

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
FINANCIAL CRIMES ENFORCEMENT NETWORK**

IN THE MATTER OF:)
)
THE LOWER SIOUX INDIAN COMMUNITY D/B/A) **Number 2011-06**
JACKPOT JUNCTION CASINO HOTEL)
MORTON, MINNESOTA)

ASSESSMENT OF CIVIL MONEY PENALTY

I. INTRODUCTION

Under the authority of the Bank Secrecy Act and regulations issued pursuant to that Act,¹ the Financial Crimes Enforcement Network has determined that grounds exist to assess a civil money penalty against the Lower Sioux Indian Community d/b/a Jackpot Junction Casino Hotel (“Jackpot Junction” or the “Casino”). To resolve this matter, and only for that purpose, Jackpot Junction has entered into a CONSENT TO THE ASSESSMENT OF CIVIL MONEY PENALTY (“CONSENT”) without admitting or denying the determinations by the Financial Crimes Enforcement Network, as described in Sections III and IV of this ASSESSMENT OF CIVIL MONEY PENALTY (“ASSESSMENT”), except as to jurisdiction in Section II below, which is admitted.

The CONSENT is incorporated into this ASSESSMENT by this reference.

II. JURISDICTION

The Financial Crimes Enforcement Network may impose a civil money penalty on any casino that violates the Bank Secrecy Act and its implementing regulations. A “casino” for purposes of the Bank Secrecy Act and its implementing regulations includes a gaming establishment licensed “under the Indian Gaming Regulatory Act or other Federal, State, or tribal law or arrangement affecting Indian lands.”² The Lower Sioux Indian Community is a federally-recognized Indian tribal government qualified to conduct Class III gaming activities, including

¹ 31 U.S.C. § 5311 et seq. and 31 C.F.R. Part 103. (31 C.F.R. Chapter X). On March 1, 2011, a transfer and reorganization of the BSA regulations from 31 CFR Part 103 to 31 CFR Chapter X became effective. Throughout this document we refer to the Part 103 citation that was in effect at the time of the Bank’s violation with the corresponding current regulatory citation following in parentheses.

² 31 U.S.C. § 5312(a)(2)(X) and 31 C.F.R. § 103.11(n)(5)(i). (31 C.F.R. § 1010.100(t)(5)(i)). The Bank Secrecy Act excludes “Indian gaming operations” that offer only “Class I gaming” from the definition of “financial institution.”

slots and table games, under the authority of the Indian Gaming Regulatory Act. The Lower Sioux Indian Community and the State of Minnesota entered into a Class III gaming compact for the operation of video games of chance on November 29, 1989, and a subsequent Class III gaming compact for the operation of blackjack on May 8, 1991. In 1993, the Lower Sioux Indian Community enacted gaming ordinances for Class I, II, and III gaming activities. The Lower Sioux Indian Community developed a tribal gaming ordinance in March 2006 which established a tribal board of directors and a Tribal Gaming Commission. Jackpot Junction is a lower-tier, mid-size casino located 110 miles southwest of Minneapolis/St. Paul. The Casino has 1,166 slot machines and 20 table games. The Casino averages approximately 2,000 players per day.

Under the Bank Secrecy Act and its implementing regulations, a gaming establishment must have gross annual gaming revenue of more than \$1 million to be considered a “casino.”³ At all times relevant to this matter, Jackpot Junction was a “casino” for purposes of the Bank Secrecy Act and its implementing regulations.

III. DETERMINATIONS

A. Summary

From April 1, 2006 through May 28, 2009, Jackpot Junction, while under the management of senior personnel who have since been replaced, committed extensive violations of the anti-money laundering program and reporting requirements of the Bank Secrecy Act and its implementing regulations. As a casino examined by the Internal Revenue Service-Small Business/Self-Employed Division (“IRS SB/SE”), Jackpot Junction knew of the anti-money laundering program and reporting requirements of the Bank Secrecy Act and its implementing regulations. Despite such knowledge, the Casino suffered from material deficiencies in multiple core elements of its anti-money laundering program, which also resulted in violations of the currency transaction reporting and suspicious activity reporting requirements of the Bank Secrecy Act.

B. Violations of the Requirement to Establish and Implement an Adequate Anti-Money Laundering Program

The Financial Crimes Enforcement Network has determined that Jackpot Junction violated the requirement to develop and implement an adequate Bank Secrecy Act compliance or anti-money laundering program. Since June 1, 1995, the Bank Secrecy Act and its implementing regulations have required casinos to develop and implement a written program reasonably designed to assure compliance with the Bank Secrecy Act. A Bank Secrecy Act compliance or anti-money laundering program⁴ must include the following elements: (a) a system of internal

³ 31 U.S.C. § 5312(a)(2)(X) and 31 C.F.R. § 103.11(n)(5)(i). (31 C.F.R. § 1010.100(t)(5)(i)).

⁴ Section 352 of the USA PATRIOT Act requires casinos to establish anti-money laundering programs. Under regulations implementing this requirement, a casino complies with the requirement if the casino implements and maintains an adequate program for compliance with the Bank Secrecy Act. 31 C.F.R. § 103.120. (31 C.F.R. § 1021.210).

controls to assure ongoing compliance;⁵ (b) internal and/or external independent testing for compliance;⁶ (c) training of casino personnel;⁷ (d) the designation of an individual or individuals responsible for assuring day-to-day compliance;⁸ (e) procedures for using all available information to determine and verify name, address, Social Security or taxpayer identification number, and other identifying information for a person, to the extent determining and verifying the information is otherwise required under the Bank Secrecy Act;⁹ the occurrence of any transactions or patterns of transactions required to be reported related to suspicious transactions;¹⁰ and whether records must be made and retained;¹¹ and (f) for casinos with automated data processing systems, use of the systems to aid in assuring compliance.¹²

I. Internal Controls

Jackpot Junction failed to implement effective internal controls to ensure compliance with the Bank Secrecy Act and its implementing regulations. The Casino also failed to develop and implement effective procedures for the preparation, review and filing of Bank Secrecy Act reports, or the retention of records associated with suspicious activity.

Jackpot Junction's internal controls did not allow for effective identification and reporting of suspicious activity, nor did existing procedures adequately provide for a review process of potential suspicious activity. The Casino did not have sufficient procedures for gathering required information necessary for completing suspicious activity report by casinos and card clubs ("SARC") forms. Until May 2007, the Casino did not begin to implement controls for monitoring redemption of gaming chips. Specifically, Jackpot Junction lacked adequate policies, procedures and controls to address player activity across table games, cage transactions and surveillance in order to detect suspicious activity.

The Casino's written Bank Secrecy Act compliance program and procedures were ineffective, and did not consistently reflect Bank Secrecy Act requirements for filing currency transaction report by casino forms ("CTRC"). Jackpot Junction's cage controls did not ensure that checks cashed by players were recorded in the Casino's electronic or manual logs. For example, instances were identified where checks cashed in excess of \$3,000 were not recorded on the monetary instrument log. Checks and credit card cash advances were not appropriately recorded on the Casino's monetary instrument log or multiple transaction log to assist with the aggregation of such transactions. Additionally, there was a lack of controls to ensure proper CTRC completion. CTRCs contained incorrect amounts due to the Casino's failure to record all personal checks cashed and credit card cash advances.

⁵ 31 C.F.R. § 103.64(a)(2)(i). (31 C.F.R. § 1021.210(b)(2)(i)).

⁶ 31 C.F.R. § 103.64(a)(2)(ii). (31 C.F.R. § 1021.210(b)(2)(ii)).

⁷ 31 C.F.R. § 103.64(a)(2)(iii). (31 C.F.R. § 1021.210(b)(2)(iii)).

⁸ 31 C.F.R. § 103.64(a)(2)(iv). (31 C.F.R. § 1021.210(b)(2)(iv)).

⁹ 31 C.F.R. § 103.64(a)(2)(v)(A). (31 C.F.R. § 1021.21(b)(2)(v)(A)).

¹⁰ 31 C.F.R. §§ 103.64(a)(2)(v)(B) and 103.21. (31 C.F.R. §§ 1021.210(b)(2)(v)(B) and 1021.320).

¹¹ 31 C.F.R. § 103.64(a)(2)(v)(C). (31 C.F.R. § 1021.210(a)(2)(v)(C)).

¹² 31 C.F.R. § 103.64(a)(2)(vi). (31 C.F.R. § 1021.210(b)(2)(vi)).

2. Independent Testing

Jackpot Junction failed to conduct sufficient independent testing to comply with Bank Secrecy Act requirements. External auditor reviews did not encompass Bank Secrecy Act compliance. Internal audits were performed in 2005 and 2006. However, these audits lacked the scope to adequately ensure the Casino was operating in full compliance with the Bank Secrecy Act. Furthermore, the aforementioned audits were conducted with the participation of the Bank Secrecy Act compliance officer, which compromised the independence of the audit function.

3. Bank Secrecy Act Training

Until August 2007, Jackpot Junction failed to conduct sufficient training related to Bank Secrecy Act recordkeeping and reporting requirements. The Casino did not implement in-house Bank Secrecy Act training programs tailored to job and departmental duties. Instead, the Casino relied exclusively on general training provided by the Internal Revenue Service's Indian Tribal Government Specialists. While the Financial Crimes Enforcement Network has long recognized the value of this training, exclusive reliance on such training is not deemed adequate to ensure compliance with Bank Secrecy Act/anti-money laundering requirements across all gaming activities for a tribal casino. Additionally, the Casino did not consistently maintain a record of employees that received training.

Casino employees demonstrated a lack of understanding regarding CTRC filing requirements. CTRCs were filed in error for incorrectly aggregated transactions, combining cash-in and cash-out, each less than \$10,000, but over \$10,000 when combined. For example, the Casino would report a player's cash-in transaction of \$4,000 and cash-out transaction of \$7,500 in aggregate on a CTRC for \$11,500, when a CTRC was not required because neither transaction was required to be reported. Employees did not record the full player identification on CTRCs when a driver's license was obtained. For example, in multiple instances the driver's license box was checked but no driver's license information was recorded on the form. Furthermore, the Casino's cage employees were not able to demonstrate an understanding of procedures for recording transactions on the monetary instrument log, and the multiple transaction log tracking forms. Cage procedures stated that the multiple transaction log was also known as the monetary instrument log which led, in part, to some employees misunderstanding the types of transactions required to be reflected on each form. As a result, transactions were not always accurately and properly recorded, or consistent with the actual gaming day, which led to inaccurate Bank Secrecy Act records.

4. Designation of a Bank Secrecy Act Compliance Officer

Jackpot Junction did not have a Bank Secrecy Act compliance officer in place for a four-month period, from July 25, 2006 through November 26, 2006. The Casino terminated its Bank Secrecy Act compliance staff but did not replace them in a timely manner. In the absence of designated and qualified personnel, the Casino was at significant risk for non-compliance with the Bank Secrecy Act. Shortly after the release of the Bank Secrecy Act officer, the Casino ceased conducting transactional reviews and only conducted limited reviews of CTRCs prepared by department personnel. As a result, 17 CTRCs, with date ranges between July 11, 2006 and

August 31, 2006, went unfiled until the Casino was instructed to produce copies of the reports by the IRS SB/SE. Had copies of these CTRCs not been required to be produced by IRS SB/SE examiners, the forms would not have been filed for an extended period of time. These reports were all subsequently filed on September 21, 2006. However, 10 (58.8%) of the reports were incomplete or inaccurate. Moreover, until 2007, the Casino's written compliance program did not state the duties and responsibilities of the Bank Secrecy Act compliance officer or designate a responsible individual, or individuals, to analyze and report suspicious activity in a timely, complete and accurate manner.

5. Procedures for Using All Available Information to Identify Suspicious Activity

Jackpot Junction employed some automated systems that could be used to aggregate player transactions. However, the Casino failed to implement procedures for aggregation of all required transactions in all areas of the Casino to identify and monitor suspicious activity. For example, the Casino did not have procedures in place to generate a daily listing of credit card advances for purposes of aggregating a player's total cash activity. Also, when a table game player ended play, the pit recorded that player's transaction information in the Casino's manual and computerized player rating system, but the Casino did not review this information against cage-generated multiple transaction logs to detect suspicious activity.

6. Additional Records to be Made and Retained by Casinos

Casinos are required to retain a separate record containing a list of each transaction between the casino and its players involving certain types of instruments having a face value of \$3,000 or more.¹³ Jackpot Junction lacked effective systems and controls to record monetary instrument transactions over \$3,000. Over the course of a 90-day period covered by the IRS SB/SE examination in 2006, Jackpot Junction failed in 10 instances to record, or record correctly, transactions between the Casino and players involving certain instruments having a face value of \$3,000 or more. These violations consisted of the failure to list all of the required entries or all of the required information in the monetary instruments log. Specifically, the Casino failed to record all personal checks over \$3,000 cashed by players. Information not recorded, or incorrectly reported, on the log included transaction amounts, time and/or date of the transaction, player identification information, and Casino employee information.

C. Violations of the Requirement to File Currency Transaction Reports

The Financial Crimes Enforcement Network has determined that Jackpot Junction violated the requirement to report transactions in currency. The Bank Secrecy Act and its implementing regulations require casinos to report each transaction in currency, involving either cash in or cash out of more than \$10,000 during a single gaming day.¹⁴ A casino must aggregate transactions in currency--treat the transactions as a single transaction--if the casino has knowledge that the transactions are conducted by, or on behalf of, the same person during a

¹³ 31 C.F.R. § 103.36(b)(9). (31 C.F.R. § 1021.410(b)(9)).

¹⁴ 31 U.S.C. § 5313 and 31 C.F.R. § 103.22(b)(2). (31 C.F.R. § 1021.311).

single gaming day.¹⁵ CTRCs shall be filed by the casino within 15 days following the day on which the reportable transaction occurred.¹⁶ CTRCs shall be filed on forms prescribed by the Secretary. All information called for in such forms shall be furnished.¹⁷

Jackpot Junction exhibited a pattern of non-compliance with Bank Secrecy Act CTRC reporting requirements for an extended period of time. Despite being notified in 2004 and 2005 of Bank Secrecy Act reporting requirements, in 2006 the Casino failed to timely, completely, and accurately file 50 CTRCs including:

- 14 failures to timely file CTRCs due to not aggregating credit card cash advances, personal checks cashed, and/or chips redemptions;
- failure to file 17 CTRCs after the release of the Bank Secrecy Act compliance officer, until IRS SB/SE requested copies of these reports. Ten (58.8%) of these CTRCs were filed with incomplete/inaccurate information; and
- 19 (31.67%) incorrect/incomplete CTRC filings out of 60 CTRCs filed by the Casino during an approximate 90-day time period.

During the period from April 1, 2006 through May 28, 2009, Jackpot Junction filed 699 CTRCs totaling \$13.20 million. Of this population, 180 (25.75%) CTRCs totaling \$3.25 million were not timely filed. On average, these reports were filed 80 days late. Based on our investigation, Jackpot Junction continued to fail to timely file CTRCs even after receiving written notification of the 2006 examination findings, in February 2007. Specifically, of the 311 CTRCs filed after the examination report was sent to the Casino, Jackpot Junction failed to timely file 63 reports amounting to \$1.1 million. These reports represent 20.25% of the CTRC filings by the Casino, from March 1, 2007 through May 28, 2009, and 35% of the total late filings for the entire period. The Casino's pattern of failing to timely file CTRCs impaired their usefulness by not providing law enforcement with more timely information related to transactions totaling over \$3 million.

D. Violations of the Requirement to Report Suspicious Activity

The Financial Crimes Enforcement Network has determined that Jackpot Junction violated the requirement to report suspicious transactions. Since March 25, 2003, the Bank Secrecy Act and its implementing regulations have required a casino to report transactions involving or aggregating to at least \$5,000 that the casino "knows, suspects, or has reason to suspect" are suspicious.¹⁸ A transaction is "suspicious" if the transaction: (a) involves funds derived from illegal activity; (b) is intended or conducted in order to hide or disguise funds derived from illegal activity, or to disguise the ownership, nature, source, location, or control of the funds; (c) is designed to evade reporting or recordkeeping requirements under the Bank Secrecy Act ; (d) has no business or apparent lawful purpose or is not the sort in which the

¹⁵ 31 C.F.R. § 103.22(c)(3). (31 C.F.R. § 1021.313).

¹⁶ 31 C.F.R. § 103.27(a)(1). (31 C.F.R. § 1010.306(a)(1)).

¹⁷ 31 C.F.R. § 103.27(d). (31 C.F.R. § 1010.306(d)).

¹⁸ 31 U.S.C. § 5318(g) and 31 C.F.R. § 103.21(a). (31 C.F.R. § 1021.320(a)).

particular customer would normally be expected to engage, and the casino knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or (e) involves use of the casino to facilitate criminal activity.¹⁹ A casino must file a report no later than 30 calendar days after the date of initial detection of facts that may constitute a basis for filing a suspicious activity report.²⁰ If no suspect is identified on the date of detection, a casino may delay filing a suspicious activity report for an additional 30 calendar days to identify a suspect.²¹ In no case is reporting to be delayed more than 60 calendar days after the date of such initial detection.²²

The Bank Secrecy Act requires a casino to report suspicious transactions by filing suspicious activity reports.²³ When filing a suspicious activity report, the casino must provide a detailed description of the activity at issue. A description of the transaction or transactions “is critical.”²⁴ The form states clearly that the care with which the description of the activity is written “may determine whether or not the described activity and its possible criminal nature are clearly understood.”²⁵ If a casino fails to file a complete suspicious activity report, the report may not provide adequate information to alert law enforcement to the existence of potentially serious criminal activity.

Jackpot Junction filed 21 SARCs between April 1, 2006 and May 28, 2009. Eleven SARCs were filed for transactions occurring during the five-month period between February 1, 2006 and June 30, 2006, and nine of these or 81.8% were filed more than eight months late, thus diminishing their value to law enforcement. Moreover, these SARCs were only filed by the Casino upon receiving written notification from the IRS SB/SE of the Casino’s failure to file the forms. All nine instances involved players cashing in chips below the \$10,000 threshold in order to potentially avoid having a CTRC filed. In one instance a player walked from the table with over \$16,000 in chips. Afterward, the player cashed in \$9,500 on one gaming day, and then cashed the rest of the chips on the next day. It appears the player was structuring cash out transactions over two gaming days to possibly avoid the filing of a CTRC.

IV. CIVIL MONEY PENALTY

As noted in Section II above, the Financial Crimes Enforcement Network may impose civil money penalties against a casino for violations of the Bank Secrecy Act and the regulations pursuant to that Act.²⁶ The Financial Crimes Enforcement Network has determined that a civil money penalty is due for the violations of the Bank Secrecy Act and the regulations issued pursuant to that Act as described in the CONSENT.

¹⁹ 31 C.F.R. § 103.21(a)(2)(i)-(iv). (31 C.F.R. § 1021.320(a)(2)(i)-(iv)).

²⁰ 31 C.F.R. § 103.21(b)(3). (31 C.F.R. § 1021.320(b)(3)).

²¹ *Id.*

²² *Id.*

²³ 31 C.F.R. § 103.21(b)(1). (31 C.F.R. § 1021.320(b)(1)).

²⁴ Part VI, SARC, FinCEN Form 102.

²⁵ *Id.*

²⁶ 31 U.S.C. § 5321 and 31 C.F.R. § 103.57. (31 C.F.R. § 1010.820).

A civil money penalty of up to \$25,000 may be imposed on a casino for violating the requirement to establish and implement an adequate anti-money laundering program. A separate violation occurs each day the violation continues.²⁷ A penalty not to exceed the greater of the amount involved in the transaction (but capped at \$100,000) or \$25,000 may be assessed against the Casino for each reporting violation.²⁸ After considering the seriousness of the violations and the financial resources available to the Casino, the Financial Crimes Enforcement Network has determined that the appropriate penalty in this matter is \$250,000.

V. CONSENT TO ASSESSMENT

To resolve this matter, and only for that purpose, Jackpot Junction, without admitting or denying either the facts or determinations described in Section III above, except as to jurisdiction in Section II, which is admitted, consents to the assessment of a civil money penalty in the sum of \$250,000, which shall be satisfied by three equal payments to the United States Department of the Treasury on May 15, 2011, July 15, 2011 and September 15, 2011.

Jackpot Junction recognizes and states that it enters into the CONSENT freely and voluntarily and that no offers, promises, or inducements of any nature whatsoever have been made by the Financial Crimes Enforcement Network or any employee, agent, or representative of the Financial Crimes Enforcement Network to induce Jackpot Junction to enter into the CONSENT, except for those specified in the CONSENT.

Jackpot Junction understands and agrees that the CONSENT embodies the entire agreement between the Casino and the Financial Crimes Enforcement Network relating to this enforcement matter only, as described in Section III above. Jackpot Junction further understands and agrees that there are no express or implied promises, representations, or agreements between the Casino and the Financial Crimes Enforcement Network other than those expressly set forth or referred to in this document and that nothing in the CONSENT or in this ASSESSMENT is binding on any other agency of government, whether Federal, State, or local.

VI. RELEASE

Jackpot Junction understands that execution of the CONSENT, and compliance with the terms of this ASSESSMENT and the CONSENT, constitute a complete settlement and release of the Casino's civil liability for the violations of the Bank Secrecy Act and regulations issued pursuant to that Act as described in the CONSENT and this ASSESSMENT.

²⁷ 31 U.S.C. § 5321(a)(1).

²⁸ 31 U.S.C. § 5321(a)(1) and 31 C.F.R. § 103.57(f). (31 C.F.R. § 1010.820(f)).

By:

/s/

James H. Freis, Jr., Director
FINANCIAL CRIMES ENFORCEMENT NETWORK
United States Department of the Treasury

Date:

4/20/17
