

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

STATE OF TEXAS,
Plaintiff

v.

YSLETA DEL SUR PUEBLO,
TIGUA GAMING AGENCY, THE TRIBAL
COUNCIL, TRIBAL GOVERNOR ART
SENCLAIR, and TRIBAL LIEUTENANT
GOVERNOR CARLOS HISA,
Defendants

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NO. EP-99-CA-0320-DB

**PLAINTIFF'S MOTION FOR CONTEMPT FOR VIOLATION OF THE
SEPTEMBER 27, 2001 INJUNCTION**

TO THE HONORABLE JUDGE DAVID BRIONES:

The State of Texas ("State"), Plaintiff in the above styled action, files this its Motion for Contempt to enforce the September 27, 2001 Injunction, and in support thereof, would respectfully show the Court the following:

I.

INTRODUCTION

1. In *Ysleta Del Sur Pueblo v. State of Texas*, 36 F.3d 1325 (5th Cir. 1994) ("*Ysleta I*") the Court found that the Pueblo is organized pursuant to the Restoration Act, 25 U.S.C. §1300g-6 (c) and that "All gaming activities which are prohibited by the laws of the state of Texas are prohibited on the reservation and on lands of the tribe." *Ysleta I*, *id.* at 1332. The Fifth Circuit went further and held that under the Restoration Act, Texas law "functions as surrogate federal law . . . the Tribe has already made its 'compact' with the State of Texas, and the Restoration Act embodies that compact. If the Ysleta del Sur Pueblo wishes to vitiate the compact it made to secure passage of the

Restoration Act, it will have to petition Congress to amend or repeal the Restoration Act rather than merely comply with the procedures of IGRA.” *Ysleta I*, *id.* at 1335.

2. This Court in *Texas v. Ysleta Del Sur Pueblo*, 220 F.Supp.2d 668 (W.D. Tex. 2001 & Order Modifying Opinion 2002) (“*Ysleta II*”), entered a permanent injunction, finding that:

...the Tribe operates, *inter alia*, high-stakes bingo, keno games, a form of blackjack called Tigua 21, poker games, slot machines, crap games, a “ABig-Six” wheel game, and off-track betting on horse and dog races, all as described in the State's Motion for Summary judgment under the heading “games at the Casino.” Pp 10-17. And the Court notes that the summary judgment record cited therein fully supports this finding.

And the Court makes the following additional conclusions of law:

The Speaking Rock Casino and Entertainment Center is a building which has as one of its uses, the making or settling of bets, as defined by Section 47.01(3) of the Texas Penal code.

The Speaking Rock Casino and Entertainment Center is a place where, among other activities, one or more prizes are distributed by chance among persons who have paid or promised consideration for a chance to win anything of value, as defined by Section 47.01(7) of the Texas Penal Code.

The Speaking Rock Casino and Entertainment Center is a place where activities are conducted which include one or more of the activities described in Section 47.02(a), 47.03(a), 47.04(a), 47.05(a) and 47.06(a) of the Texas Penal Code.

The Defendants knowingly maintain the Speaking Rock Casino as a place where persons repeatedly and habitually go for purposes of gambling and that these activities are frequent and continuous.

The Defendants habitually make the Speaking Rock Casino available to members of the general public for gambling, gambling promotion and the communication of gambling information, all of which are prohibited by law.

The Defendants operate the Speaking Rock Casino as a place where plays and bets are made upon games played with cards, dice and other gambling devices.

The Speaking Rock Casino is not a “private place” as defined by Texas Penal Code § 47.01(8), but rather is a public place to which the general public is invited and has ready access.

Ysleta II at 690-691.

3. The *Ysleta II* opinion of this Court entered conclusions of law including:

7. The evidence in this case has established, and the court so finds, that the Defendants in this case have embarked upon a long-continued habitual course of

conduct clearly violative of the Gambling Laws of the State of Texas and that such parties, unless enjoined, will continue such habitual illegal activities at Speaking Rock Casino. More specifically, such Defendants, **YSLETA DEL SUR PUEBLO**, **TIGUA GAMING AGENCY**, **THE TRIBAL COUNCIL**, **TRIBAL GOVERNOR ALBERT ALVIDREZ**, **TRIBAL LIEUTENANT GOVERNOR FILBERT CANDELARIA**, and **GAMING COMMISSIONER FRANCISCO HERNANDEZ** have habitually used, and threatened or contemplated the continued habitual use of, a place located in El Paso County, **Texas** known as, referred to and advertised as the Speaking Rock Casino, which is geographically a part of the **Ysleta del Sur Pueblo** Indian land and which has a street address of 122 S. Old Pueblo Rd., El Paso, **Texas** 79907 for the purpose of illegal gambling, gambling promotion and communicating gambling information prohibited by law by providing a place where Defendants charge and collect monetary fees from the public resulting in an economic benefit to them based upon patrons, guests and customers playing gambling games and betting money on games played with cards, dice and other gambling devices in violation of § 47 of the **Texas** Constitution; Chapter 47 of the **Texas** Penal Code; §125.002 and §125.021 of the **Texas** Civil Practice and Remedies Code and 25 U.S.C. §1300-g-1 et seq. Ysleta Del Sur Pueblo Restoration Act.

8. The operation of all games played with dice, cards, wheels, slot machines, KENO board, off track being and BINGO cards at Speaking Rock Casino are violations of Texas Penal Code § 47.02 and constitute both a common and public nuisance under Texas Civil Practice and Remedies Code § 125.001 Common Nuisance and §125.021 Public Nuisance.

9. The State of Texas is entitled to the issuance of an injunction against the Defendants, their agents, employees, and attorneys pursuant to the Texas Civil Practice and Remedies Code §125.002 and §125.022 and Rule 65 of the Federal Rules of Civil Procedure requiring said Defendants to cease and desist from operating, conducting, engaging in or allowing others to conduct, operate or engage in gaming and gambling activities on the Pueblo's reservation held herein to be in violation of the Texas Penal Code and prohibited by the Restoration Act, 25 U.S.C. §300g-b. The Restoration Act makes it clear that the State of Texas may seek injunctive relief in federal courts to enforce the Act's gaming ban.

Id. at 696-97.

4. Thereafter, the *Ysleta II* opinion sets out the terms of the injunction as follows:

INJUNCTION

It is the Order of the Court, by this Injunction, that all such acts, activities, and conduct set forth above and also set forth below shall permanently CEASE, DESIST, and TERMINATE according to the time-table specified below.

PERSONS AND PARTIES SUBJECT OF INJUNCTION

The Persons and Parties enjoined are as follows:

1. Ysleta del Sur Pueblo
2. Tigua Gaming Agency
3. The Tribal Council of the Ysleta del Sur Pueblo
4. Tribal Governor Albert Alvidrez
5. Tribal Lieutenant Governor Filbert Candelaria
6. Gaming Commissioner Francisco Hernandez
7. The officers, agents, servants, employees, and attorneys of the foregoing persons and parties.

ACTIVITIES ENJOINED

The persons and parties enjoined and listed as being subject of injunction are hereby ORDERED to CEASE, DESIST, TERMINATE AND REFRAIN FROM engaging in, permitting, promoting, and conducting activities at the Speaking Rock Casino in violation of Chapter 47 of the Texas Penal Code, and 25 U.S.C. § 1300g of the Restoration Act, including but not limited to the following activities:

A. Gambling activities played with cards, dice, balls, or any other gambling device where some, any or all of the persons and parties enjoined receive an economic benefit. Specifically prohibited are: all card games; all dice games; all games using one or more balls and or a spinning wheel; and games involving a vertical spinning wheel, which require players to pay a monetary fee, whether such fee is designated an "Ante," "Rake," Service Charge or otherwise.

B. Gambling activities played with cards, dice, balls, or any other gambling device some, any or all of the persons and parties enjoined charge or collect or attempt to collect any monetary fee as a requirement for any person to bet on or play any game played with cards, dice, ball or any other gambling device, whether such fee is designated by "Ante," "Rake," Service Charge or otherwise.

C. Gambling activities played with cards, dice, balls, Keno tickets, bingo cards, slot machines, or any other gambling device where some, any or all of the persons and parties enjoined act directly or indirectly as the "house" or "banker" in the same fashion as the operator of the gambling casino.

D. Providing to any person for his/her use a slot machine, the operation of which results in or is calculated to result in an economic benefit to the owner or lessor of the slot machine.

E. Conducting any gambling game from which any person or party enjoined herein is likely to receive any economic benefit other than personal winnings, including, but not limited to:

1. Bingo or any variation thereof;
2. Scratch tickets, peel tickets, or pull tabs;
3. Keno or any variation thereof;
4. Tigua Dice, Craps, or any variations thereof;
5. Slot Machines;
6. Poker card games;
7. Betting on horse races or dog races;
8. Tigua 21, Blackjack, or any variations thereof;
9. Wheel of Fortune, Big Six Wheel, or any variations of wheel games.

F. Allowing other persons or entities to engage in any of the above activities on the premises of the Speaking Rock Casino or anywhere upon the reservation lands of the Ysleta del Sur Pueblo or upon any other lands of said Tribe.

Id. at 700-01.

5. As shown in the two Affidavits of Conrad Rodriguez and David Wilbourn, attached hereto as Exhibits 1 and 2 respectively, the illegal gaming activities at the Speaking Rock Casino and Entertainment Center are continuing at this time. In particular, there is eight-liner gambling going on with ultimate cash payout which violates the injunction order above. The Order of this Court stated that:

As a threshold matter, the Court recognizes that eight-liners have been found to be “gambling devices” under § 47.01(4), and thus illegal. *See Allstar Amusement v. State*, 50 S.W.3d 705 (Tex.App.2001); *Hardy v. State*, 50 S.W.3d 689 (Tex.App.2001). However, the eight-liners in these cases were found to be illegal in that they did not comport to the gambling device exception provided in § 47.01(4)(B). It is clear that if an eight-liner falls under the § 47.01(4)(B) exception, it is not illegal. The *Hardy* court recognized this, holding that eight-liners fall “within the exclusion provided by section 47.01(4)(B) only if it ‘rewards the player exclusively with noncash merchandise, prizes, toys or novelties, or a representation of value redeemable for those items.’” *Hardy*, 50 S.W.3d at 697 (emphasis in original) (quoting Tex. Penal Code Ann. § 47.01(4)(B)). Other Texas courts have recognized that eight-liners are not illegal if they fall under the § 47.01(4)(B) exception. *See generally Legere v. State*, 82 S.W.3d 105, 113 n. 4 (Tex.App.-San Antonio 2002) (“Excluded from the definition are those devices that reward the player ‘exclusively with noncash merchandises, prizes, toys or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once or \$5, whichever is less.’ As subsection 47.01(4)(B) exempts certain

types of devices, not all eight-liners are necessarily gambling devices”); *One Super Cherry*, 55 S.W.3d at 53 (“Consequently, the State bore the additional burden of negating the applicability of section 47.01(4)(B) in order to prove that the eight liners were gambling devices within the meaning of the entire statute”).

The Court concludes that the Tribe shall be permitted to offer eight-liners as an amusement device, but only to the extent that it strictly adheres to the prize limitations provided in § 47.01(4)(B). That is, the device must exclusively offer “noncash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once or \$5, whichever is less.” The Court cautions that the Tribe in offering amusement devices is to strictly adhere to this language, and the case law interpreting it.

Id at 704.

6. As shown in Paragraph 23 of the Investigation Report attached as “Exhibit A” to the two affidavits, the visa cards provided in the eight-liners here are convertible to cash and therefore do not meet the exception for prize limitations set out in Penal Code § 7.01(4)(b). As a result, the gaming now occurring at the location of 122 S. Old Pueblo Rd., El Paso, Texas 79907 violates this Court’s previous injunction.

7. On information and belief, the actions of Defendants are in direct conflict with the September 27, 2001 injunction previously entered by this Court and therefore constitute civil contempt of this Court’s prior order. *International Union, United Mine Workers of America v. Bagwell*, 512 U.S. 821, 114 S.Ct. 2552, 2557 (1994). As a result, Plaintiff requests that this Court issue a SHOW CAUSE ORDER to require Defendants to appear and following presentation of evidence, to enter an order containing appropriate sanctions against Defendants including the cessation of all gaming activities on reservation lands, or alternatively, that the State of Texas be allowed monthly access to the Pueblo premises and access to all books and records of gaming activities proposed to be conducted thereon

in order to assure future compliance with this Court's injunction order of September 27, 2001, and for such other and further relief to which Plaintiff may show itself entitled.

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

KENT C. SULLIVAN
First Assistant Attorney General

DAVID S. MORALES
Deputy Attorney General for Civil Litigation

ROBERT B. O'KEEFE
Chief, General Litigation Division

/s/

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Texas Bar No. 05692500
General Litigation Division
P. O. Box 12548, Capitol Station
Austin, Texas 78711
(512) 936-1534
Fax: (512) 320-0667
ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been sent via U.S. Certified Mail, return receipt requested, on March 14, 2008, to:

Mr. Tom Diamond
DIAMOND RASH, P.C.
300 E. Main Drive, Suite 725
El Paso, Texas 79901

/s/

WILLIAM T. DEANE
Assistant Attorney General

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STATE OF TEXAS,
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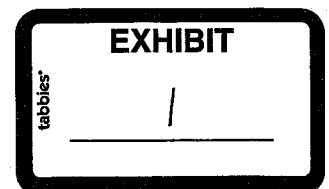
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**AFFIDAVIT OF CONRAD RODRIGUEZ IN SUPPORT OF
PLAINTIFF'S MOTION FOR CONTEMPT**

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME the undersigned authority appeared Conrad Rodriguez, Sergeant in the Criminal Enforcement Division of the Texas Department of Public Safety who, being by me duly sworn, deposed and said as follows:


1. "My name is Conrad Rodriguez, and I am over the age of eighteen years and authorized to make this Affidavit in Support of Plaintiff's Motion for Contempt. I have never been convicted of any crime and am competent to make this affidavit.
2. I am currently a Sergeant in the Criminal Enforcement Division of the Texas Department of Public Safety. Part of my duties as a Sergeant in the Criminal Enforcement Division require me to investigate complaints of illegal gaming activity conducted in the State of Texas. As shown in Exhibit A "Investigative Report" on March 5, 2008, I, along with



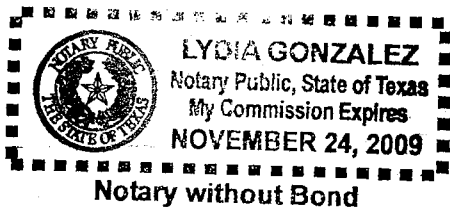
Sergeant David Wilbourn in the Criminal Enforcement Division of the Texas Department of Public Safety, investigated a report of illegal gaming at the Speaking Rock Casino and Entertainment Center located at 122 South Old Pueblo Road, El Paso, Texas. We jointly prepared an Investigation Report containing all of our investigation and conclusions made concerning the gaming activities of the Tigua tribe all as set forth in Exhibit "A" attached hereto and incorporated herein.

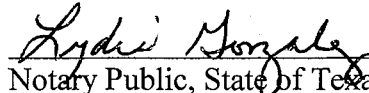
3. All of my actions in conducting this investigation were done in the course and scope of my duties as a Sergeant in the Criminal Enforcement Division of the Texas Department of Public Safety. I have read the foregoing Investigation Report and all of the facts stated therein ascribed to me are true and correct on my personal knowledge. In my opinion, this Investigation report shows the possible violation at Speaking Rock Casino of § 47.03, § 47.04, and § 47.06 of the Texas Penal Code. ”

Further affiant sayeth not:


Conrad Rodriguez
Criminal Enforcement Division of
the Texas Department of Public
Safety.

SUBSCRIBED AND SWORN TO by the said David Wilbourn this 11th day of March 2008.




Notary Public, State of Texas



TEXAS DEPARTMENT OF
PUBLIC SAFETY
CRIMINAL INTELLIGENCE
SERVICE

CASE FILE C04C080037
SPEAKING ROCK CASINO &
ENTERTAINMENT CENTER
GAMBLING INVESTIGATION

ATTACHMENT

A

**TEXAS DEPARTMENT OF PUBLIC SAFETY
CRIMINAL LAW ENFORCEMENT DIVISION
CRIMINAL INTELLIGENCE SERVICE**

INVESTIGATIVE REPORT

REPORT TITLE: SPEAKING ROCK CASINO & ENTERTAINMENT CENTER 122 SOUTH OLD PUEBLO ROAD EL PASO, TEXAS 79907 COUNTY OF ACTIVITY: El Paso (071)	THIS REPORT IS THE PROPERTY OF THE CRIMINAL LAW ENFORCEMENT DIVISION - CRIMINAL INTELLIGENCE SERVICE. NEITHER IT NOR ITS CONTENTS MAY BE DISSEMINATED OUTSIDE THE AGENCY TO WHICH LOANED.
SUBMITTED BY: Sgt David Wilbourn STATIONED: Van Horn, TX	DISSEMINATED TO: <div style="border: 1px solid black; padding: 2px; text-align: center;">Cross Related Info? [N] Disseminations? [N]</div>
REPORT RE: Gambling Promotion -- 47.03 PC, MA, Keeping A Gambling Place -- 47.04 PC, MA, and Possession Gambling Device/Equipment/Paraphanelia -- 47.06 PC, MA	

SYNOPSIS

On 02/14/08, Sergeant David Wilbourn received information from the El Paso Police Department regarding SPEAKING ROCK CASINO AND ENTERTAINMENT CENTER conducting illegal gambling at the casino located at 122 South Old Pueblo Road in El Paso, Texas. On 03/04/08 – 03/07/08 Sergeant Wilbourn and Sergeant Conrad Rodriguez conducted an investigation on SPEAKING ROCK CASINO in an undercover capacity. The following report indicates the details of the investigation.

DETAILS

1. On 02/14/08, Sergeant David Wilbourn received information from the El Paso Police Department regarding SPEAKING ROCK CASINO AND ENTERTAINMENT CENTER conducting illegal gambling at the casino located at 122 South Old Pueblo Road in El Paso, Texas.
2. The El Paso Police Department advised that patrons of SPEAKING ROCK CASINO are being given Visa Debit Cards with the monetary value of the patron's winnings at the casino.
3. On 03/04/08, Sgt. Wilbourn and Sgt. Rodriguez traveled to the SPEAKING ROCK CASINO and observed several signs posted on the outside of the casino that stated, "Come on in and win some

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cash" (Attachment 0001.0001, Two photographs of signs posted outside SPEAKING ROCK CASINO).

4. On 03/05/08, Sgt. David Wilbourn and Sgt. Conrad Rodriguez entered SPEAKING ROCK CASINO in an undercover capacity to observe and confirm the information provided on SPEAKING ROCK CASINO regarding the illegal gambling. Once inside SPEAKING ROCK CASINO, Sgt. Wilbourn observed signs that stated, "Sweepstakes winnings now paid in cash."
5. Sgt. Wilbourn and Sgt. Rodriguez both went to the cashier located to the left of the main entrance and obtained prepaid internet cards required to play the computer type gaming systems. The cards were pre-loaded with one-hundred and sixty sweepstakes points on the card (Sgt. Wilbourn received internet card #39988245654 and Sgt. Rodriguez received internet card #39987998341, refer to attachment #2). The amount of points that is obtained on a card depends on the amount of cash that is given to the cashier. Each point that is obtained is equal to one cent.
6. Sgt. Wilbourn personally observed approximately one thousand eight-liner gambling devices throughout SPEAKING ROCK CASINO that extended into multiple areas of the facility. The majority of these devices were constructed of a computer monitor, a keyboard, a mouse, and a card reader. This device functioned by swiping a card loaded with points into the reader, the monitor then displayed the points and the total winnings on the card. The other devices were more traditional eight-liners that functioned by inserting a provided account card into a card reader at which time the points and total winnings on the card were displayed on the screen.
7. Sgt. Wilbourn and Sgt. Rodriguez went to the cashiers located in the casino to receive another prepaid internet card and an account card. Sgt. Wilbourn handed sixty dollars U.S. currency to the cashier and in turn the cashier put three thousand points on a prepaid internet card (#39849526487) and handed it to Sgt. Wilbourn. Sgt. Wilbourn then went to another cashier and was handed an account card (#94865432678) with three thousand points on that card.
8. Sgt. Rodriguez also handed the cashier sixty dollars U.S. currency and in turn the cashier put three thousand points on a prepaid internet card (#39849655774) and handed it to Sgt. Rodriguez. Sgt. Rodriguez then went to another cashier and was handed an account card (#94865422248) with three thousand points on that card (Attachment 0002.0001, Photocopies of cards received for gambling at SPEAKING ROCK CASINO).
9. The cashier that assisted Sgt. Wilbourn explained to him that the internet computer gaming system that used the prepaid internet card paid out in cash and the traditional eight-liner machines that used the account card paid out in Visa Gift cards.
10. To become familiar with and understand the computer type gaming system, Sgt. Wilbourn and Sgt. Rodriguez took the loaded internet prepaid cards obtained from the cashier and selected the type of game to play which included numerous slot style games, keno, or poker. After choosing the type of game, various bets were made with the maximum bet being ninety cents or points. The greater the bet amount the more winning combinations on the slot style games available, therefore increasing your chances of winning.
11. As winnings occurred as a result of play, points were accrued. These points remained in the winnings block of the game system display, and upon completion of a gambling session, these points could be cashed out as winnings or could be converted into playing points to continue gambling.
12. To complete the gambling session, the stop and redeem icon would be clicked which saved the winnings in the system under the internet card number.
13. On several occasions, Sgt. Wilbourn and Sgt. Rodriguez received winnings that exceeded ten times the amount bet on the computer gaming system. At one time Sgt. Wilbourn bet thirty six points and

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won one thousand and seventy two points. Sgt. Rodriguez bet forty five points and won five hundred and fifty points (Attachment 0003.0001, Photograph of betting screen showing winnings exceeding tens times the amount bet and five dollars).

14. Sgt. Wilbourn returned to the cashier two more times to add twenty dollars U.S. currency each time to the prepaid internet card in the aforementioned manner as described above. Sgt. Rodriguez returned to the cashier one more time to add twenty dollars U.S. currency to the prepaid internet card in the aforementioned manner as described above.
15. Sgt. Wilbourn and Sgt. Rodriguez then used the account card to become familiar with the traditional eight-liner machines. Wording on the account card and signs posted on the eight-liner machines stated that the games were "10x Compliant." The account card is inserted into the eight-liner machine and the amount of playing points is displayed on the playing screen (Refer to attachment #2).
16. On several occasions Sgt. Wilbourn won exactly ten times the amount that was bet, but never exceeded ten times the amount (Attachment 0004.0001, Photograph showing winnings of tens times the amount bet).
17. Sgt. Wilbourn and Sgt. Rodriguez then decided to go to the cashier to obtain the winnings from the cards. Sgt. Wilbourn handed the cashier the prepaid internet card, who swiped the card in a card reader, and handed Sgt. Wilbourn two twenty dollar bills, one five dollar bill, and four one dollar bills for a total of forty nine dollars in U.S. currency for the winnings on the prepaid internet card (Attachment 0005.0001, Photocopy of U.S. currency for the winnings from the prepaid internet card #39849526487).
18. Sgt. Wilbourn went to another cashier and gave the cashier the account card, who swiped it in a card reader and handed Sgt. Wilbourn two Visa debit cards worth twenty dollars each for the winnings on the account card used by the traditional eight-liner machines (Attachment 0006.0001, Photocopy of two Visa debit cards for the winnings from the account card #94865432678).
19. Sgt. Rodriguez handed the cashier the prepaid internet card, who swiped the card in a card reader, and handed Sgt. Rodriguez three ten dollar bills for a total of thirty dollars U.S. currency for winnings on the prepaid internet card (Attachment 0007.0001, Photocopy of U.S. currency for the winnings from the prepaid internet card #39849655774).
20. Sgt. Rodriguez went to another cashier and handed the cashier the account card, who swiped the card in a card reader, and handed Sgt. Rodriguez one Visa debit card worth twenty dollars for the winnings on the account card (Attachment 0008.0001, Photocopy of one Visa debit card for the winnings from the account card #94865422248).
21. Upon the completion of the transactions, Sgt. Wilbourn and Sgt. Rodriguez departed the SPEAKING ROCK CASINO.
22. The investigation was recorded visually with the use of covert surveillance equipment (Attachment 0009.0001, Copy of covert surveillance recorded onto a DVD).
23. On 03/07/08, Sgt. Wilbourn took Visa debit card #4793470196241325 to Wal-Mart and purchased merchandise in the form of men's jeans in the amount of eighteen dollars and fifteen cents using the Visa debit card. Sgt. Rodriguez then took the merchandise purchased by Sgt. Wilbourn back to Wal-Mart and received a refund of eighteen dollars and fifteen cents in U.S. currency (Attachment 0010.0001, Photocopy of receipt and currency obtained from Wal-Mart for purchase and refund of men's jeans).
24. On 03/07/08, Sgt. Rodriguez took Visa debit card #4793470196241499 and attempted to obtain a money order at a Diamond Shamrock convenient store, but was unable to do so.

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INVESTIGATIVE

25. The prepaid internet cards and account cards were logged into the evidence locker as property tag #08-01 (Attachment 0011.0001, Photocopy of HQ-113 placing four prepaid internet cards and two account cards into the evidence locker located at 401 East Franklin Street Suite 525 El Paso, Texas).
26. The Visa debit cards were logged into the evidence locker as property tag #08-02 (Attachment 0012.0001, Photocopy of HQ-113 placing three Visa debit cards into the evidence locker located at 401 East Franklin Street Suite 525 El Paso, Texas).
27. The U.S. currency consisting of ninety seven dollars and fifteen cents was logged into the safe as property tag #08-01S (Attachment 0013.0001, Photocopy of HQ-113 placing ninety seven dollars and fifteen cents U.S. currency into the safe located at 401 East Franklin Street Suite 525 El Paso, Texas).
28. Further investigation into the SPEAKING ROCK CASINO is anticipated.

DESCRIPTION AND CUSTODY OF SEIZURE/EVIDENCE

Exhibit # 08.01

Description

Quantity: 6

Pre-paid Internet Cards and Account Cards

Four Pre-paid internet cards and two Account cards used to gamble on 8-liners

Exhibit # 08.01S

Description

Total Value: \$97.15 **Quantity:** 97.15

Currency

\$97.15 in U.S. currency paid out as winnings from SPEAKING ROCK CASINO.

Exhibit # 08.02

Description

Total Value: \$41.85 **Quantity:** 3

Three Visa Debit Cards and one Wal-Mart receipt

Three Visa Debit Cards (4793470196241325, 4793470196241499, and 4793470196241424) obtained as winnings while gambling at SPEAKING ROCK CASINO. One Walmart receipt for merchandise purchase using a Visa Debit Card.

ORGANIZATIONS

SPEAKING ROCK CASINO

Address

122 S Old Pueblo Rd

Speaking Rock Casino Entertainment Center Com

El Paso, TX 79907 (Business Address)

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INVESTIGATIVE**

ATTACHMENTS**Attachment # 0001.0001 Surveillance**Description

Date: 03/04/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** Two photographs of signs posted outside SPAEKING ROCK CASINO stating "Come on in and win some cash".

Attachment # 0002.0001 Pre-paid Internet Card and Account CardsDescription

Date: 03/05/2008 **Location:** District Files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** Photocopies of four pre-paid internet cards and two account card used to gamble at SPEAKING ROCK CASINO.

Attachment # 0003.0001 SurveillanceDescription

Date: 03/05/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** Photograph of 8-liner screen showing bet to winning ratio of more than 10 times and more than five dollars in pay out.

Attachment # 0004.0001 SurveillanceDescription

Date: 03/05/2008 **Location:** District Files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** Photograph of 8-liner screen showing a bet to winning ratio of ten times and five dollars paid put per bet.

Attachment # 0005.0001 CurrencyDescription

Date: 03/05/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** Photocopy of currency paid out for winnings from card # 39849526487.

Attachment # 0006.0001 Visa Debit CardDescription

Date: 03/05/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** Photocopy of Visa Debit Card paid out from card # 94865432678.

Attachment # 0007.0001 CurrencyDescription

Date: 03/05/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** Photocopy of currency for winnings paid out on card # 39849655774.

Attachment # 0008.0001 Visa Debit CardDescription

Date: 03/05/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** Photocopy of Visa Debit Card paid out for winnings on card # 94865422248.

Attachment # 0009.0001 DVD SurveillanceDescription

Date: 03/05/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** DVD recording of covert surveillance conducted at SPEAKING ROCK CASINO.

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INVESTIGATIVE**

Attachment # 0010.0001 Receipts

Description

Date: 03/07/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** Photocopy of receipt and currency from Wal-Mart for purchase and refund of Mens Jeans using a Visa Debit Card obtained from SPEAKING ROCK CASINO.

Attachment # 0011.0001 HQ-113 Property Tag

Description

Date: 03/05/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** HQ-113 Property Tag placing the four pre-paid internet cards and two account cards in the evidence locker

Attachment # 0012.0001 HQ-113 Property Tag

Description

Date: 03/05/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** HQ-113 Property Tag placing the three Visa Debit Cards and the Wal-Mart receipt in the evidence locker.

Attachment # 0013.0001 HQ-113 Property Tag

Description

Date: 03/05/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** HQ-113 Property Tag placing the \$97.15 in U.S. currency in the evidence safe.

DPS SENSITIVE
INVESTIGATIVE



Speaking Rock

Breakfast Buffet \$2.99
7 Days a Week 8a-11a

COME ON IN &
WIN SOME CASH



For Dial up service using your computers modem, dial 1-866-663-3679, or visit www.hello-money.net for local dial up numbers.

1. For user name and Password enter PIN

39988245654

"Hello Internet" Internet cards and retailers are not responsible for loss, theft, or unauthorized use. Safeguard your PIN. Partial minutes are rounded up to the next whole minute. Pay phone surcharges apply. Flat rate for calls is \$0.05 per minute. Minutes expire 90 days from initial purchase. For customer service call 1-877-228-8228. Visit www.hello-money.net for Internet dial up instructions. Internet dial up services provided by Prepaid Network Services.

06756

For Dial up service using your computers modem, dial 1-866-663-3679, or visit www.hello-money.net for local dial up numbers.

1. For user name and Password enter PIN

39849526487

"Hello Internet" Internet cards and retailers are not responsible for loss, theft, or unauthorized use. Safeguard your PIN. Partial minutes are rounded up to the next whole minute. Pay phone surcharges apply. Flat rate for calls is \$0.05 per minute. Minutes expire 90 days from initial purchase. For customer service call 1-877-228-8228. Visit www.hello-money.net for Internet dial up instructions. Internet dial up services provided by Prepaid Network Services.

05786

SPEAKING ROCK
10X Complaint Games

ACCOUNT CARD

94085432876

603

ATTENTION GUESTS:
All winnings or other points must be redeemed by close of business day.

ATENCION ESTIMADOS CLIENTES:
Todo la ganancia o otros puntos deben ser redimidos al cierre de el dia negocio diariamente.

Nontransferable, Nonrefundable. Not responsible for loss, theft or unauthorized use of card.

16423

Gambling Cards used by David Wilbourn

Attachment 0002.0001

For Dial up service using your computers modem, dial 1-866-663-3679, or visit www.hello-money.net for local dial up numbers.

1. For user name and Password enter PIN **39849655774**

"Hello Internet" Internet cards and retailers are not responsible for loss, theft, or unauthorized use. Safeguard your PIN. Partial minutes are rounded up to the next whole minute. Pay phone surcharges apply. Flat rate for calls is \$0.05 per minute. Minutes expire 90 days from initial purchase. For customer service call 1-877-228-8228. Visit www.hello-money.net for Internet dial up instructions. Internet dial up services provided by Prepaid Network Services.

05787

For Dial up service using your computers modem, dial 1-866-663-3679, or visit www.hello-money.net for local dial up numbers.

1. For user name and Password enter PIN **39987998341**

"Hello Internet" Internet cards and retailers are not responsible for loss, theft, or unauthorized use. Safeguard your PIN. Partial minutes are rounded up to the next whole minute. Pay phone surcharges apply. Flat rate for calls is \$0.05 per minute. Minutes expire 90 days from initial purchase. For customer service call 1-877-228-8228. Visit www.hello-money.net for Internet dial up instructions. Internet dial up services provided by Prepaid Network Services.

06755

All Internet
time is
Prepaid

Only 5c
a minute

All Internet
time is
Prepaid

Only 5c
a minute

SPEAKING ROCK
10X Compliant Games

ACCOUNT CARD

94885422248

COB

ATTENTION GUESTS:

All winnings or other points must be redeemed by close of business day.

ATENCION ESTIMADOS CLIENTES:

Todo la ganancia o otros puntos deben ser redimidos al cierre de el día negocio diariamente.

Nontransferable, Nonrefundable. Not responsible for loss, theft or unauthorized use of card.

18422

Gambling cards used by Conrad Rodriguez



4 2 6 9 1 8 7 3 5



LINE 8 4 STRIPERS WINS 160

1072

36

3794

1072

3794

36

3794



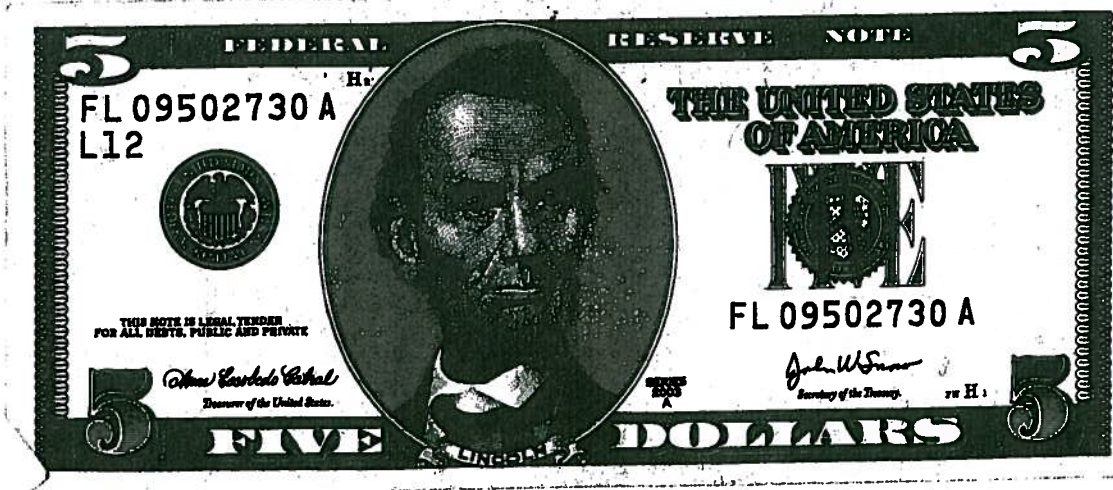
6000

SCORE
3060

500

3

PLAY
WIN
200



U.S. Currency won and paid from Card # 39849526487 to David Wilbourn



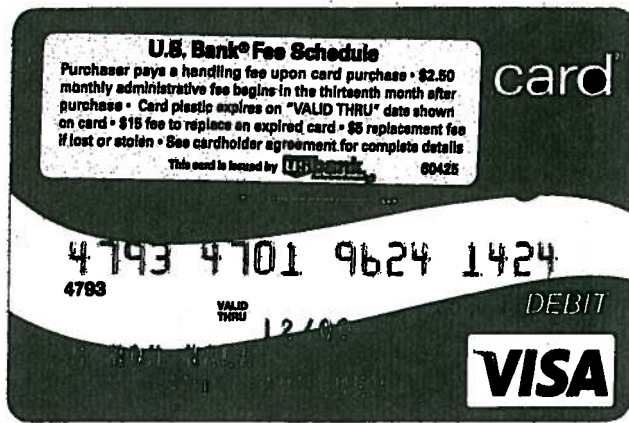
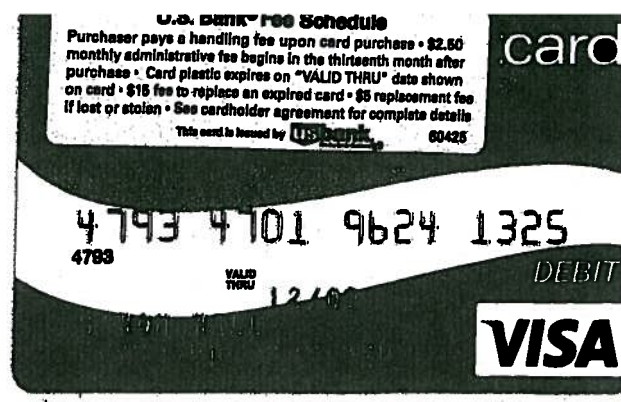
U.S. Currency Won and paid from Card # 39849526487 to David Wilbourn

1325 26
Remember to keep track of your purchases.

Date:	Amount:	Balance:

Purchase date: 1424 Initial Giftcard value: 26
Remember to keep track of your purchases.

Date:	Amount:	Balance:



2-Visa Gift cards paid from Card # 94865432678 to David Wilbourn



U.S. currency won and paid from Card # 39849655774 to Conrad Rodriguez

Purchase date:

1499

Initial Giftcard value:

20

Remember to keep track of your purchases.

Date:	Amount:	Balance:

U.S. Bank® Fee Schedule

Purchaser pays a handling fee upon card purchase • \$2.50
monthly administrative fee begins in the thirteenth month after
purchase • Card plastic expires on "VALID THRU" date shown
on card • \$15 fee to replace an expired card • \$5 replacement fee
if lost or stolen • See cardholder agreement for complete details

This card is issued by **U.S. Bank** 60425

card

4793 4701 9624 1499

4793

VALID
THRU

12/00

DEBIT

VISA

Visa Gift Card paid From Card # 94865422248 to Conrad Rodriguez

WAL★MART®

Save money. Live better.™

WE SELL FOR LESS
 MANAGER ELIZABETH GONZALEZ
 (915) 833 - 1335
 ST# 1015 OP# 00006483 TEN 20 TR# 04095
 NEW CARP JEA 067278795638 16.77 X
 SUBTOTAL 16.77
 TAX 1 0.250 1.90
 TOTAL 18.15
 VISA TEND 18.15

ACCOUNT #1325
 APPROVAL #202295
 TRANS ID -0008067747566861
 VALIDATION -59F6
 PAYMENT SERVICE - E
 CHANGE DUE 0.00

ITEMS SOLD 1

TC# 4097 5321 5674 1499 5915



New products. Lowest rollbacks.
 Sign up at Walmart.com/email
 03/07/08 13:46:19

CUSTOMER COPY

RECEIPT OBTAINED FROM USING VISA CARD #47934701962#1325
 TO OBTAIN MERCHANDISE.



U.S. CURRENCY RECEIVED AS A REFUND FROM PURCHASING
MERCHANDISE FROM WALMART WITH VESA CARD #
4793470196241325 AND THEN RETURNING IT.



U.S. CURRENCY RECEIVED AS A REFUND FROM PURCHASING MERCHANDISE FROM WALMART WITH VISA CARD# 4793470196241325 AND THEN RETURNING IT.

Property Tag # 08-01 Case # C046080037.1
 Charges Filed ☐ Charges Not Filed ☒ Date Seized 3-5-08
 Received From Speaking Rock Casino Add 122 S. Old Pueblo Rd El Paso, TX
 Description of Property 4 - prepaid wireless internet cards (39849655774, 39987998316, 39849526487, & 39983245654) & 2 Account Cards (91865428248, 91865432678)
 ID Mark or Serial # _____
 Type of Crime or Incident Gambling
 County El Paso Date 3-5-08
 Impounding Officer David Wilbourn ID # 9953
 Property to be ☒ Held as Evidence ☐ Returned to Owner HQ-113

Property Tag # 08-02 Case # C04C080037.1

Charges Filed ☐ Charges Not Filed ☒ Date Seized 3-5-08

Received From Spinning Rock Casino Address 1225 Old Pickett Rd El Paso, TX

Description of Property 3-Visa Debit Cards (4793470196244499,
4793470196241424, & 4793470196241325) + Wal-Mart receipt
for purchase of pants

ID Mark or Serial # _____

Type of Crime or Incident Gambling

County El Paso Date 3-5-08

Impounding Officer David Wilbourn
Heather Krueger ID # 9953

Property to be ☒ Held as Evidence ☐ Returned to Owner HQ-113

Property Tag # D8-015 Case # C04C080037.1
Charges Filed ☐ Charges Not Filed ☒ Date Seized 3-5-08
Received From Speaking Rock Casino Add 122 S. Pueblo Rd El Paso, TX
Description of Property \$97.15 in U.S. Currency
2-twenty dollar bills 4-ten dollar bills 2-five dollar bills 7-one dollar bills
1-dime, 1-nickel
ID Mark or Serial # _____
Type of Crime or Incident Gambling
County El Paso Date 3-5-08
Impounding Officer David Wilbourn ID # 9580 DW 9953
Property to be ☒ Held as Evidence ☐ Returned to Owner HQ-113

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

STATE OF TEXAS,
Plaintiff

v.

YSLETA DEL SUR PUEBLO,
TIGUA GAMING AGENCY, THE TRIBAL
COUNCIL, TRIBAL GOVERNOR ART
SENCLAIR, and TRIBAL LIEUTENANT
GOVERNOR CARLOS HISA,
Defendants

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§
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§
§
§

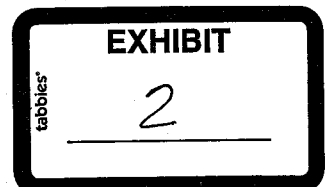
NO. EP-CA-0320-DB

**AFFIDAVIT OF DAVID WILBOURN IN SUPPORT OF
PLAINTIFF'S MOTION FOR CONTEMPT**

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME the undersigned authority appeared David Wilbourn, Sergeant in the Criminal Enforcement Division of the Texas Department of Public Safety who, being by me duly sworn, deposed and said as follows:


1. "My name is David Wilbourn, and I am over the age of eighteen years and authorized to make this Affidavit in Support of Plaintiff's Motion for Contempt. I have never been convicted of any crime and am competent to make this affidavit.
2. I am currently a Sergeant in the Criminal Enforcement Division of the Texas Department of Public Safety. Part of my duties as a Sergeant in the Criminal Enforcement Division require me to investigate complaints of illegal gaming activity conducted in the State of Texas. As shown in Exhibit A "Investigative Report" on March 5, 2008, I, along with



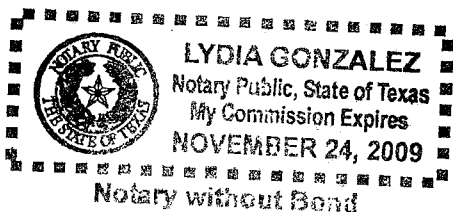
Sergeant Conrad Rodriguez in the Criminal Enforcement Division of the Texas Department of Public Safety, investigated a report of illegal gaming at the Speaking Rock Casino and Entertainment Center located at 122 South Old Pueblo Road, El Paso, Texas. We jointly prepared an Investigation Report containing all of our investigation and conclusions made concerning the gaming activities of the Tigua tribe all as set forth in Exhibit "A" attached hereto and incorporated herein.

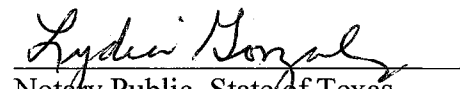
3. All of my actions in conducting this investigation were done in the course and scope of my duties as a Sergeant in the Criminal Enforcement Division of the Texas Department of Public Safety. I have read the foregoing Investigation Report and all of the facts stated therein ascribed to me are true and correct on my personal knowledge. In my opinion, this Investigation report shows the possible violation of § 47.03, § 47.04, and § 47.06 of the Texas Penal Code. ”

Further affiant sayeth not:


David Wilbourn
Criminal Enforcement Division of
the Texas Department of Public
Safety.

SUBSCRIBED AND SWORN TO by the said David Wilbourn this 11th day of March 2008.




Notary Public, State of Texas



TEXAS DEPARTMENT OF
PUBLIC SAFETY
CRIMINAL INTELLIGENCE
SERVICE

CASE FILE C04C080037
SPEAKING ROCK CASINO &
ENTERTAINMENT CENTER
GAMBLING INVESTIGATION

ATTACHMENT

A

**TEXAS DEPARTMENT OF PUBLIC SAFETY
CRIMINAL LAW ENFORCEMENT DIVISION
CRIMINAL INTELLIGENCE SERVICE**

INVESTIGATIVE REPORT

REPORT TITLE: SPEAKING ROCK CASINO & ENTERTAINMENT CENTER 122 SOUTH OLD PUEBLO ROAD EL PASO, TEXAS 79907	COUNTY OF ACTIVITY: El Paso (071)
SUBMITTED BY: Sgt David Wilbourn STATIONED: Van Horn, TX	THIS REPORT IS THE PROPERTY OF THE CRIMINAL LAW ENFORCEMENT DIVISION - CRIMINAL INTELLIGENCE SERVICE. NEITHER IT NOR ITS CONTENTS MAY BE DISSEMINATED OUTSIDE THE AGENCY TO WHICH LOANED.
	DISSEMINATED TO:
	Cross Related Info? [N] Disseminations? [N]

REPORT RE: Gambling Promotion -- 47.03 PC, MA, Keeping A Gambling Place -- 47.04 PC, MA, and Possession Gambling Device/Equipment/Paraphanelia -- 47.06 PC, MA

SYNOPSIS

On 02/14/08, Sergeant David Wilbourn received information from the El Paso Police Department regarding SPEAKING ROCK CASINO AND ENTERTAINMENT CENTER conducting illegal gambling at the casino located at 122 South Old Pueblo Road in El Paso, Texas. On 03/04/08 – 03/07/08 Sergeant Wilbourn and Sergeant Conrad Rodriguez conducted an investigation on SPEAKING ROCK CASINO in an undercover capacity. The following report indicates the details of the investigation.

DETAILS

1. On 02/14/08, Sergeant David Wilbourn received information from the El Paso Police Department regarding SPEAKING ROCK CASINO AND ENTERTAINMENT CENTER conducting illegal gambling at the casino located at 122 South Old Pueblo Road in El Paso, Texas.
2. The El Paso Police Department advised that patrons of SPEAKING ROCK CASINO are being given Visa Debit Cards with the monetary value of the patron's winnings at the casino.
3. On 03/04/08, Sgt. Wilbourn and Sgt. Rodriguez traveled to the SPEAKING ROCK CASINO and observed several signs posted on the outside of the casino that stated, "Come on in and win some

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INVESTIGATIVE**

Update Date: 03/07/2008

cash" (Attachment 0001.0001, Two photographs of signs posted outside SPEAKING ROCK CASINO).

4. On 03/05/08, Sgt. David Wilbourn and Sgt. Conrad Rodriguez entered SPEAKING ROCK CASINO in an undercover capacity to observe and confirm the information provided on SPEAKING ROCK CASINO regarding the illegal gambling. Once inside SPEAKING ROCK CASINO, Sgt. Wilbourn observed signs that stated, "Sweepstakes winnings now paid in cash."
5. Sgt. Wilbourn and Sgt. Rodriguez both went to the cashier located to the left of the main entrance and obtained prepaid internet cards required to play the computer type gaming systems. The cards were pre-loaded with one-hundred and sixty sweepstakes points on the card (Sgt. Wilbourn received internet card #39988245654 and Sgt. Rodriguez received internet card #39987998341, refer to attachment #2). The amount of points that is obtained on a card depends on the amount of cash that is given to the cashier. Each point that is obtained is equal to one cent.
6. Sgt. Wilbourn personally observed approximately one thousand eight-liner gambling devices throughout SPEAKING ROCK CASINO that extended into multiple areas of the facility. The majority of these devices were constructed of a computer monitor, a keyboard, a mouse, and a card reader. This device functioned by swiping a card loaded with points into the reader, the monitor then displayed the points and the total winnings on the card. The other devices were more traditional eight-liners that functioned by inserting a provided account card into a card reader at which time the points and total winnings on the card were displayed on the screen.
7. Sgt. Wilbourn and Sgt. Rodriguez went to the cashiers located in the casino to receive another prepaid internet card and an account card. Sgt. Wilbourn handed sixty dollars U.S. currency to the cashier and in turn the cashier put three thousand points on a prepaid internet card (#39849526487) and handed it to Sgt. Wilbourn. Sgt. Wilbourn then went to another cashier and was handed an account card (#94865432678) with three thousand points on that card.
8. Sgt. Rodriguez also handed the cashier sixty dollars U.S. currency and in turn the cashier put three thousand points on a prepaid internet card (#39849655774) and handed it to Sgt. Rodriguez. Sgt. Rodriguez then went to another cashier and was handed an account card (#94865422248) with three thousand points on that card (Attachment 0002.0001, Photocopies of cards received for gambling at SPEAKING ROCK CASINO).
9. The cashier that assisted Sgt. Wilbourn explained to him that the internet computer gaming system that used the prepaid internet card paid out in cash and the traditional eight-liner machines that used the account card paid out in Visa Gift cards.
10. To become familiar with and understand the computer type gaming system, Sgt. Wilbourn and Sgt. Rodriguez took the loaded internet prepaid cards obtained from the cashier and selected the type of game to play which included numerous slot style games, keno, or poker. After choosing the type of game, various bets were made with the maximum bet being ninety cents or points. The greater the bet amount the more winning combinations on the slot style games available, therefore increasing your chances of winning.
11. As winnings occurred as a result of play, points were accrued. These points remained in the winnings block of the game system display, and upon completion of a gambling session, these points could be cashed out as winnings or could be converted into playing points to continue gambling.
12. To complete the gambling session, the stop and redeem icon would be clicked which saved the winnings in the system under the internet card number.
13. On several occasions, Sgt. Wilbourn and Sgt. Rodriguez received winnings that exceeded ten times the amount bet on the computer gaming system. At one time Sgt. Wilbourn bet thirty six points and

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INVESTIGATIVE

won one thousand and seventy two points. Sgt. Rodriguez bet forty five points and won five hundred and fifty points (Attachment 0003.0001, Photograph of betting screen showing winnings exceeding tens times the amount bet and five dollars).

14. Sgt. Wilbourn returned to the cashier two more times to add twenty dollars U.S. currency each time to the prepaid internet card in the aforementioned manner as described above. Sgt. Rodriguez returned to the cashier one more time to add twenty dollars U.S. currency to the prepaid internet card in the aforementioned manner as described above.
15. Sgt. Wilbourn and Sgt. Rodriguez then used the account card to become familiar with the traditional eight-liner machines. Wording on the account card and signs posted on the eight-liner machines stated that the games were "10x Compliant." The account card is inserted into the eight-liner machine and the amount of playing points is displayed on the playing screen (Refer to attachment #2).
16. On several occasions Sgt. Wilbourn won exactly ten times the amount that was bet, but never exceeded ten times the amount (Attachment 0004.0001, Photograph showing winnings of tens times the amount bet).
17. Sgt. Wilbourn and Sgt. Rodriguez then decided to go to the cashier to obtain the winnings from the cards. Sgt. Wilbourn handed the cashier the prepaid internet card, who swiped the card in a card reader, and handed Sgt. Wilbourn two twenty dollar bills, one five dollar bill, and four one dollar bills for a total of forty nine dollars in U.S. currency for the winnings on the prepaid internet card (Attachment 0005.0001, Photocopy of U.S. currency for the winnings from the prepaid internet card #39849526487).
18. Sgt. Wilbourn went to another cashier and gave the cashier the account card, who swiped it in a card reader and handed Sgt. Wilbourn two Visa debit cards worth twenty dollars each for the winnings on the account card used by the traditional eight-liner machines (Attachment 0006.0001, Photocopy of two Visa debit cards for the winnings from the account card #94865432678).
19. Sgt. Rodriguez handed the cashier the prepaid internet card, who swiped the card in a card reader, and handed Sgt. Rodriguez three ten dollar bills for a total of thirty dollars U.S. currency for winnings on the prepaid internet card (Attachment 0007.0001, Photocopy of U.S. currency for the winnings from the prepaid internet card #39849655774).
20. Sgt. Rodriguez went to another cashier and handed the cashier the account card, who swiped the card in a card reader, and handed Sgt. Rodriguez one Visa debit card worth twenty dollars for the winnings on the account card (Attachment 0008.0001, Photocopy of one Visa debit card for the winnings from the account card #94865422248).
21. Upon the completion of the transactions, Sgt. Wilbourn and Sgt. Rodriguez departed the SPEAKING ROCK CASINO.
22. The investigation was recorded visually with the use of covert surveillance equipment (Attachment 0009.0001, Copy of covert surveillance recorded onto a DVD).
23. On 03/07/08, Sgt. Wilbourn took Visa debit card #4793470196241325 to Wal-Mart and purchased merchandise in the form of men's jeans in the amount of eighteen dollars and fifteen cents using the Visa debit card. Sgt. Rodriguez then took the merchandise purchased by Sgt. Wilbourn back to Wal-Mart and received a refund of eighteen dollars and fifteen cents in U.S. currency (Attachment 0010.0001, Photocopy of receipt and currency obtained from Wal-Mart for purchase and refund of men's jeans).
24. On 03/07/08, Sgt. Rodriguez took Visa debit card #4793470196241499 and attempted to obtain a money order at a Diamond Shamrock convenient store, but was unable to do so.

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25. The prepaid internet cards and account cards were logged into the evidence locker as property tag #08-01 (Attachment 0011.0001, Photocopy of HQ-113 placing four prepaid internet cards and two account cards into the evidence locker located at 401 East Franklin Street Suite 525 El Paso, Texas).
26. The Visa debit cards were logged into the evidence locker as property tag #08-02 (Attachment 0012.0001, Photocopy of HQ-113 placing three Visa debit cards into the evidence locker located at 401 East Franklin Street Suite 525 El Paso, Texas).
27. The U.S. currency consisting of ninety seven dollars and fifteen cents was logged into the safe as property tag #08-01S (Attachment 0013.0001, Photocopy of HQ-113 placing ninety seven dollars and fifteen cents U.S. currency into the safe located at 401 East Franklin Street Suite 525 El Paso, Texas).
28. Further investigation into the SPEAKING ROCK CASINO is anticipated.

DESCRIPTION AND CUSTODY OF SEIZURE/EVIDENCE

Exhibit # 08.01

Description

Quantity: 6

Pre-paid Internet Cards and Account Cards

Four Pre-paid internet cards and two Account cards used to gamble on 8-liners

Exhibit # 08.01S

Description

Total Value: \$97.15 **Quantity:** 97.15

Currency

\$97.15 in U.S. currency paid out as winnings from SPEAKING ROCK CASINO.

Exhibit # 08.02

Description

Total Value: \$41.85 **Quantity:** 3

Three Visa Debit Cards and one Wal-Mart receipt

Three Visa Debit Cards (4793470196241325, 4793470196241499, and 4793470196241424) obtained as winnings while gambling at SPEAKING ROCK CASINO. One Walmart receipt for merchandise purchase using a Visa Debit Card.

ORGANIZATIONS

SPEAKING ROCK CASINO

Address

122 S Old Pueblo Rd

Speaking Rock Casino Entertainment Center Com

El Paso, TX 79907 (Business Address)

**DPS SENSITIVE
INVESTIGATIVE**

ATTACHMENTS**Attachment # 0001.0001 Surveillance**Description

Date: 03/04/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** Two photographs of signs posted outside SPAEKING ROCK CASINO stating "Come on in and win some cash".

Attachment # 0002.0001 Pre-paid Internet Card and Account CardsDescription

Date: 03/05/2008 **Location:** District Files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** Photocopies of four pre-paid internet cards and two account card used to gamble at SPEAKING ROCK CASINO.

Attachment # 0003.0001 SurveillanceDescription

Date: 03/05/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** Photograph of 8-liner screen showing bet to winning ratio of more than 10 times and more than five dollars in pay out.

Attachment # 0004.0001 SurveillanceDescription

Date: 03/05/2008 **Location:** District Files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** Photograph of 8-liner screen showing a bet to winning ratio of ten times and five dollars paid put per bet.

Attachment # 0005.0001 CurrencyDescription

Date: 03/05/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** Photocopy of currency paid out for winnings from card # 39849526487.

Attachment # 0006.0001 Visa Debit CardDescription

Date: 03/05/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** Photocopy of Visa Debit Card paid out from card # 94865432678.

Attachment # 0007.0001 CurrencyDescription

Date: 03/05/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** Photocopy of currency for winnings paid out on card # 39849655774.

Attachment # 0008.0001 Visa Debit CardDescription

Date: 03/05/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** Photocopy of Visa Debit Card paid out for winnings on card # 94865422248.

Attachment # 0009.0001 DVD SurveillanceDescription

Date: 03/05/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** DVD recording of covert surveillance conducted at SPEAKING ROCK CASINO.

**DPS SENSITIVE
INVESTIGATIVE**

Attachment # 0010.0001 Receipts

Description

Date: 03/07/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** Photocopy of receipt and currency from Wal-Mart for purchase and refund of Mens Jeans using a Visa Debit Card obtained from SPEAKING ROCK CASINO.

Attachment # 0011.0001 HQ-113 Property Tag

Description

Date: 03/05/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** HQ-113 Property Tag placing the four pre-paid internet cards and two account cards in the evidence locker

Attachment # 0012.0001 HQ-113 Property Tag

Description

Date: 03/05/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** HQ-113 Property Tag placing the three Visa Debit Cards and the Wal-Mart receipt in the evidence locker.

Attachment # 0013.0001 HQ-113 Property Tag

Description

Date: 03/05/2008 **Location:** District files in Midland **Custodian:** Wilbourn, David (Srgt) **Ref:** HQ-113 Property Tag placing the \$97.15 in U.S. currency in the evidence safe.

CONFIDENTIAL
INVESTIGATIVE



Speaking Rock

Breakfast Buffet \$2.99
7 Days a Week 8a-11a

COME ON IN &
WIN SOME CASH



For Dial up service using your computers modem, dial 1-866-663-3679, or visit www.hello-money.net for local dial up numbers.

1. For user name and Password enter PIN

39988245654

"Hello Internet" Internet cards and retailers are not responsible for loss, theft, or unauthorized use. Safeguard your PIN. Partial minutes are rounded up to the next whole minute. Pay phone surcharges apply. Flat rate for calls is \$0.05 per minute. Minutes expire 90 days from initial purchase. For customer service call 1-877-228-8228. Visit www.hello-money.net for Internet dial up instructions. Internet dial up services provided by Prepaid Network Services.

06756

For Dial up service using your computers modem, dial 1-866-663-3679, or visit www.hello-money.net for local dial up numbers.

1. For user name and Password enter PIN

39849526487

"Hello Internet" Internet cards and retailers are not responsible for loss, theft, or unauthorized use. Safeguard your PIN. Partial minutes are rounded up to the next whole minute. Pay phone surcharges apply. Flat rate for calls is \$0.05 per minute. Minutes expire 90 days from initial purchase. For customer service call 1-877-228-8228. Visit www.hello-money.net for Internet dial up instructions. Internet dial up services provided by Prepaid Network Services.

05786

SPEAKING ROCK
10X Complaint Games

ACCOUNT CARD

94085432876

603

ATTENTION GUESTS:
All winnings or other points must be redeemed by close of business day.

ATENCION ESTIMADOS CLIENTES:
Todo la ganancia o otros puntos deben ser redimidos al cierre de el dia negocio diariamente.

Nontransferable, Nonrefundable. Not responsible for loss, theft or unauthorized use of card.

16423

Gambling Cards used by David Wilbourn

Attachment 0002.0001

For Dial up service using your computers modem, dial 1-866-663-3679, or visit www.hello-money.net for local dial up numbers.

1. For user name and Password enter PIN **39849655774**

"Hello Internet" Internet cards and retailers are not responsible for loss, theft, or unauthorized use. Safeguard your PIN. Partial minutes are rounded up to the next whole minute. Pay phone surcharges apply. Flat rate for calls is \$0.05 per minute. Minutes expire 90 days from initial purchase. For customer service call 1-877-228-8228. Visit www.hello-money.net for Internet dial up instructions. Internet dial up services provided by Prepaid Network Services.

05787

For Dial up service using your computers modem, dial 1-866-663-3679, or visit www.hello-money.net for local dial up numbers.

1. For user name and Password enter PIN **39987998341**

"Hello Internet" Internet cards and retailers are not responsible for loss, theft, or unauthorized use. Safeguard your PIN. Partial minutes are rounded up to the next whole minute. Pay phone surcharges apply. Flat rate for calls is \$0.05 per minute. Minutes expire 90 days from initial purchase. For customer service call 1-877-228-8228. Visit www.hello-money.net for Internet dial up instructions. Internet dial up services provided by Prepaid Network Services.

06755

All Internet
time is
Prepaid

Only 5c
a minute

All Internet
time is
Prepaid

Only 5c
a minute

SPEAKING ROCK
10X Compliant Games

ACCOUNT CARD

94885422248

COB

ATTENTION GUESTS:

All winnings or other points must be redeemed by close of business day.

ATENCION ESTIMADOS CLIENTES:

Todo la ganancia o otros puntos deben ser redimidos al cierre de el día negocio diariamente.

Nontransferable, Nonrefundable. Not responsible for loss, theft or unauthorized use of card.

18422

Gambling cards used by Conrad Rodriguez



4 2 6 9 1 8 7 3 5



LINE 8 4 STRIPERS WINS 160

1072

36

3794

1072

3794

36

3794

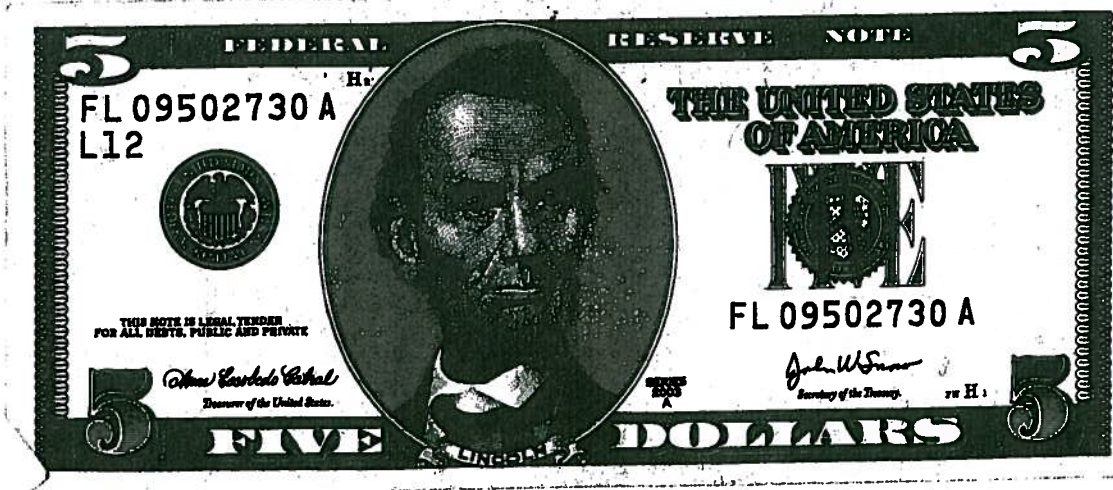


6000

SCORE
3060

WIN
200

PLAY 200
WIN 200



U.S. Currency won and paid from Card # 39849526487 to David Wilbourn



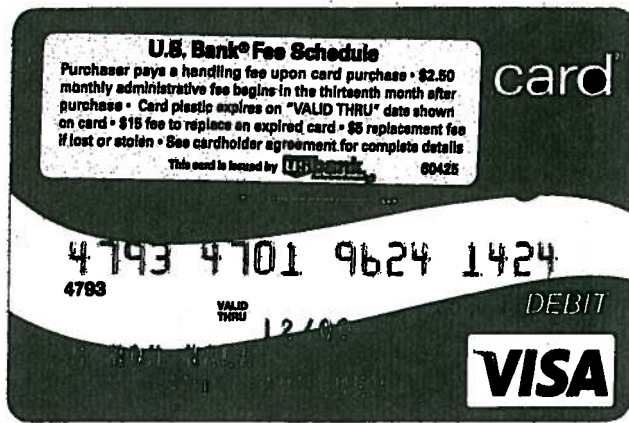
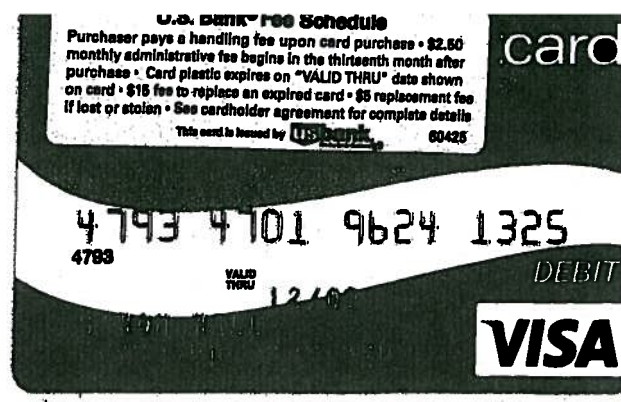
U.S. Currency Won and paid from Card # 39849526487 to David Wilbourn

1325 26
Remember to keep track of your purchases.

Date:	Amount:	Balance:

Purchase date: 1424 Initial Giftcard value: 26
Remember to keep track of your purchases.

Date:	Amount:	Balance:



2-Visa Gift cards paid from Card # 94865432678 to David Wilbourn



U.S. currency won and paid from Card # 39849655774 to Conrad Rodriguez

Purchase date:

1499

Initial Giftcard value:

20

Remember to keep track of your purchases.

Date:	Amount:	Balance:

U.S. Bank® Fee Schedule

Purchaser pays a handling fee upon card purchase • \$2.50
monthly administrative fee begins in the thirteenth month after
purchase • Card plastic expires on "VALID THRU" date shown
on card • \$15 fee to replace an expired card • \$5 replacement fee
if lost or stolen • See cardholder agreement for complete details

This card is issued by **U.S. Bank** 60425

card

4793 4701 9624 1499

4793

VALID
THRU

12/09

DEBIT

VISA

Visa Gift Card paid From Card # 94865422248 to Conrad Rodriguez

WAL★MART®

Save money. Live better.™

WE SELL FOR LESS
 MANAGER ELIZABETH GONZALEZ
 (915) 833 - 1335
 ST# 1015 OP# 00006483 TEN 20 TR# 04095
 NEW CARP JEA 067278795638 16.77 X
 SUBTOTAL 16.77
 TAX 1 0.250 1.90
 TOTAL 18.15
 VISA TEND 18.15

ACCOUNT #1325
 APPROVAL #202295
 TRANS ID -0008067747566861
 VALIDATION -59F6
 PAYMENT SERVICE - E
 CHANGE DUE 0.00

ITEMS SOLD 1

TC# 4097 5321 5674 1499 5915



New products. Latest rollbacks.
 Sign up at Walmart.com/email
 03/07/08 13:46:19

CUSTOMER COPY

RECEIPT OBTAINED FROM USING VISA CARD #47934701962#1325
 TO OBTAIN MERCHANDISE.



U.S. CURRENCY RECEIVED AS A REFUND FROM PURCHASING
MERCHANDISE FROM WALMART WITH VESA CARD #
4793470196241325 AND THEN RETURNING IT.



U.S. CURRENCY RECEIVED AS A REFUND FROM PURCHASING MERCHANDISE FROM WALMART WITH VISA CARD# 4793470196241325 AND THEN RETURNING IT.

Property Tag # 08-01 Case # C046080037.1
 Charges Filed ☐ Charges Not Filed ☒ Date Seized 3-5-08
 Received From Speaking Rock Casino Add 122 S. Old Pueblo Rd El Paso, TX
 Description of Property 4 - prepaid wireless internet cards (39849655774, 39987998316, 39849526487, & 39988245654) & 2 Account Cards (91865428248, 91865432678)
 ID Mark or Serial # _____
 Type of Crime or Incident Gambling
 County El Paso Date 3-5-08
 Impounding Officer David Wilbourn ID # 9953
 Property to be ☒ Held as Evidence ☐ Returned to Owner HQ-113

Property Tag # 08-02 Case # C04C080037.1

Charges Filed ☐ Charges Not Filed ☒ Date Seized 3-5-08

Received From Spunking Rock Casino Add 1225 Old Pickett Rd El Paso, TX

Description of Property 3-Visa Debit Cards (4793470196244499,
4793470196241424, & 4793470196241325) + Wal-Mart receipt
for purchase of pants

ID Mark or Serial # _____

Type of Crime or Incident Gambling

County El Paso Date 3-5-08

Impounding Officer David Wilbourn
Heather Krueger ID # 9953

Property to be ☒ Held as Evidence ☐ Returned to Owner HQ-113

Property Tag # D8-015 Case # C04C080037.1
Charges Filed ☐ Charges Not Filed ☒ Date Seized 3-5-08
Received From Speaking Rock Casino Add 122 S. Pueblo Rd El Paso, TX
Description of Property \$97.15 in U.S. Currency
2-twenty dollar bills 4-ten dollar bills 2-five dollar bills 7-one dollar bills
1-dime, 1-nickel
ID Mark or Serial # _____
Type of Crime or Incident Gambling
County El Paso Date 3-5-08
Impounding Officer David Wilbourn ID # 9580 DW 9953
Property to be ☒ Held as Evidence ☐ Returned to Owner HQ-113

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

STATE OF TEXAS,

Plaintiff

v.

YSLETA DEL SUR PUEBLO,
TIGUA GAMING AGENCY, THE TRIBAL
COUNCIL, TRIBAL GOVERNOR ART
SENCLAIR, and TRIBAL LIEUTENANT
GOVERNOR CARLOS HISA,

Defendants

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NO. EP-CA-0320-DB

SHOW CAUSE ORDER

On this day came on to be considered the Plaintiff's Motion for Contempt regarding the use of eight liners in violation of the September 27, 2001 permanent injunction heretofore issued by this Court which prohibited the illegal use of eight liners where cash or cash equivalent awards were permitted at the premises of the Ysleta Del Sur Pueblo located at 122 South Old Pueblo Road, El Paso, Texas; and after considering the sworn affidavits and the investigation report attached thereto, the Court is of the opinion that a SHOW CAUSE hearing should be held thereon.

IT IS THEREFORE ORDERED that Defendants Ysleta Del Sur Pueblo, Tigua Gaming Agency, the Tribal Council, Tribal Governor Art Senclair, and Tribal Lieutenant Governor Carlos Hisa shall appear in the Courtroom of the undersigned on April ____2008 at __o'clock __m, and there SHOW CAUSE why each of the Defendants should not be held in contempt of this Court for violating the terms of the September 27, 2001 injunction heretofore entered and

recorded at 220 F.Supp.2d 668 by employing the use of eight liners with illegal cash payouts on the premises covered by said injunction.

SIGNED this ____ day of _____, 2008.

THE HONORABLE DAVID BRIONES
UNITED STATES DISTRICT JUDGE