was no transition plan in place.* The tribal distribution eventually was behind as much as 71 days. Everyone responsible for the decision was making alibis. Some officials were dismissing this as “normal” and saying we were on our way to a great accounting system. There was nothing normal about it and I expressed this repeatedly.

While Finley and Cook was doing our accounting, all reports were kept current, audits were clean and the tribal distribution was delivered less than 30 days after the end of the month.

We discovered, by accident, on July 22 that a Preliminary Notice of Violation had been issued by the Gaming Commission dated June 11, 2008. If that date is correct, they had been sitting on it for over a month. You may recall that a meeting was called by Doug Revard, Chair of the Osage Congress Commerce Committee, on June 19 to discuss the accounting problems at the Casinos. No one from Casino accounting or the Gaming Enterprise Board showed up at that meeting. Another meeting was called for July 14 and it was attended by all Gaming Enterprise Board members, the Gaming Commissioner and Bill Leonhart, Gaming CFO. Even after extended discussion on the 14th, the PNOV was never disclosed.

On July 16, we got a tip that no cash counts had been verified during the month of April and that the unverified records had been sent to storage¹ in Hominy. On July 23, three other members of Congress and myself, went down to the storage pen and asked if we could enter and check some of the boxes.

¹ At the Hominy Casino there is a large storage area that is part of the casino building. It is probably at least 7,000 square feet of mostly open area which is used for storage. In the south end of this area is a locked chain link pen enclosing about 1,500 square feet where the accounting records are kept 5 years for all the Casinos. I have been in this larger area several times. It has been accessed regularly by many people: maintenance workers, tribal employees, elected officials, deliverymen and I have even been told that workmen use the space to eat lunch while working at the Casinos. Even though it has likely been entered by non- licensed people 100's of times, there has never been an objection raised before. I doubt that any of these people realized it was a restricted area. I know we weren't told and it appears that even Casino staff didn't know. Cash rooms, etc. are obviously restricted areas.

We did enter with a few of the Casino staff and opened some of the boxes, which are unsealed, until we found the April 2008 accounts. We did determine that a cash count had not been made for the Bartlesville Casino in April and this was confirmed by Casino auditors. We had found that the cash count reconciliations had not been done in April and later months were as much as 37 days late—These should be done daily.

On April 24, seven members of Congress confronted the Gaming Board with our findings. The Gaming Board and the Osage Gaming Commission claimed they didn't know that the cash counts were not made for April even though it was becoming common knowledge among employees of the Cas

Members of Congress had gone to the storage area personally because the Chief had filed a lawsuit to stop the work of the Congressional Office of Fiscal and Performance Revue and the auditor, Kelly Corbin, thought he could not. Elected officials don't come within the definition of people who have to be licensed by the Gaming Commission. We believed, and still believe, that examining the records is within our oversight powers.

The Osage Nation Congress had found out only by happenstance that: "The Nation's gaming assets are in jeopardy because the Gaming Enterprise's financial records are incomplete, inaccurate, and unreliable."; That recent cash distributions to the Nation are only an estimate based on unverified records; The projections we are using for appropriations may be unreliable.

On August 9, the four members of Congress were served notice that they were "cordially invited to attend" an Evidentiary Hearing to be held on August 15, Friday morning at 9:00 AM by the Gaming Commission in response to a complaint filed by the Gaming Board. I read this as: "You are cordially invited to a hanging. If you chose to attend, you will be the guest of honor." We all chose not to attend. Osage attorney, Geoffrey Standing Bear, offered to represent the four of us as a free service to the Osage people. You are paying for the three attorneys he will be facing. Geoffrey did not attend the hearing either. His suggestion was to send an answer suggesting a closed door meeting to resolve the matter. We preferred to try and avoid the involvement of the NIGC, particularly since the Osage Nation had gone through a similar situation in 2005 that continued through 2006. It had cost the Nation over a million dollars to get it straightened out and here we are again.

The offer was refused by the Gaming Commissioner, apparently preferring the publicity.

http://www.tulsaworld.com/news/article.aspx?articleID=20080816_11_A13_hMembe911428 If the purpose was to embarrass the Congress, the staged event has backfired.

A small local newspaper ran an article last Wednesday, which included a copy of the notice of the hearing sent only to the members of Congress who were the subjects of the hearing. It was confidential information until it was read into the record Friday morning so it raises the question of yet another Gaming Commission error. The story mentions that I was fired as Gaming Commissioner at the Quapaw tribe in the past. This is a newspaper where Raymond Redcorn, Osage Member of Congress is part owner and his wife, a non-Osage, writes articles on the Osage political process.

The story omitted that the Quapaw Gaming Commission was investigating a major illegal situation and was trying to take corrective action. The Quapaw tribe had a manager who ran their Casino and had an illegal agreement was that he was to receive 30% of the net revenue. I was appointed to the Gaming Commission and elected chairman by the members. Geoffrey Standing Bear was the Commission attorney. We quickly discovered that it appeared that the manager was taking more money out of the Casino than the tribe. At a General Council meeting I reported that we had authorized an audit of the Casino and that we had told the auditor to "follow the threads wherever they lead." Six days later, I received a fax terminating my position. The termination gave no reason. That audit didn't happen as scheduled. My dismissal did receive national attention in gaming circles and the National Indian Gaming Commission came in to follow up on the investigation we started. I continued to cooperate with the NIGC and two years later the manager was fined 11 million dollars. It turned out that the manager was getting even more than we thought. *As Paul Harvey says: And now you know the rest of the story.*

But, there's even more to the story. The tribe never got any of the money back. That is why these things need to be corrected as soon as they are discovered. Now, two years after the manager was removed, the Quapaw have been able to begin building one of the largest casinos in Oklahoma.

When anyone in an oversight position does what he is supposed to do, he can quickly be in conflict with people who do not want to do what they are supposed to do. No matter how bad a situation gets there will be people who have carved out a niche where they, or others close to them profit unfairly. These people and their lickspittles will do whatever they can to keep things as they are, regardless of the damage to the proper beneficiaries. (Like the Osage people.) When you see that such a thing is going on, all you need to do is follow the money trail. Connect the dots. Experience makes it easy to recognize where to look for the dots.

Here's an account of the hearing posted on the OSA blog by Roy St. John who was there:

Kangaroo Court or Hearing? August 8, 2008 the Osage Nation Gaming Commissioner called a Hearing for finding of fact and conclusion of law Case No. MIC-08-01.

Osage Gaming Commissioner Richard Chissoe and his attorney, Elizabeth Homer, sat behind the judge's podium with a court reporter in attendance plus a video recorder giving the procedure the appearance of being legal. Osage Nation attorneys Gary Pitchlynn and Terry Mason Moore were in attendance all day this, along with Ms. Homer making this a very expensive process.

I attended this 'so called' hearing; the most damaging thing to come out of hearing was the open discussion of a personnel matter about the firing of the Bartlesville Staff Accountant in a public setting. Making the Nation and MDE along with the individuals in that chain of command subject to a liable suit by him. William Leonhart, MDE CFO and Carlton O'Brien MDE Human Resource Manager both testified in some detail concerning this former employee.

Throughout the hearing Elizabeth Homer asks leading questions and in fact included in her questions the answers she wanted the witness to give. The other glaring fact was that the Employee Voluntary Statements were written by most of the employees after being told to

submit them by their supervisor. It was not clear how soon after the incidents reported that these statements were written. Osage Gaming Board, Tom Slammons Chairman and Chris White Ponca City Casino Manager were allowed to testify to facts they had no personal knowledge of, and knew about only by hearsay. The failure of securing the Osage Nation Gaming documentation is the responsibility of Richard Chissoe and William Leonhart. They have failed to put in place adequate security procedures and now want the responsibility for their incompetence placed elsewhere. They allege a misuse of power by the congress people, yet no casino employee questioned their authority or thought they shouldn't have access to the places they went. In fact they were escorted unchallenged to the area and were shown the documents they ask to see in a cooperative manner. The congress people removed no documents or other property from the alleged secure area. As far as I know it was never pointed out to the congress people that they had requested access to a secure area. This is a put-up job to discredit the people's most dependable representatives, please join me in support of these individuals, doing what they were elected to do. Roy C. St. John (918)349-2326 rstjohn1@totelcsi.net

We intend to pursue this investigation to the best of our ability. I hope with the full support of Congress. This is one of the jobs of the Congress. We can expect every roadblock possible to be placed in our way. We'll be accused of everything from jay walking to cannibalism—expect that. Employees of the Nation are speaking but they fear speaking up in public. Who can blame a young person with a family? No one can fault them if they fear for their jobs but all of us should condemn a system that allows them to be put in such a position. We have to go on because the health of the Nation is at stake.

Kugee