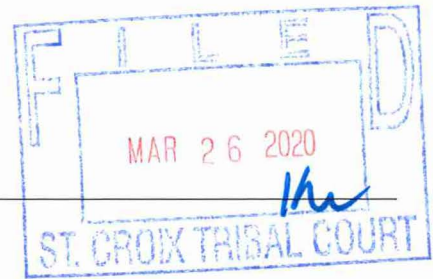


ST. CROIX TRIBAL COURT



St. Croix Chippewa Indians
of Wisconsin,

Plaintiff,

v.

Court File No. 20-CV-206

Neil Oustigoff, Sr.

Defendant.

Complaint

Plaintiff the St. Croix Chippewa Indians of Wisconsin (the Tribe), by and through its counsel, state and allege as follows:

Introduction

1. The Tribe brings this civil action to recover compensatory damages and a declaration of wrongdoing in response to the above-named Defendant's receipt of thousands of dollars of unlawful disbursements of moneys intended for the benefit of the Tribe as a whole.

2. While the Defendant was employed as an Anti-Money Laundering Compliance Officer for the St. Croix Casinos, he pocketed thousands of dollars in unapproved donations, payroll advances, and per capita disbursements.

3. As an Anti-Money Laundering Compliance Officer for the St. Croix Casinos, the Defendant was entrusted by the Tribe's leadership, and the Tribe's members, to ensure the appropriate use of money from the Tribe's gaming enterprises.

4. The Defendant's actions violated Tribal resolutions, Tribal ordinances, the Indian Gaming Regulatory Act and its implementing regulations, the Tribe's Casino Employee Handbook, and the Tribe's Revenue Allocation Plan.

Parties

5. Plaintiff is the St. Croix Chippewa Indians of Wisconsin, tribally headquartered at 24663 Angeline Ave., Webster, Wisconsin, 54893. The Tribe is a federally recognized Indian tribe, organized under Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 5123, as amended, and established pursuant to the Constitution and By-Laws adopted by the Tribe on August 29, 1942 and approved on November 12, 1942, as recognized in 84 Fed. Reg. 1200, 1203 (Feb. 1, 2019).

6. The United States holds land in trust for the Tribe in Barron, Burnett, and Polk Counties, Wisconsin.

7. Defendant Neil Oustigoff is an enrolled Tribal member, and a former Anti-Money Laundering Compliance Officer for the St. Croix Casinos. His address is [REDACTED] Webster, WI 54893.

Jurisdiction

8. The St. Croix Tribal Court has subject-matter jurisdiction over this action under the St. Croix Tribal Court Code, Section 102, which states in relevant part:

102. Jurisdiction of the St. Croix Tribal Court. The Tribal Court shall have jurisdiction over:

- A. All matters arising under the Constitution and laws of the St. Croix Chippewa Indians of Wisconsin.
- B. All actions brought under the provisions of this Code.
- C. All other civil actions in which the locus of any element of any claim is on the reservation or other trust lands of the tribe, or which is based on any contract made on or providing for the delivery of goods or services on the reservation or other trust lands of the tribe.

9. Counts 1-4 of this matter arise under the Constitution and laws of the St. Croix Chippewa Indians of Wisconsin, are brought under the provisions of the St. Croix Tribal Court Code, and are civil actions where the locus of the claim is on the reservation or other trust lands of the Tribe.

10. The Court has personal jurisdiction over the enrolled Tribal member Defendant because the Court and the Tribe have retained their inherent sovereign authority over Tribal members, in accords with Article V, Section 1(g) of the Constitution of the St. Croix Chippewa Indians of Wisconsin.

11. Venue is proper in this Court because the unlawful payments were issued from the Tribe's trust lands, in and around Turtle Lake and Webster, Wisconsin, and the Tribe has only one trial-level tribal court.

Legal Background Applicable to All Counts

12. The Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq. ("IGRA") provides a statutory basis for tribal gaming operations to promote tribal economic development, strong tribal governments, and ensure that the tribes themselves remain the primary beneficiary of net gaming revenue.

13. IGRA defines the term "net revenues" to mean "gross revenues of an Indian gaming activity less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees." 25 U.S.C. § 2703(9).

14. The National Indian Gaming Commission ("NIGC") likewise defines the term "net revenues" to mean "gross gaming revenues of an Indian gaming operation less— (a) amounts paid out as, or paid for, prizes; and (b) total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees." 25 C.F.R. § 502.16.

15. 25 U.S.C. §§ 2710(b)(2)(B) and 2710(d)(1)(A)(ii) allow lawful Class III gaming operations under IGRA only where the net revenues from the gaming operations are used for the following purposes:

- (i) to fund tribal government operations or programs;
- (ii) to provide for the general welfare of the Indian tribe and its members;
- (iii) to promote tribal economic development;
- (iv) to donate to charitable organizations; or
- (v) to help fund operations of local government agencies[.]

16. In addition to the above limitations on net revenues, IGRA allows an Indian tribe to provide per capita payments to its members from its net revenues only if the tribe has prepared a revenue allocation plan to allocate the net revenues in accordance with 25 U.S.C. § 2710(b)(2)(B), among other restrictions. 25 U.S.C. § 2710(b)(3).

17. IGRA's implementing regulations also require the gaming operation to "keep permanent books of account or records, including inventory records of gaming supplies, sufficient to establish the amount of gross and net income, deductions and expenses, receipts and disbursements, and other information required in any financial statement, report, or other accounting prepared pursuant to the [IGRA.]" 25 C.F.R. § 571.7(a).

18. As one of several restrictions placed on Class III gaming operations, any contracts "for supplies, services, or concessions . . . in excess of \$25,000 annually (except contracts for professional legal or accounting services) relating to such gaming shall be subject to such independent audits." 25 U.S.C. § 2710(b)(2)(D).

19. Among other requirements, IGRA also requires that the Indian tribe operating the gaming establishment adopt a gaming ordinance or resolution. 25 U.S.C. § 2710(b)(1)(B).

20. The Tribe received approval from the NIGC Chairman for its Gaming Ordinance in 1995, with an approved amendment in 2006.

21. The Tribe's Gaming Ordinance "authorize[s] and set[s] the terms for Class II and Class III gaming operations on Tribal lands."

22. Section 3 of the Tribe's Gaming Ordinance requires "that all proceeds of such gaming are used for the benefit of the Tribe as required by the Indian Gaming Regulatory Act and tribal law."

23. Section 4(c) of the Tribe's Gaming Ordinance finds that "[i]t is essential that the Tribe, through its Tribal Council / Gaming Commission regulate gaming in a manner commensurate with applicable federal and Tribal law and policy[.]"

24. Sections 5(d), (g), of the Tribe's Gaming Ordinance explain two of the purposes of the ordinance are to "[e]nsure that tribally regulated gaming is conducted fairly and

honestly . . . and that it remains free from corrupt, incompetent, unconscionable and dishonest persons and practices” and to “[e]nsure that the tribal gaming laws are strictly and fairly enforced against all persons involved in gaming activities within the jurisdiction of the Tribe.”

25. Section 6 of the Tribe’s Gaming Ordinance defines *Fraud* as “intentional deception resulting in an injury to another” including “those crimes and misdemeanors involving bad check writing, embezzlement, insurance fraud and welfare fraud.”

26. Section 6 of the Tribe’s Gaming Ordinance defines *Net Revenues* as “gross gaming revenues of an Indian gaming operation less: (a) Amounts paid out as, or paid for, prizes; and (b) Total gaming operating expenses, excluding management fees.”

27. Section 9 of the Tribe’s Gaming Ordinance governs the Tribe’s use of gaming revenue, and states:

(a) Net revenues from Class II Gaming shall be used only for the following purposes:

- (1) To fund Tribal government operations and programs;
- (2) To provide for the general welfare of the Tribe and its members;
- (3) To promote Tribal economic development;
- (4) To donate to charitable organizations;
- (5) To help fund operations of local government agencies

28. IGRA, 25 U.S.C. § 2710(d)(1)(A)(ii), requires that net revenues derived from Class III gaming shall only be used by the Tribe for the same purposes that control the use of net revenues derived from Class II gaming.

29. Section 11(g) of the Tribe’s Gaming Ordinance states that “[t]he Tribal Council shall establish the use of gaming revenues transferred from the gaming enterprises in accordance with this Ordinance and applicable laws for use of such revenues according to tribal needs and requirements for continued growth.”

30. Section 12 of the Tribe’s Gaming Ordinance establishes the St. Croix Gaming Commission, but details that the Tribe reserves oversight over the Commission, and creates an enforcement mechanism for the violation of the Gaming Ordinance.

31. Section 14(b) of the Tribe's Gaming Ordinance requires that "[a]ll gaming related contracts that result in the purchase of supplies, services, or concessions in excess of . . . \$25,000.00 annually . . . shall be included with the scope" of an annual, independent, audit conducted by a certified public accountant.

32. In 2010, the Tribe adopted an updated Revenue Allocation Plan ("RAP"), pursuant to IGRA to "allocate and manage the Tribe's economic resources derived from the Gaming Operations." Tribe's RAP, §§ 1.1, 1.2(b). The Tribe's RAP was approved by the Assistant Secretary of Indian Affairs on January 14, 2011, and is still in effect.

33. Section 1.2 of the RAP states that it "is becoming increasingly important to carefully allocate and manage the tribe's economic resources derived from the Gaming Operations."

34. Section 3.2 of the RAP allocates not less than 45% of net gaming revenues to fund tribal government operations or programs; not less than 5% of net gaming revenues to promote tribal economic development; and not more than 50% of net gaming revenues for per capita payments, charitable organization donations, and to fund local government agencies.

35. Section 5.1 of the RAP states that "Net Gaming Revenues allocated for Per Capita Payments with respect to any Per Capita Payment Period shall be distributed . . . in equal shares to Eligible Adults . . . [and] in equal shares to Eligible Minors of the same number of whole years of age"

36. On March 3, 2014, the Tribal Council adopted Resolution No. 3-3-14-1, which implemented restrictions on travel by employees and Tribal Council members because of economic challenges.

37. The restrictions included a prohibition on direct-process travel requests by government employees without "appropriate authority," any necessary or emergency travel for full-time tribal employees would need approval from the "Budget Committee," and a 10% reduction in pay for tribally funded employees earning more than \$30 per hour.

38. On April 14, 2014, the Tribal Council adopted Resolution No. 4-16-14-1, which implemented "the immediate suspension and cessation of all Tribally funded (i.e., non-

grant funded) travel until further notice.”

39. On June 6, 2016, the Tribal Council sent a memorandum to the St. Croix Travel, and St. Croix Interstate departments. The memorandum was signed by all five members of the Tribal Council and stated that “[f]rom here forward all individuals using St. Croix Travel and Interstate Funding for expenses while traveling will receive the uniform government rate for mileage (when applicable) and per diem.”

40. On July 12, 2016, the Tribal Council adopted Resolution No. 16-07-12-01, which rescinded Resolution No. 4-16-14-1, which immediately suspended tribal travel, but made no mention of Resolution No. 3-3-14-1, which eliminated per diem payments.

41. On May 22, 2017, the Tribal Council adopted Resolution No. 17-05-22-01, which adopted a policy for travel and credit card usage for tribal business conducted at the St. Croix Casinos. The policy requires multiple layers of approval for any travel advances, receipts and expense reconciliation, prohibits both reimbursement and per diem for meals, prohibits family members or friends traveling at the Tribe’s expense without specific approval, and details multiple non-reimbursable charges, including personal entertainment.

42. 18 U.S.C. § 1163 makes it a federal crime to “embezzle[], steal[], knowingly convert[] to his own use or the use of another, willfully misappl[y], or willfully permit[] to be misapplied, any of the moneys, funds, credits, goods, assets, or other property belonging to any Indian tribal organization or intrusted to the custody or care of any officer, employee, or agent of an Indian tribal organization[.]”

43. As an Ojibwe nation, the Tribe centers itself and its laws within traditional cultural practices, including teachings of nibwaakawin (wisdom), minwaadendamowin (respect), and debwewin (truthfulness), and expects that its key employees embody those principals.

44. The Tribe has a common law and customary law expectation that its employees will not engage in financial wrongdoing, including the misapplication of tribal moneys, the personal use of moneys intended to benefit the Tribe as a whole, and the careless and wasteful spending of money.

45. The St. Croix Chippewa Indians of Wisconsin Tribal Court Rules of Civil Procedure states that “Any action that may be brought under federal law or the law of the State of Wisconsin may be brought in tribal court.” § 306A.

46. Wisconsin Statute 943.20(1)(b) prohibits an individual, “[b]y virtue of his or her office . . . having possession or custody of money . . . of another, intentionally uses, transfers, conceals, or retains possession of such money . . . without the owner’s consent, contrary to his or her authority, and with intent to convert to his or her own use.”

47. Section 895.446 of the Wisconsin statutes create a private cause of action against an individual that has violated § 943.20(1)(b).

48. The Tribe has adopted a St. Croix Chippewa Enterprises Employee Handbook, last revised in 2015, that governs the relationship between the Tribe and its casino employees.

49. The Enterprises Employee Handbook states that employment at the St. Croix Casino properties is “at will.”

50. The Enterprises Employee Handbook states that “[e]mployees may not:

8) Be dishonest or fail to report a plan or act of dishonesty.

9) Falsify any record.

...

29) Engage in conduct on or off duty that is detrimental to the image or reputation of any St. Croix Chippewa Enterprise.”

Factual Background Applicable to All Counts

51. The Tribe operates Class II and Class III gaming at casinos located near Turtle Lake, Danbury, and Hertel, Wisconsin.

52. These casinos are operated in accordance with the IGRA and a gaming compact with the State of Wisconsin.

53. All revenues from the operation of the tribal casinos remains in the accounts of the St. Croix Casino, before disbursements are made to the Tribe, tribal programs, or tribal members.

54. On September 16, 2014, the Tribe entered into an employment relationship with the Defendant to serve as an Anti-Money Laundering Compliance Officer.

55. Effective May 4, 2015, the Defendant's Personnel Action Form indicated a pay rate change to \$30.00 per hour, as a full time salaried employee. On November 14, 2018, the Defendant's Personnel Action Form indicated a transfer for the Defendant to begin working as a Financial Analyst, at the same rate of pay. Effective August 27, 2019, the Defendant's Personnel Action Form indicated an involuntary termination because "Gaming license suspended."

56. In September 2017, the NIGC began an investigation into the Tribe's use of gaming revenue from its Turtle Lake and Hertel casinos. The investigation included site visits, requests for documents, and written questions and responses.

57. On April 11, 2019, the NIGC issued a 527-count Notice of Violation to the Tribe for violations of the IGRA, NIGC regulations, and the Tribe's Gaming Ordinance because of misuse of net gaming revenues, reflecting the severity of wrong-doing uncovered.

58. The Notice of Violation included \$25,954.92 in improper disbursements to the Defendant in this case.

59. On May 9, 2019, the NIGC levied a \$5.5 million dollar fine against the Tribe for the violations. This fine included "a total of \$500,000 is assessed for all other violations of misuse of revenue and failure to audit contracts greater than \$25,000."

Defendant's Receipt of Advance Disbursements

60. On October 20, 2016, the St. Croix Casino issued Check #181638 to the Defendant, in the amount of \$2,000.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.

- b. The Request for Disbursement form lists "Donation emergency expense Tribal Member" as the reason for the payment request.
- c. The form is accompanied by a letter from the Defendant, dated October 5, 2016, requesting a "per cap loan" of \$2,000, to be paid back "\$50 a per cap check until paid in full. That way I won't be in any hardship as if I were to pay it back by full deductions."

61. On February 15, 2017, the St. Croix Casino issued Check #183372 to the Defendant, in the amount of \$1,500.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Donation hardship Tribal Member" as the reason for the payment request.
- c. The form is accompanied by a letter from the Defendant, dated February 7, 2017, requesting a "per cap loan" of \$1,500, to be used to pay for tax services, car insurance, and to put money into his children's bank accounts while they are away at college.

62. On May 24, 2017, the St. Croix Casino issued Check #185244 to the Defendant, in the amount of \$500.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Donation help with daughters funeral" as the reason for the payment request.
- c. The form is accompanied by an email from the Defendant, dated May 23, 2017, requesting a "payroll advance in the amount of \$500."

Defendant's Receipt of Travel Disbursements

63. On March 27, 2015, the St. Croix Casino issued Check #171077 to the Defendant, in the amount of \$1,172.94.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Donation for Siren student Neil Oustigoff jr to attend Elite 80 Spring Showcase in Chicago Il 4/4 – 4/6" as the reason for the payment request, and includes the following calculation:

per diem \$213.00 hotel \$249.73 per diem for additional person

mileage	\$497.21	\$959.94 + \$213.00	
			\$1,172.94

- c. The form is accompanied by a letter from the Defendant dated March 24, 2015, that requests support for Neil Oustigoff Jr. to attend a basketball conference.
- d. The form is also accompanied by a one-page print-out of a hotel reservation confirmation page for April 4-6, 2016 at the Holiday Inn Hotel & Suites in Carol Stream.

64. On May 12, 2015, the St. Croix Casino issued Check #171977 to the Defendant, in the amount of \$1,125.72.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Travel to WI Dells for Playmakers of WI on 5/15 – 5/17, 2015" as the reason for the payment request, and includes the following calculation:

mileage	\$276.86	
Neil & Neil jr per diem	355.00	
hotel	493.86	Conf #135890 & 91
	\$1,125.72	

- c. The form is accompanied by an email forward from the Defendant, dated April 13, 2015, that includes a hotel reservation confirmation from the Alakai Hotel & Suites in Wisconsin Dells.

65. On June 11, 2015, the St. Croix Casino issued Check #172520 to the Defendant, in the amount of \$1,670.50.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Travel to Charlottesville, VA – Scouts Focus – Reid Jr 6/17 – 6/20 Scouts Focus Registration Prepaid cc#7489" as the reason for the payment request, and includes the following calculation:

Mileage	\$123.50	Hotel	\$900.00 (2 rooms x 3 nights)
Per diem	\$248.50	Cab	<u>\$50.00</u>
Neil Jr.	\$248.50		
a/p park	\$100.00		\$1,670.50

- c. There are no accompanying documents or support included beyond the Request for Disbursement form.

66. On June 15, 2015, the St. Croix Casino issued Check #172634 to the Defendant, in the amount of \$750.00.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Additional travel money to Neil Oustigoff for Jr's Charlottesville, VA, per Lewis Taylor on 6/12/15" as the reason for the payment request.
- c. There are no accompanying documents or support included beyond the Request for Disbursement form.

67. On June 23, 2015, the St. Croix Casino issued Check #172743 to the Defendant, in the amount of \$2,206.04.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Travel to St. Cloud for basketball tourney 6/24/ - 6/28" as the reason for the payment request, and includes the following calculation:

Mileage	\$130.68	extra per Lewis	400.00
per diem + Neil Jr.	\$497.00	incidentals	<u>\$100.00</u>
hotel x4	\$1,078.36		\$2,206.04

- c. The form is accompanied by a one-page print-out of a hotel reservation confirmation page for Wednesday, June 24, 2015 to Sunday, June 28, 2015, for a stay at the Holiday Inn Hotel & Suites in St. Cloud, Minnesota, in the amount of \$1,078.36.

68. On July 6, 2015, the St. Croix Casino issued Check #172996 to the Defendant, in the amount of \$2,153.30.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Travel to Milwaukee for Jr's ball tourney, July 8-12, 2015, WI Playmakers" as the reason for the payment request, and includes the following calculation:

Mileage \$438.44	hotel 2 rms	<u>\$1,075.86</u>
sr's per diem \$319.50	incl incidentals	

jr's per diem \$319.50 \$2,153.30

- c. There are no accompanying documents or support included beyond the Request for Disbursement form.

69. On July 7, 2015, the St. Croix Casino issued Check #173002 to the Defendant, in the amount of \$300.00.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Travel monies while attending a basketball camp in Milwaukee, WI July 8-12, 2015" as the reason for the payment request.
- c. There are no accompanying documents or support included beyond the Request for Disbursement form.

70. On July 16, 2015, the St. Croix Casino issued Check #173208 to the Defendant, in the amount of \$1,157.95.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Travel to Neil Jr bsktball tourney in St. Paul, 7/17 – 7/19, 2015" as the reason for the payment request, and includes the following calculation:

Mileage	\$119.19	Hotel	\$552.76
Neil's per diem	\$213.00	incidentals	<u>\$60.00</u>
jr per diem	\$213.00		\$1,157.95

- c. The form is accompanied by an email forward of two hotel reservation confirmation pages for Friday, July 17, 2015 to Sunday, July 19, 2015, for a stay at the Fairfield Inn & Suites Minneapolis-St. Paul Airport.

71. On July 21, 2015, the St. Croix Casino issued Check #173329 to the Defendant, in the amount of \$2,110.92.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Travel to the Dells for Neil Jr's bsktball tourney July 22-25, 2015" as the reason for the payment request, and includes the following calculation:

Mileage	\$276.86	Hotel	<u>\$1,266.06</u>
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Per diem 284.00 x2 \$568.00 \$2,110.92

- c. There are no accompanying documents or support included beyond the Request for Disbursement form.

72. On July 5, 2016, the St. Croix Casino issued Check #179409 to the Defendant, in the amount of \$500.00.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Travel to Oshkosh, WI donation bsktball tourney" as the reason for the payment request.
- c. There are no accompanying documents or support included beyond the Request for Disbursement form.

73. On July 6, 2016, the St. Croix Casino issued Check #179416 to the Defendant, in the amount of \$500.00.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Donation for travel expense for Oshkosh ball tourney 7/15 – 7/17" as the reason for the payment request.
- c. There are no accompanying documents or support included beyond the Request for Disbursement form.

74. On November 10, 2016, the St. Croix Casino issued Check #181900 to the Defendant, in the amount of \$689.85.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Travel to Milwaukee 11/11 – 11/12 Donation" as the reason for the payment request, and includes the following calculation:

Mileage	\$387.55
Hotel:	<u>302.30</u>
	\$689.85

- c. The form is accompanied by a letter from the Defendant to Leva "Dino" Oustigoff, dated November 4, 2016, requesting travel assistance to his son's college basketball games, and notes that "I have sent Penne a schedule of Neil's games for the season."

75. On December 2, 2016, the St. Croix Casino issued Check #182307 to the Defendant, in the amount of \$828.59.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Donation Jr's basketball games" as the reason for the payment request, and includes the following calculation:

Grand Rapids MN Hotel	\$221.28
Thief River Falls MN	\$234.71
Mileage:	<u>\$372.60</u>
	\$828.59

- c. The form is accompanied by a one-page print-out of a hotel reservation confirmation page for Saturday, December 3, 2016 to Sunday December 4, 2016, for a stay at the Quality Inn in Thief River Falls, MN, in the amount of \$234.71.
- d. The form is also accompanied by a one-page print-out of a hotel reservation confirmation page for December 2, 2016 to December 3, 2016, for stay at the Country Inn by Carlson, Grand Rapids, MN, in the amount of \$221.28

76. On February 3, 2017, the St. Croix Casino issued Check #183296 to the Defendant, in the amount of \$123.05.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Traveling to Anoka, MN 2/3 – 2/4" as the reason for the payment request.
- c. The form is accompanied by an email from the Defendant dated February 1, 2017, requesting travel assistance for Neil Jr.'s game.

77. On February 9, 2017, the St. Croix Casino issued Check #183343 to the Defendant, in the amount of \$538.60.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Donation travel to Worthington, MN 2/10 – 2/12" as the reason for the payment request, and includes the following calculation:

Mileage	\$361.10
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Per diem \$177.50
 \$538.60

- c. The form is accompanied by an email from the Defendant dated February 7, 2017, requesting travel funds “for this weekend” because “Neil Jr plays down in Worthington, MN.”

78. On February 22, 2017, the St. Croix Casino issued Check #183537 to the Defendant, in the amount of \$428.95.

- a. The check was debited to the gaming operation’s Donations Expense Monetary Account.
- b. The Request for Disbursement form lists “Donation – travel to Jr’s games 2/22 + 2/24” as the reason for the payment request
- c. The form is accompanied by an email from the Defendant to Penne Thill, dated February 21, 2017, requesting travel assistance “to attend Neil Jr’s last two games of his season” and specifically includes mileage from the Defendant’s home to the locations.
- d. The form is also accompanied by a letter from the Defendant to Leva “Dino” Oustifgoff dated February 21, 2017, that requests “travel assistance in the form of mileage for both games.”

79. On March 10, 2017, the St. Croix Casino issued Check #183887 to the Defendant, in the amount of \$1,000.00.

- a. The check was debited to the gaming operation’s Donations Expense Monetary Account.
- b. The Request for Disbursement form lists “per diem Siren Bsktball team chaperones 3/15 – 3/19” as the reason for the payment request.
- c. There are no accompanying documents or support included beyond the Request for Disbursement form.

80. On June 28, 2017, the St. Croix Casino issued Check #185967 to the Defendant, in the amount of \$624.03.

- a. The check was debited to the gaming operation’s Donations Expense Monetary Account.
- b. The Request for Disbursement form lists “Donation travel to Laurence, KS on 7/3/16” as the reason for the payment request.

- c. The form is accompanied by an email forward from Karen Washington to Penne Thill that includes a hotel confirmation page for Mon, Jul 3 – Thu, Jul 6 at the TownePlace Suites Lawrence Downtown, Lawrence, in the amount of \$474.03.

81. On September 20, 2017, the St. Croix Casino issued Check #187578 to the Defendant, in the amount of \$156.97.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Mileage to Madison" as the reason for the payment request.
- c. The form is accompanied by a letter from the Defendant to Dino Oustigoff dated September 15, 2017, that requests mileage assistance to accompany Karen Washington to Madison for the receipt of an award.

Defendant's Receipt of Miscellaneous Disbursements

82. On July 27, 2017, the St. Croix Casino issued Check #186734 to the United States Treasury, in the amount of \$720.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "20% of repymt to United States Treasurer for Neil Oustigoff taxes" as the reason for the payment request, and it is accompanied by a copy of one page of IRS Form 656.

83. On June 20, 2016, the St. Croix Casino issued Check #179219 to the Defendant, in the amount of \$2,500.00.

- a. The check was debited to the gaming operation's Donations Expense Monetary Account.
- b. The Request for Disbursement form lists "Donation Neil Oustigoff funeral expense for daughter" as the reason for the payment request.
- c. There are no accompanying documents or support included beyond the Request for Disbursement form.

Counts

Count 1—Violation of Tribal Gaming Ordinance (Travel Disbursements)

84. The Tribe realleges and incorporates by reference the preceding paragraphs as if fully set forth here.

85. There are no Tribal Council resolutions authorizing the specific travel disbursements as detailed in paragraphs 63–81 (collectively the “Travel Disbursements”).

86. The Requests for Disbursements for the Travel Disbursements do not include any additional documentation regarding the travel’s relation to the gaming enterprises’ operations.

87. The Travel Disbursements were not issued pursuant to the Tribe’s RAP, any established tribal government program, or to a charitable organization.

88. Travel with no connection to a casino’s operations is not an operating expense for the Tribe’s gaming operations, and the Travel Disbursements should have been considered net gaming revenue.

89. Using net gaming revenue for travel for an individual, outside of an established program or charity, is not an approved use of net gaming revenue under IGRA, NIGC regulations, or the Tribe’s Gaming Ordinance.

90. Defendant’s actions in keeping the money disbursed to him from any of the Travel Disbursements individually and/or collectively is a violation of § 9 of the Tribe’s Gaming Ordinance, which restricts the use of net gaming revenues to one of five purposes.

91. As a direct and proximate result of the Defendant’s violation of the Tribe’s Gaming Ordinance, the Tribe has suffered monetary damages relating to Count 1 in an amount to be proven at trial.

Count 2—Violation of Tribal Gaming Ordinance (Advance Disbursements)

92. The Tribe realleges and incorporates by reference the preceding paragraphs as if fully set forth here.

93. There is not a Tribal Council resolution authorizing the specific advance disbursements as detailed in paragraphs 60–62 (the “Advance Disbursements.”)

94. The Requests for Disbursement for the Advance Disbursements do not include any additional documentation regarding the confirmation or enforcement of any repayment provisions.

95. The Advance Disbursements were not issued pursuant to the Tribe’s RAP or any established tribal government programs.

96. Advance payments to individuals are not an operating expense for the Tribe’s gaming operations, and the amounts should have been considered net gaming revenue.

97. Using net gaming revenue for an advance payment to an individual, outside of the Tribe’s RAP or established governmental program, is not an approved use of net gaming revenue under IGRA, NIGC regulations, or the Tribe’s Gaming Ordinance.

98. Defendant’s actions in keeping the money disbursed to him from the Advance Disbursements individually and/or collectively is a violation of § 9 of the Tribe’s Gaming Ordinance, which restricts the use of net gaming revenues to one of five purposes.

99. As a direct and proximate result of the Defendant’s violation of the Tribe’s Gaming Ordinance, the Tribe has suffered monetary damages relating to Count 2 in an amount to be proven at trial.

Count 3— Violation of Tribal Gaming Ordinance (Miscellaneous Disbursements)

100. The Tribe realleges and incorporates by reference the preceding paragraphs as if fully set forth here.

101. There is not a Tribal Council resolution authorizing the specific disbursements as detailed in paragraphs 82–83 (collectively the “Miscellaneous Disbursements.”)

102. The Miscellaneous Disbursements were not issued pursuant to the Tribe’s RAP or in compliance with any established tribal government program.

103. The payment of funeral expenses and taxes for an individual is not an operating expense for the Tribe’s gaming operations, and the amount should have been considered net gaming revenue.

104. Using net gaming revenues for the Miscellaneous Disbursements, outside of the Tribe’s RAP or an established governmental program, is not an approved use of net gaming revenue under IGRA, NIGC regulations, or the Tribe’s Gaming Ordinance.

105. Defendant’s actions in keeping the money disbursed to him from the Miscellaneous Disbursements is a violation of § 9 of the Tribe’s Gaming Ordinance, which restricts the use of net gaming revenues to one of five purposes.

106. As a direct and proximate result of the Defendant’s violation of the Tribe’s Gaming Ordinance, the Tribe has suffered monetary damages relating to Count 3 in an amount to be proven at trial.

Count 4–Declaratory Judgment

107. The Tribe realleges and incorporates by reference the preceding paragraphs as if fully set forth here.

108. Article VIII, Section 2 of the Tribe’s Election Ordinance provides that an individual is not to be considered a qualified candidate if:

The nominee has been found, by the St. Croix Tribal Court in a civil and/or criminal action, to have misappropriated, embezzled, stole, misapplied, converted, or willfully permitted the misapplication, any of the moneys, funds, credits, goods, assets, or other property belonging to the Tribe or intrusted to the custody or care of any officer, employee, or agent of the Tribe.

109. The allegations made in any or all parts of Counts 1 to 3 satisfy the requirements of this section.

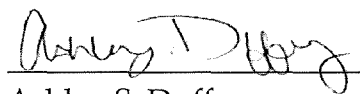
110. If this Court finds the defendant liable for any of the actions asserted in Counts 1 to 3, the Tribe is entitled to a declaration that the Defendant has been found to have committed actions that prohibit him from being deemed a qualified candidate pursuant to the requirements of the Tribe's Election Ordinance.

Prayer for Relief

WHEREFORE, the Plaintiff Tribe requests this Court to enter judgment in its favor on Counts 1-4 against the Defendant, and to:

- I. Order the Defendant to pay restitution to the Tribe in an amount to be determined at trial;
- II. Award the Tribe damages in an amount to be determined at trial;
- III. Enter a declaration that the Defendant has:
 - a. violated the Tribe's Gaming Ordinance; and
 - b. been found to have committed actions making him ineligible to be considered a qualified candidate under the Tribe's Election Ordinance; and
- IV. Grant such further relief as this Court may deem just and proper.

Respectfully submitted on this 24th day of March 2020.



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