

**National Indian Gaming Commission**

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**SETTLEMENT AGREEMENT**

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SA-06-14

**INTRODUCTION**

This Settlement Agreement (Agreement) is entered into and effective this 16<sup>th</sup> day of August, 2006, by and between Mark Macarro, Chairman of the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, a federally-recognized Indian tribe (Band) and Philip N. Hogen, the Chairman of the National Indian Gaming Commission (Chairman) relating to the matters contained in Notice of Violation No. NOV-06-14.

**RECITALS**

Whereas, the Band has conducted gaming on Indian lands at a facility in Temecula, California since approximately July 1, 1995;

Whereas, the Chairman and the Band desire to resolve issues related to Notice of Violation No. NOV-06-14.

Therefore, the Chairman and the Band have agreed to execute this Agreement and perform in accordance with the following covenants and conditions:

**TERMS OF SETTLEMENT**

1. This Agreement is entered into pursuant to 25 C.F.R. § 575.6(b) and shall be effective upon the signature of all parties.
2. The Band agrees that it was required to timely submit an annual audit report of its gaming operation within 120 days after the end of each fiscal year as required by

the Indian Gaming Regulatory Act (IGRA), NIGC regulations and the Pechanga Gaming Act 1992 (Ordinance).

3. The Band agrees that it was required to timely submit an annual audit report of its gaming operation within 120 days after the end of each fiscal year as required by IGRA, NIGC regulations and the Ordinance.
4. The Band agrees that it did not submit an annual audit report for the fiscal year ending September 30, 2004 to the NIGC by January 28, 2005.
5. The Band agrees that it did not submit an annual audit report for the fiscal year ending September 30, 2005 to the NIGC by January 28, 2006.
6. The Band admits that its failure to timely submit an annual audit report for the fiscal year ending September 30, 2004 is a violation of IGRA, NIGC regulations and Ordinance.
7. The Band admits that its failure to timely submit an annual audit report for the fiscal year ending September 30, 2005 is a violation of IGRA, NIGC regulations and Ordinance.
8. The Band agrees to timely submit its annual audit report for the fiscal year ending September 30, 2006 by January 29, 2007.
9. The Band agrees to pay a fine in the amount of Twenty Thousand Dollars (\$20,000.00). Ten Thousand Dollars (\$10,000.00) of the fine will be paid on or before September 1, 2006. The remaining Ten Thousand Dollars (\$10,000.00) will be suspended pending the timely submission of the annual audit report for the fiscal year ending September 30, 2006 to the NIGC by January 29, 2007. Upon successful submission of the aforementioned annual audit report for the fiscal

year ending September 30, 2006 by its due date, the Chairman will forgive the suspended Ten Thousand Dollar (\$10,000.00) fine. If the Band fails to submit the aforementioned audit by such date, it must be submitted as soon as possible and the remaining Ten Thousand Dollars (\$10,000.00) of the fine will be paid on or before January 30, 2007.

10. The Chairman agrees upon execution of this Agreement to waive the right to impose any further civil fine for Notice of Violation No. NOV-06-14 against the Band, unless the Band fails to comply with this Agreement. If the Band fails to comply with this Agreement, the Chairman reserves the right to initiate an enforcement action as outlined under 25 C.F.R. § 573.6.
11. The Band agrees upon execution of this Agreement to waive its right, if any, to further review of Notice of Violation No. NOV-06-14, including all rights to appeal to the full Commission as outlined in 25 C.F.R. § 577 *et seq.* and judicial review pursuant to 25 U.S.C. § 2714.
12. Subsequent to the parties' acceptance of this Agreement, the civil fine assessment set forth herein will become a Final Assessment Order of the Commission.


#### **ADDITIONAL COVENANTS**

1. This Agreement constitutes the entire agreement between the Chairman and the Band and supersedes all prior verbal or written agreements and understandings between the parties related to the subject matter hereof. No warranties, representations, covenants, or agreements shall be binding upon any party except as set forth herein. Any modification or waiver of any term of this Agreement,

including the modification or waiver of term, must be in writing and signed by both parties.

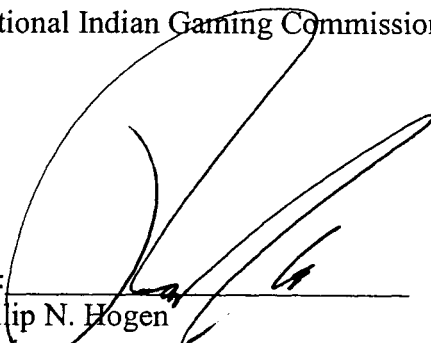
2. The Band stipulates that the Notice of Violation shall be deemed a final order of the Commission and a final agency action pursuant to 25 C.F.R. § 577.9(d).
3. The Chairman and the Band expressly agree and acknowledge that time is of the essence in this Agreement. The recitals herein and above set shall be binding upon the parties, their agents, heirs, personal representatives, successors and assigns.
4. A signature produced by facsimile shall be deemed to be an original signature and shall be effective and binding for purpose of the Agreement.

Pechanga Band of Luiseno  
Mission Indians of the  
Pechanga Reservation

By:   
Mark Macarro  
Chairman

8-16-06  
Date

National Indian Gaming Commission

  
By: Philip N. Hogen  
Chairman

8/17/06  
Date