

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

IN THE MATTER OF:

**THE TONKAWA TRIBE
OF OKLAHOMA
TONKAWA, OKLAHOMA**

Number 2006 - 1

**EDWARD E. STREET
TONKAWA, OKLAHOMA**

ASSESSMENT OF CIVIL MONEY PENALTY

I. INTRODUCTION

The Secretary of the United States Department of the Treasury has delegated to the Director of the Financial Crimes Enforcement Network the authority to determine whether a financial institution has violated the Bank Secrecy Act¹ and the regulations issued pursuant to that Act,² and what, if any, sanction is appropriate. The Financial Crimes Enforcement Network has determined that grounds exist to assess civil money penalties³ against the Tonkawa Tribe of Oklahoma (the "Tonkawa Tribe") and Edward E. Street.

In order to resolve this matter, and only for that purpose, the Tonkawa Tribe and Edward E. Street have entered into a CONSENT TO THE ASSESSMENT OF CIVIL MONEY PENALTY ("CONSENT") dated March 23, 2006, without admitting or denying the determinations by the Financial Crimes Enforcement Network, as described in Sections III and IV below, except as to jurisdiction in Section II below, which is admitted.

The CONSENT is incorporated into this ASSESSMENT OF CIVIL MONEY PENALTY ("ASSESSMENT") by this reference.

¹ 31 U.S.C. § 5311 et seq.

² 31 C.F.R. Part 103.

³ See 31 U.S.C. § 5321 and 31 C.F.R. § 103.57.

II. JURISDICTION

The Financial Crimes Enforcement Network may impose a civil money penalty on any partner, director, officer, or employee of a casino that willfully participates in violations of the Bank Secrecy Act and its implementing regulations.⁵

On April 21, 1938, the Tonkawa Tribe established itself and the United States recognized the Tonkawa Tribe – in each event as a self-governing tribe of Native Americans pursuant to the Oklahoma Indian Welfare Act.⁶ The Tonkawa Tribe has approximately 500 members and occupies approximately 1,200 acres of land within the territorial boundaries of Oklahoma.

During the period from 2001 through 2005, the Tonkawa Tribal Gaming Commission licensed the operation of a gaming establishment – Tonkawa Bingo and Casino – within the jurisdiction of the Tonkawa Tribe. Tonkawa Bingo and Casino offered bingo, slot machines, and off-track betting. The Tonkawa Tribal Gaming Commission licensed bingo – “class II gaming” for purposes of the Indian Gaming Regulatory Act – under the Indian Gaming Regulatory Act⁷ and ordinances of the Tonkawa Tribe. The Tonkawa Tribal Gaming Commission licensed slot machine play and off-track betting – “class III gaming” for purposes of the Indian Gaming Regulatory Act – under the Indian Gaming Regulatory Act, one or more compacts between Oklahoma and the Tonkawa Tribe,⁸ and ordinances of the Tonkawa Tribe.

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.”⁹ The gaming establishment must have gross annual gaming revenue of more than \$1 million.¹⁰ During the fiscal year ending December 31, 2004, Tonkawa Bingo and Casino generated total revenue of approximately \$88 million. Gaming revenue accounted for substantially all of the total revenue that Tonkawa Bingo and Casino generated. At all times relevant to this matter, Tonkawa Bingo and Casino was a “casino” for purposes of the Bank Secrecy Act and its implementing regulations.

Moreover, at all times relevant to this matter, the Tonkawa Tribe and Edward E. Street were each a “partner, director, officer, or employee” of Tonkawa Bingo and Casino for purposes of the Bank Secrecy Act and its implementing regulations. The Tonkawa Tribe – through the licensing activities of the Tonkawa Tribal Gaming Commission – permitted Edward E. Street to operate Tonkawa Bingo and Casino within the jurisdiction of the Tonkawa Tribe. The Tonkawa Tribe granted permission on an annual basis. In addition, the Tonkawa Tribe and Edward E. Street executed employment, management, or similar agreements that addressed ownership and

⁶ 25 U.S.C. §§ 501 *et seq.*

⁷ 25 U.S.C. §§ 2701 *et seq.*

⁸ The Tonkawa Tribe executed multiple compacts with Oklahoma.

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

¹⁰ 31 U.S.C. §§ 5312(a)(2)(X); 31 C.F.R. § 103.11(n)(5)(i).

operation of Tonkawa Bingo and Casino. The Tonkawa Tribe retained ownership of the premises necessary for operating Tonkawa Bingo and Casino. Edward E. Street had the authority to direct and oversee the operation of Tonkawa Bingo and Casino. The Tonkawa Tribe and Edward E. Street each shared profits from the operation of Tonkawa Bingo and Casino.¹¹

The Internal Revenue Service examines tribal and other casinos for compliance with the Bank Secrecy Act and regulations under the Bank Secrecy Act.¹²

III. DETERMINATIONS

A. Summary

Tonkawa Bingo and Casino committed extensive violations of the Bank Secrecy Act and its implementing regulations. Tonkawa Bingo and Casino violated the requirement to develop and implement an adequate Bank Secrecy Act compliance or anti-money laundering program, violated requirements to make and retain records, violated requirements to report suspicious transactions and transactions in currency, and violated the requirement not to structure transactions in currency. Furthermore, Edward E. Street and the Tonkawa Tribe participated in violations of the Bank Secrecy Act and its implementing regulations by Tonkawa Bingo and Casino.

Off-track betting accounted for most of the gaming activity at Tonkawa Bingo and Casino. For example, during the fiscal year ending December 31, 2004, off-track betting accounted for approximately \$60 million in revenue, or more than two-thirds of the total revenue that Tonkawa Bingo and Casino generated during the period. Off-track betting at Tonkawa Bingo and Casino involved pari-mutuel wagers on horse races. Tonkawa Bingo and Casino served as a facility – remote from the locations at which the races actually occurred – through which persons could conduct the wagers. A pari-mutuel wager on a horse race involved the pooling of wagers. The amount a participant in the pool would receive as a result of a wager was a function of all wagers that formed part of the pool – and the number and size of these wagers. Off-track betting at Tonkawa Bingo and Casino required the services of a “tote company” to transmit information and the race itself through closed-circuit television.

The off-track betting operation at Tonkawa Bingo and Casino posed a substantial risk of money laundering and other illicit activity. Off-track betting occurred primarily through accounts at Tonkawa Bingo and Casino. Persons could deposit funds, transfer funds between accounts or to third parties, and conduct similar transactions through these accounts. A substantial majority of wagers and other transactions that occurred through these accounts

¹¹ The Tonkawa Tribal Gaming Commission issued the licenses permitting operation of Tonkawa Bingo and Casino to Oakland Enterprises LLC. Similarly, the agreements between Edward E. Street and the Tonkawa Tribe allowed Edward E. Street to operate Tonkawa Bingo and Casino – and receive profits from the operation of Tonkawa Bingo and Casino – either directly or through Oakland Enterprises LLC. Edward E. Street served as the sole owner and officer of Oakland Enterprises LLC.

¹² 31 C.F.R. § 103.56(b)(8).

involved “agents” and “principals.” Indeed, Tonkawa Bingo and Casino offered off-track betting primarily to persons that Tonkawa Bingo and Casino knew were serving as agents.

A number of principals had accounts at Tonkawa Bingo and Casino. For example, transfers of funds between accounts at Tonkawa Bingo and Casino often involved an account of an agent and an account of a principal. However, numerous principals had no direct relationship with Tonkawa Bingo and Casino – through accounts at Tonkawa Bingo and Casino or otherwise. These principals acted solely through agents. Moreover, agents would often conduct wagers and other transactions for themselves or principals – and open accounts for themselves or principals – by telephone from locations remote to Tonkawa Bingo and Casino. The locations included New York, New Jersey, and other jurisdictions throughout the United States. Representatives of the agents – individuals independent of the Tonkawa Tribe and Tonkawa Bingo and Casino – who nevertheless operated on the premises of Tonkawa Bingo and Casino covered the telephones.

B. Violations of the Requirement to Develop and Implement an Adequate Bank Secrecy Act Compliance or Anti-Money Laundering Program

The Financial Crimes Enforcement Network has determined that Tonkawa Bingo and Casino 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 a casino to “develop and implement a written program reasonably designed to assure and monitor compliance” with the Bank Secrecy Act.¹⁴ A Bank Secrecy Act compliance or anti-money laundering program¹⁵ must include the following elements: (a) a system of internal controls to assure ongoing compliance;¹⁶ (b) independent testing by personnel of the casino or parties external to the casino;¹⁷ (c) training of personnel;¹⁸ (d) the designation of an individual or individuals responsible for assuring day-to-day compliance;¹⁹ (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;²⁰ and (f) for casinos with automated data processing systems, use of the systems to aid in assuring compliance.²¹

¹⁵ 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.

¹⁶ 31 C.F.R. § 103.64(a)(2)(i).

¹⁷ 31 C.F.R. § 103.64(a)(2)(ii).

¹⁸ 31 C.F.R. § 103.64(a)(2)(iii).

¹⁹ 31 C.F.R. § 103.64(a)(2)(iv).

²⁰ 31 C.F.R. § 103.64(a)(2)(v)(A).

²¹ 31 C.F.R. § 103.64(a)(2)(vi).

The Bank Secrecy Act and its implementing regulations require casinos to adopt written programs. Prior to February of 2005, Tonkawa Bingo and Casino adopted no written program for compliance with the Bank Secrecy Act. Furthermore, policies or procedures that Tonkawa Bingo and Casino did in fact implement during this period failed in every respect to satisfy requirements under the Bank Secrecy Act.

1. Internal Controls

The off-track betting operation at Tonkawa Bingo and Casino posed a substantial risk of money laundering and other illicit activity. Tonkawa Bingo and Casino failed to implement a system of internal controls reasonably designed to manage this risk and assure compliance with the Bank Secrecy Act.

Tonkawa Bingo and Casino implemented few internal controls. With respect to transfers of funds between accounts of agents and principals, Edward E. Street has conceded that Tonkawa Bingo and Casino never questioned the transfers. Tonkawa Bingo and Casino viewed its role as merely ministerial – simply following directions and processing the transfers with little regard to the risk of illicit activity that the off-track betting operation posed. Tonkawa Bingo and Casino adopted an identical approach for other transactions – including wagers – that involved agents and principals.

The Bank Secrecy Act and its implementing regulations required procedures for utilizing available information to detect and timely report suspicious transactions. Indeed, regulations under the Bank Secrecy Act make explicit reference to these procedures.²² Tonkawa Bingo and Casino failed to question the transfers, wagers, and other transactions even in the presence of compelling and readily available information indicating that many of these transactions bore indicia of suspicious activity. During 2001 and 2002, a group of agents conducted telephonically approximately \$50,000,000 in wagers through the off-track betting operation at Tonkawa Bingo and Casino. In 2005, federal authorities indicted the agents on charges of money laundering, racketeering, and the operation of an illegal gaming business. The indictment alleged ties between the agents and an organized crime family, and alleged that some of the activities at issue involved the off-track betting operation at Tonkawa Bingo and Casino. Edward E. Street knew – or clearly should have known – of investigations by law enforcement into the activities of these agents. A number of years prior to the indictment, Edward E. Street had received one or more subpoenas, notices, or similar communications from law enforcement. Although all of the wagers that these agents conducted occurred prior to March 25, 2003 – the effective date for the requirement to report suspicious transactions – other agents conducted transactions through the off-track betting operation during the period from March 25, 2003 to January 31, 2005. These transactions exhibited patterns and other characteristics similar – if not identical – to those of transactions by the agents federal authorities indicted. Tonkawa Bingo and Casino failed to utilize any of this information in applying a system of internal controls to assure compliance with the Bank Secrecy Act.

²² Casinos must implement “procedures for using all available information to determine...the occurrence of any transactions or patterns of transactions” that require reporting as suspicious transactions. 31 C.F.R. § 103.64(a)(2)(v)(B).

2. Independent Testing

Tonkawa Bingo and Casino failed to implement adequate procedures for independent testing of compliance with the Bank Secrecy Act. On a number of occasions prior to February of 2005, auditing firms conducted external audits of Tonkawa Bingo and Casino. However, the audits failed to test compliance with the requirement to report suspicious transactions, internal controls for assuring compliance with this requirement, and other critical aspects of compliance with the Bank Secrecy Act. No audit or other function internal to Tonkawa Bingo and Casino performed such testing.

3. Training

On September 3, 2003, a Tribal Government Specialist from the Internal Revenue Service conducted a Bank Secrecy Act training session for personnel of Tonkawa Bingo and Casino. However, prior to and after September 3, 2003, personnel of Tonkawa Bingo and Casino received no training on compliance with the Bank Secrecy Act. In fact, as of January 31, 2005, only two employees of Tonkawa Bingo and Casino had attended the session that the Tribal Government Specialist conducted on September 3, 2003. The failure by Edward E. Street to provide for the training of personnel resulted in a lack of essential knowledge on the obligations of Tonkawa Bingo and Casino under the Bank Secrecy Act. Personnel of Tonkawa Bingo and Casino operated under the notion that these obligations involved only the requirement to report transactions in currency.

4. Designation of an Individual or Individuals Responsible for Assuring Day-to-Day Compliance

One or more employees of Tonkawa Bingo and Casino attempted to perform the function of completing and filing currency transaction reports. However, no individual at Tonkawa Bingo and Casino performed the function of a compliance officer in assuring day-to-day compliance with the requirement to report suspicious transactions – or day-to-day compliance with any requirement under the Bank Secrecy Act other than the requirement to report transactions in currency.

5. Procedures for Using Available Information to Determine and Verify Identifying Information

Wagers and other transactions that occurred through the off-track betting operation at Tonkawa Bingo and Casino often involved agents and principals. A number of principals had accounts at Tonkawa Bingo and Casino. Tonkawa Bingo and Casino viewed the obligation to obtain identifying information on these principals – name, address, social security or taxpayer identification number, and similar information – as residing primarily with the agents. With few exceptions, Tonkawa Bingo and Casino obtained the names of the principals and no other information. Tonkawa Bingo and Casino obtained additional information only in a limited number of instances where principals with accounts at Tonkawa Bingo and Casino conducted wagers and received funds from the wagers that required reporting by Tonkawa Bingo and Casino under the Internal Revenue Code.

Furthermore, Tonkawa Bingo and Casino implemented few – or clearly inadequate – procedures for ensuring the validity of the information that Tonkawa Bingo and Casino did obtain. Agents would often conduct wagers and other transactions for themselves or principals – and open accounts for themselves or principals – by telephone from locations throughout the United States. Tonkawa Bingo and Casino failed to implement meaningful procedures for the verification of identifying information on those individuals who never appeared at Tonkawa Bingo and Casino. Rather, to the extent Tonkawa Bingo and Casino made any effort to verify identifying information, Tonkawa Bingo and Casino merely reviewed copies of government-issued identification documents faxed to Tonkawa Bingo and Casino. Despite the substantial risk of illicit activity, Tonkawa Bingo and Casino conducted no further investigation. Tonkawa Bingo and Casino failed to implement procedures for obtaining – to the extent appropriate and practical – additional documentation or information that would confirm the validity of identifying information. Tonkawa Bingo and Casino made no effort to ensure that agents or others had verified identifying information. Tonkawa Bingo and Casino even failed to implement procedures for preventing agents from intentionally conveying false or fictitious identifying information – on themselves or principals.

6. Use of Automated Data Processing Systems to Aid in Assuring Compliance

Tonkawa Bingo and Casino maintained an automated system that processed information necessary for the performance of accounting functions. The system allowed Tonkawa Bingo and Casino to process – at little cost – information on persons and transactions from spreadsheets and similar records on off-track betting. Tonkawa Bingo and Casino made no use of the system in identifying transactions that bore indicia of suspicious activity.

C. Violations of Requirements to Make and Retain Records

The Financial Crimes Enforcement Network has determined that Tonkawa Bingo and Casino violated requirements to make and retain records. The Bank Secrecy Act and its implementing regulations require financial institutions – including casinos – to record and retain information on funds transfers and similar transactions.²³ In addition, the Bank Secrecy Act and its implementing regulations require a casino to record and retain information on account openings and certain transactions occurring at or through the casino.²⁴ With respect to both sets of requirements, the casino must record and retain information on the account openings or transactions themselves, and in many instances identifying information – name, address, social security or taxpayer identification number, and similar information – on persons involved in the accounts or transactions. Furthermore, casinos must in many instances verify identity or identifying information. Finally, casinos must retain records for a period of five years.²⁵

²³ 31 C.F.R. § 103.33(f) and (g).

²⁴ 31 C.F.R. § 103.36(a), (b)(1) - (6), (b)(8), (b)(10), and (c).

²⁵ 31 C.F.R. § 103.38(d).

The off-track betting operation at Tonkawa Bingo and Casino lacked complete records. Tonkawa Bingo and Casino failed to provide complete records in response to a document request and summons the Internal Revenue Service issued under the authority of the Bank Secrecy Act, and the “tote company” failed to provide complete records in response to a summons the Internal Revenue Service issued under the authority of the Bank Secrecy Act. Most of the records Tonkawa Bingo and Casino provided included no information – other than name – that would identify a person. Most of the records lacked documentation – copies of government-issued identification documents or other documentation – evidencing that Tonkawa Bingo and Casino or any other party had ever verified identity or identifying information. Records that appeared to include complete information often lacked credible information. For example, records included social security or taxpayer identification numbers such as “123-45-6789,” or indicated that individuals with different names had the same social security or taxpayer identification number.

D. Violations of the Requirement to Report Suspicious Transactions

The Financial Crimes Enforcement Network has determined that Tonkawa Bingo and Casino 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.²⁶ A transaction is “suspicious” if the transaction: (a) involves funds derived from illegal activity;²⁷ (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;²⁸ (c) is designed to evade reporting or record keeping requirements under the Bank Secrecy Act;²⁹ (d) has no business or apparent lawful purpose or is not the sort in which the 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;³⁰ or (e) involves use of the casino to facilitate criminal activity.³¹ A casino must file a suspicious activity report no later than 30 calendar days after initially detecting facts that may constitute a basis for filing a suspicious activity report.³² If no suspect is identified on the date of the detection, a casino may delay filing a suspicious activity report for an additional 30 calendar days to identify a suspect.

Tonkawa Bingo and Casino committed extensive violations of the requirement to report suspicious transactions. The violations resulted from the failure to implement an adequate program for compliance with the Bank Secrecy Act. Transactions that Tonkawa Bingo and

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

²⁷ 31 C.F.R. § 103.21(a)(2)(i).

²⁸ 31 C.F.R. § 103.21(a)(2)(i).

²⁹ 31 C.F.R. § 103.21(a)(2)(ii).

³⁰ 31 C.F.R. § 103.21(a)(2)(iii).

³¹ 31 C.F.R. § 103.21(a)(2)(iv).

³² 31 C.F.R. § 103.21(b)(3).

Casino failed to report occurred through the off-track betting operation and involved, in total, approximately \$21 million. Tonkawa Bingo and Casino obtained identifying information that appeared credible only at first glance. Upon further investigation, the information proved false or fictitious. For example, records included social security or taxpayer identification numbers other than “123-45-6789” that were nevertheless false or fictitious. Persons provided false or fictitious identifying information in apparent attempts to conceal identity. At least one individual – an agent – formed a corporation in an apparent attempt to cause the creation of misleading records at Tonkawa Bingo and Casino. The corporation had the name of a natural person – to illustrate, “John Doe, Inc.” – different than that of the individual owning the corporation. The individual conducted more than \$1.7 million in transactions through accounts at Tonkawa Bingo and Casino. In addition, numerous transactions – transfers of funds between accounts that each involved substantial sums – lacked any apparent business or lawful purpose. Finally, numerous transactions exhibited characteristics similar – if not identical – to those of transactions by agents federal authorities indicted in 2005 for money laundering, racketeering, and the operation of an illegal gaming business. The characteristics related to geography, volume, and the use of false or fictitious identifying information. As of November 12, 2005, and despite the volume of suspicious activity that occurred through the off-track betting operation, Tonkawa Bingo and Casino had yet to file a single suspicious activity report.

E. Violations of the Requirement to Report Transactions in Currency.

The Financial Crimes Enforcement Network has determined that Tonkawa Bingo and Casino violated the requirement to report transactions in currency. The Bank Secrecy Act and its implementing regulations require casinos to report transactions that involve either “cash in” or “cash out” of more than \$10,000 during a single gaming day.³³ 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.³⁴ A casino must report transactions in currency through the filing of currency transaction reports.³⁵

During a single gaming day, one or more agents – agents later indicted in 2005 for money laundering, racketeering, and the operation of an illegal gaming business – entered Tonkawa Bingo and Casino with a duffle bag containing \$300,000 in \$100 bills. The bills lacked bank wrappers. The agents deposited the currency into one or more accounts at Tonkawa Bingo and Casino. Edward E. Street received the currency and processed the deposits. As of November 12, 2005, Tonkawa Bingo and Casino had yet to file a currency transaction report for the deposits.

F. Violations of the Requirement Not to Structure Transactions in Currency.

The Financial Crimes Enforcement Network has determined that Tonkawa Bingo and Casino violated the requirement not to structure transactions in currency. The Bank Secrecy Act and its implementing regulations prohibit a casino from structuring, attempting to structure, or

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

³⁴ 31 C.F.R. § 103.22(c)(3).

³⁵ 31 C.F.R. § 103.22(b)(2).

assisting in the structuring of transactions in currency.³⁶ The casino must engage in the conduct “for the purpose of evading” the requirement to report transactions in currency.³⁷

During a single gaming day, one or more agents – agents later indicted in 2005 for money laundering, racketeering, and the operation of an illegal gaming business – deposited \$300,000 in currency into one or more accounts at Tonkawa Bingo and Casino. In turn, employees of Tonkawa Bingo and Casino deposited the currency into accounts of Tonkawa Bingo and Casino at multiple banks, on multiple days. Each deposit involved less than \$10,000 in currency. Edward E. Street claimed in interviews with examiners from the Internal Revenue Service that Tonkawa Bingo and Casino conducted the deposits in this manner to avoid the closing of accounts at the banks. However, Edward E. Street was aware of the obligation on the part of the banks to report transactions in currency. The Financial Crimes Enforcement Network also notes the circumstances surrounding the deposits at Tonkawa Bingo and Casino – and the fact that Tonkawa Bingo and Casino failed to report these deposits. Compelling evidence supports the determination that Tonkawa Bingo and Casino acted with the purpose of preventing the banks from reporting the deposits at the banks to law enforcement or other authorities – reporting that could have notified law enforcement or other authorities of the deposits at Tonkawa Bingo and Casino.

G. Edward E. Street and the Tonkawa Tribe Participated in Violations of the Bank Secrecy Act and its Implementing Regulations.

The Financial Crimes Enforcement Network has determined that Edward E. Street and the Tonkawa Tribe participated in violations of the Bank Secrecy Act and its implementing regulations by Tonkawa Bingo and Casino. Employment, management, or similar agreements granted Edward E. Street the authority to direct and oversee the operation of Tonkawa Bingo and Casino. Edward E. Street exercised the authority. Edward E. Street did in fact direct and oversee – on a day-to-day basis – the operation of Tonkawa Bingo and Casino.

Compacts between the Tonkawa Tribe and Oklahoma required the Tonkawa Tribe to establish a tribal compliance agency. The Tonkawa Tribe assigned the role to the Tonkawa Tribal Gaming Commission. The compacts required that the Tonkawa Tribal Gaming Commission provide oversight. The compacts required that the Tonkawa Tribal Gaming Commission undertake reasonable efforts to ensure compliance by Tonkawa Bingo and Casino with applicable law – and reasonable efforts to ensure that Tonkawa Bingo and Casino “promptly notify appropriate law enforcement authorities of persons who may be involved in illegal acts in accordance with applicable law.”

The Tonkawa Tribal Gaming Commission subordinated all of these requirements to the business interests of the Tonkawa Tribe – and to the desire on the part of the Tonkawa Tribe that the Tonkawa Tribe play little or no part in operating Tonkawa Bingo and Casino. For example, a member of the Tonkawa Tribal Gaming Commission conceded in interviews with examiners from the Internal Revenue Service to lacking any knowledge on the off-track betting operation at

³⁶ 31 U.S.C. § 5324 and 31 C.F.R. § 103.63.

³⁷ 31 U.S.C. § 5324 and 31 C.F.R. § 103.63.

Tonkawa Bingo and Casino. Off-track betting accounted for most of the activity at Tonkawa Bingo and Casino. The member also conceded to lacking any awareness of requirements under the Bank Secrecy Act.³⁸

IV. CIVIL MONEY PENALTY

Under the authority of the Bank Secrecy Act and the regulations issued pursuant to that Act, the Financial Crimes Enforcement Network has determined that civil money penalties are due for the violations of the Bank Secrecy Act and the regulations issued pursuant to that Act described in this ASSESSMENT.

During the fiscal year ending December 31, 2004, Tonkawa Bingo and Casino generated net income of approximately \$2 million. As of December 31, 2004, Tonkawa Bingo and Casino had total assets of approximately \$5 million.

Based on the nature and seriousness of the conduct at issue in this matter, and the financial resources available to the Tonkawa Tribe and Edward E. Street, the Financial Crimes Enforcement Network has determined that the appropriate penalties in this matter are a penalty of \$1,000,000.00 against the Tonkawa Tribe, and a separate penalty of \$1,500,000.00 against Edward E. Street.

V. CONSENT TO ASSESSMENT

To resolve this matter, and only for that purpose, the Tonkawa Tribe, without admitting or denying either the facts or determinations described in Sections III and IV above, except as to jurisdiction in Section II, which is admitted, consents to the assessment of a civil money penalty against the Tonkawa Tribe in the amount of \$1,000,000.00. To resolve this matter, and only for that purpose, Edward E. Street, without admitting or denying either the facts or determinations described in Sections III and IV above, except as to jurisdiction in Section II, which is admitted, consents to the assessment of a civil money penalty against Edward E. Street in the amount of \$1,500,000.00.

The Tonkawa Tribe agrees to pay the amount of \$1,000,000.00. On February 8, 2006, the Tonkawa Tribe closed Tonkawa Bingo and Casino. The penalty is payable in six equal installments of \$166,667.00. The Tonkawa Tribe plans to open a new gaming establishment in the near future. The Tonkawa Tribe shall pay an installment every thirty (30) business days, with the first installment due ninety (90) business days from the date the Tonkawa Tribe opens a gaming establishment.

³⁸ The Tonkawa Tribal Gaming Commission could have provided oversight by reviewing the conduct of Tonkawa Bingo and Casino solely in the context of licensing, issuing regulations, investigating and penalizing violations, and other functions of an agency acting in a regulatory capacity. Aspects of a program for compliance with the Bank Secrecy Act -- including the day-to-day compliance function -- often reside with casinos -- and not tribal regulatory agencies. Tonkawa Tribal Gaming Commission undertook no measures to ensure that Tonkawa Bingo and Casino had adopted and implemented a reasonably-designed, written program for compliance with the Bank Secrecy Act.

Edward E. Street agrees to pay the amount of \$1,500,000.00. The penalty is payable in six equal installments of \$250,000.00. Edward E. Street shall pay an installment every thirty (30) business days, with the first installment due one hundred and eighty (180) business days from the date of this ASSESSMENT.

In either case, payments shall be:

- a. Made by certified check, bank cashier's check, bank money order, or wire;
- b. Made payable to the United States Department of the Treasury;
- c. Hand-delivered or sent by overnight mail to the Financial Crimes Enforcement Network, Attention: Associate Director, Administration & Communications Division, 2070 Chain Bridge Road, Suite 200, Vienna, Virginia 22182; and
- d. Submitted under a cover letter, which references the caption and file number in this matter.

The Tonkawa Tribe and Edward E. Street recognize and state that they enter 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 the Tonkawa Tribe and Edward E. Street to enter into the CONSENT, except for those specified in the CONSENT.

The Tonkawa Tribe and Edward E. Street understand and agree that the CONSENT embodies the entire agreement between the parties relating to this enforcement matter only, as described in Section III above. The Tonkawa Tribe and Edward E. Street further understand and agree that there are no express or implied promises, representations, or agreements between the parties other than those expressly set forth or referred to in the CONSENT 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

The Tonkawa Tribe and Edward E. Street understand that execution of the CONSENT, and compliance with the terms of this ASSESSMENT and the CONSENT, constitute a complete settlement of civil liability for the violations of the Bank Secrecy Act and regulations issued pursuant to that Act described in the CONSENT and this ASSESSMENT.

By: Robert W. Werner
Robert W. Werner, Director
FINANCIAL CRIMES ENFORCEMENT NETWORK
U.S. Department of the Treasury

Date: March 24, 2006