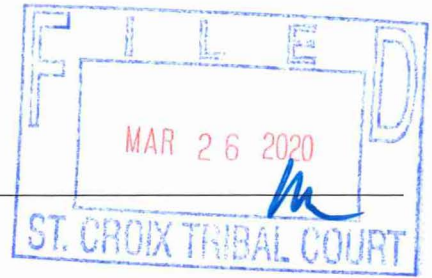


ST. CROIX TRIBAL COURT



St. Croix Chippewa Indians
of Wisconsin,

Plaintiff,

v.

Court File No. 20-CV-208

Jeffrey S. Taylor,

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 the Tribe's Gaming Commissioner, he pocketed thousands of dollars in unapproved and excess travel moneys, in addition to thousands of dollars in unsupported, fraudulent project payments.

3. As the Tribe's Gaming Commissioner, he was entrusted by the Tribal Council, all Tribal members, and the NIGC to make responsible decisions that would affect the entirety of the Tribe's casinos. Instead of respecting this duty, he used his position—and his close network with other Tribal leaders—for personal gain.

4. The Defendant's actions violated Tribal resolutions, Tribal ordinances, the Indian Gaming Regulatory Act and its implementing regulations, and the Tribe's employee handbook.

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 Jeff Taylor is an enrolled Tribal member, and a former Tribal Gaming Commissioner. His address is [REDACTED], Webster, Wisconsin, 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 1-6 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 2006, the Tribe created a Gaming Commission, intended to "ensur[e] compliance with the tribal gaming ordinance as well as all federal and state regulations related to gaming[.]"

33. Section 300.10(3) of the Tribe's Gaming Commission code requires that the Commission:

(k) Obtain annual independent, outside audits and submit these audits to the NIGC. The scope of these audits should include all gaming related contracts that result [i]n purchases of supplies, services, or concessions as dictated by law.

(l) Ensure that net revenues from any gaming activities are used for the limited purpose set forth in the tribal gaming ordinance.

...

(o) Monitor gaming activities to ensure compliance with tribal law/ regulations.

...

(x) Perform audits of business transactions to ensure compliance with regulations and/or policy.

34. 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.

35. 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."

36. 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.

37. 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”

38. 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.

39. 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.

40. 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.”

41. 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.”

42. 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.

43. 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.

44. The Tribe also has a "Travel Policies and Procedures" document that requires the travel department to calculate the allowable mileage or airfare, and per diem before it is sent to the accounting department for payment. The policy sets a limit of 15 days to return receipts from the trip to the travel department.

45. 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[.]"

46. 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.

47. The Tribe has a common law and customary law expectation that its key 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.

48. 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.

49. 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."

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

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 December 2, 2013, the Tribe entered into an employment relationship with the Defendant in his new role as the Chair of the St. Croix Gaming Commission.

55. Effective July 2, 2019, the Defendant's Personnel Action Form indicated a position change to the St. Croix Tax Commission from the Gaming Commission Chairman.

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 \$55,481.37 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 "\$1 million fine assessed for payments to Jeff Taylor and Kate Wolfe Taylor of the Tribal Gaming Commission . . . These individuals were

responsible for protecting the tribal assets from abuse. The serious implications they were appointed to uphold demands a proportionately stronger fine."

Defendant's Receipt of Travel Disbursements

60. On June 24, 2015, the St. Croix Casino issued Check #172748 to the Defendant, in the amount of \$653.07.

- a. The check was debited to the gaming operation's A/R Tribal Account.
- b. The Request for Disbursement form lists "Travel to St. Paul River Center – 6/28 – 6/29" and "7/1" as the reason for the payment request.
- c. The amount calculation includes a flat \$200 for "Hotel."
- d. There are no receipts, invoices, or other details regarding this flat-rate payment.

61. On August 21, 2015, the St. Croix Casino issued Check #174036 to the Defendant, in the amount of \$1,500.

- a. The check was debited to the gaming operation's A/R Tribal Account.
- b. The Request for Disbursement form lists "Travel to Denver 8/22 – 8/26, 2015" as the reason for the payment request.
- c. There are no receipts, invoices, or other details regarding this flat-rate payment.

62. On March 9, 2016, the St. Croix Casino issued Check #177252 to the Defendant, in the amount of \$4,334.32.

- a. The check was debited to the gaming operation's A/R Tribal Account.
- b. The Request for Disbursement form lists "Travel to NIGA 3/11 – 3/16" and "Travel to Res 2016 3/16 – 3/21" as the reason for the payment request.
- c. The amount calculation includes a flat \$325 for "Resort Fees," a flat \$275 for "Valet Parking," and a flat \$750 for "Additional Travel."
- d. There are no receipts, invoices, or other details regarding these flat-rate payments.

63. On March 21, 2016, the St. Croix Casino issued Check #177525 to the Defendant, in the amount of \$1,500.

- a. The check was debited to the gaming operation's A/R Tribal Account.
- b. The Request for Disbursement form lists "Extended stay in Las Vegas per Council" as the reason for the payment request.

- c. There are no receipts, invoices, or other details regarding this flat-rate payment.

64. On June 23, 2016, the St. Croix Casino issued Check #179237 to the Defendant, in the amount of \$3,846.05.

- a. The check was debited to the gaming operation's A/R Tribal Account.
- b. The Request for Disbursement form lists "Travel to Spokane WA NCAI Conference 6/24 – 6/30" as the reason for the payment request.
- c. The amount calculation includes a flat \$600 for "Hotel in Route @ 4 nites" and a flat \$90 for "parking."
- d. There are no receipts, invoices, or other details regarding these flat-rate payments.

65. On July 7, 2016, the St. Croix Casino issued Check #179422 to the Defendant, in the amount of \$857.50.

- a. The check was debited to the gaming operation's A/R Tribal Account.
- b. The Request for Disbursement form lists "Travel to Okc/Tulsa Res Okla 7/10 – 7/13" as the reason for the payment request.
- c. The amount calculation includes a flat \$150 for "cab," a flat \$100 for "a/p park," and a flat \$200 for "incidentals."
- d. There are no receipts, invoices, or other details regarding these flat-rate payments.

66. On July 27, 2016, the St. Croix Casino issued Check #180012 to the Defendant, in the amount of \$668.50.

- a. The check was debited to the gaming operation's A/R Tribal Account.
- b. The Request for Disbursement form lists "Travel to Las Vegas – Boxing Commissions Conference 7/29 – 8/1, 2016" as the reason for the payment request.
- c. The amount calculation includes a flat \$120 for "resort fees" and a flat \$300 for "incidentals."
- d. There are no receipts, invoices, or other details regarding these flat-rate payments.

67. On August 17, 2016, the St. Croix Casino issued Check #180367 to the Defendant, in the amount of \$638.20.

- a. The check was debited to the gaming operation's A/R Tribal Account.

- b. The Request for Disbursement form lists "Travel to Wheaton Il Gathering of American Indian Veterans 8/19 – 8/21" as the reason for the payment request.
- c. The amount calculation includes a flat \$250 for "Hotel."
- d. There are no receipts, invoices, or other details regarding this flat-rate payment.

68. On August 23, 2016, the St. Croix Casino issued Check #180511 to the Defendant, in the amount of \$489.50.

- a. The check was debited to the gaming operation's A/R Tribal Account.
- b. The Request for Disbursement form lists "Travel to Milwaukee – Potawatomi Surveillance symposium 8/29 – 8/31" as the reason for the payment request.
- c. The amount calculation includes a flat \$150 for "incidentals."
- d. There are no receipts, invoices, or other details regarding this flat-rate payment.

69. On September 6, 2016, the St. Croix Casino issued Check #180668 to the Defendant, in the amount of \$1,407.50.

- a. The check was debited to the gaming operation's A/R Tribal Account.
- b. The Request for Disbursement form lists "Travel to NIGC in Niagara Falls NY 9/11 – 9/14" as the reason for the payment request.
- c. The amount calculation includes a flat \$100 for "a/p park," a flat \$50 for "luggage," a flat \$100 for "cab," and a flat \$250 for "incidentals."
- d. There are no receipts, invoices, or other details regarding these flat-rate payments.

70. On September 20, 2016, the St. Croix Casino issued Check #180967 to the Defendant, in the amount of \$3,689.72.

- a. The check was debited to the gaming operation's A/R Tribal Account.
- b. The Request for Disbursement form lists "Driving to G2E 9/22 – 9/29 Las Vegas" as the reason for the payment request.
- c. The amount calculation includes a flat \$375 for "Hotel on road x 3 nites," a flat \$300 for "resort fee," and a flat \$400 for "incidentals," a flat \$1,000 for "extra cash," and a flat \$200 for "hotel parking."
- d. There are no receipts, invoices, or other details regarding these flat-rate payments.

71. On December 2, 2016, the St. Croix Casino issued Check #182323 to the Defendant, in the amount of \$3,500.

- a. The check was debited to the gaming operation's A/R Tribal Account.
- b. The Request for Disbursement form lists "Travel Las Vegas law symposium 12/4 – 12/8" as the reason for the payment request.
- c. There are no receipts, invoices, or other details regarding this flat-rate payment.

72. On March 8, 2017, the St. Croix Casino issued Check #183734 to the Defendant, in the amount of \$1,500.

- a. The check was debited to the gaming operation's A/R Tribal Account.
- b. The Request for Disbursement form lists "Travel/per diem Res 2017" and "3/11 – 3/14" as the reason for the payment request.
- c. There are no receipts, invoices, or other details regarding this flat-rate payment.

73. On April 10, 2017, the St. Croix Casino issued Check #184293 to the Defendant, in the amount of \$1,000.

- a. The check was debited to the gaming operation's A/R Tribal Account.
- b. The Request for Disbursement form lists "Travel/per diem to San Diego CA 4/10 – 4/12" as the reason for the payment request.
- c. There are no receipts, invoices, or other details regarding this flat-rate payment.

74. On July 6, 2017, the St. Croix Casino issued Check #186035 to the Defendant, in the amount of \$1,000.

- a. The check was debited to the gaming operation's A/R Tribal Account.
- b. The Request for Disbursement form lists "per diem travel to Greenbay 7/7 – 7/9" as the reason for the payment request.
- c. There are no receipts, invoices, or other details regarding this flat-rate payment.

75. On September 25, 2017, the St. Croix Casino issued Check #187671 to the Defendant, in the amount of \$7,245.26.

- a. The check was debited to the gaming operation's A/R Tribal Account.
- b. The Request for Disbursement form lists "Travel to G2E LV 9/30 – 10/1" as the reason for the payment request.

- c. The amount calculation includes a flat \$300 for "incidentals & fees," a flat \$150 for "hotel parking," a flat \$500 for "Hotel (in Route) x2," and a flat \$5,000 for "plus Xtra."
- d. There are no receipts, invoices, or other details regarding these flat-rate payments.

Defendant's Receipt of Miscellaneous Disbursements

76. On May 14, 2016, the St. Croix Casino issued a disbursement for the Defendant, in the amount of \$4,284.60.

- a. The disbursement was debited to the gaming operation's Donations Expense Monetary Account.
- b. The General Ledger entry notes "Anniversary" as a reason for this payment.
- c. There is not a Request for Disbursement form accompanying the disbursement.
- d. There is one invoice documenting the disbursement, titled "Jeff Taylor Anniversary Party, May 14, 2016" with line-items for food, alcohol, service charge, and room charges for 180 guests.
- e. The detailed Journal Entry sheet includes a \$4,284.60 debit for "Donation Exp. Food."

77. On June 8, 2017, the St. Croix Casino issued Check #185650 to the Defendant, in the amount of \$2,500.

- a. The check was debited to the gaming operation's A/R Tribal Account.
- b. The Request for Disbursement form lists "Hertel / Siren Projects" as the reason for the payment request.
- c. There is no documenting support, such as a contract, invoice, or receipt, for any goods or services provided by the Defendant in support of this payment.

78. On December 19, 2017, the St. Croix Casino issued Check #189062 to the Defendant, in the amount of \$2,500.

- a. The check was debited to the gaming operation's A/R Tribal Account.
- b. The Request for Disbursement form lists "Christmas Bonus" as the reason for the payment request.
- c. There is no documenting support, such as an established policy for offering Christmas bonuses to all employees, to accompanying this disbursement.

Counts

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

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

80. There are no Tribal Council resolutions authorizing the specific travel disbursements as detailed in paragraphs 60–75 (collectively the “Travel Disbursements”).

81. The Requests for Disbursements for the Travel Disbursements include flat-rates, and are lacking the additional documentation to establish that any overage amounts were returned to the Tribe.

82. The Travel Disbursements were not issued pursuant to the Tribe’s RAP or any established tribal government program.

83. Undocumented, flat-rate travel disbursements are not an operating expense for the Tribe’s gaming operations, and the Travel Disbursements should have been considered net gaming revenue.

84. Using net gaming revenue for undocumented travel for an individual, including undocumented and excessive travel advances, is not an approved use of net gaming revenue under IGRA, NIGC regulations, or the Tribe’s Gaming Ordinance.

85. 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.

86. As a Gaming Commissioner, the Defendant was charged with the responsibility of knowing and understanding the limitations on the use of net gaming revenue.

87. 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 (Miscellaneous Disbursements)

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

89. There is not a Tribal Council resolution authorizing the specific project disbursements detailed in paragraphs 76–78 (collectively the “Miscellaneous Disbursements”).

90. The Miscellaneous Disbursements are not supported with the documentation required to show they are a permitted use of net gaming revenue.

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

92. Undocumented payments are not an operating expense for the Tribe’s gaming operations, and the amounts should have been considered net gaming revenue.

93. Using net gaming revenue for an undocumented payment to an individual is not an approved use of net gaming revenue under IGRA, NIGC regulations, or the Tribe’s Gaming Ordinance.

94. Defendant’s actions in keeping the money disbursed to him from the Miscellaneous 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.

95. As a Gaming Commissioner, the Defendant was charged with the responsibility of knowing and understanding the limitations on the use of net gaming revenue.

96. 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 Wisc. Stat. 943.20(1)(b) (Travel Disbursements)

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

98. By virtue of his position, the Defendant received possession of the Tribe's money, in the form of the Travel Disbursements, as further described in Count 1, with the intent to convert the money to his own use.

99. Without the consent of the Tribe, the Defendant intentionally retained possession of the money for a prohibited purpose under tribal law.

100. As a Gaming Commissioner, the Defendant did not have the authority to use the Travel Disbursements for a purpose that violated tribal law.

101. The Tribal Court Code, § 307A, allows the incorporation of Wisconsin state law charges in Tribal Court.

102. As a direct and proximate result of the Defendant's violation of Wisc. Stat. 943.20(1)(b), through the procurement and retention of any of the Travel Disbursements individually and/or collectively, the Tribe has suffered damages in an amount to be proven at trial.

Count 4—Violation of Wisc. Stat. 943.20(1)(b) (Miscellaneous Disbursements)

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

104. By virtue of his position, the Defendant received possession of the Tribe's money, in the form of the Miscellaneous Disbursements, as further described in Count 2, with the intent to convert the money to his own use.

105. Without the consent of the Tribe, the Defendant intentionally retained possession of the money for a prohibited purpose under tribal law.

106. As Gaming Commissioner, the Defendant did not have the authority to use the Miscellaneous Disbursements for a purpose that violated tribal law.

107. The Tribal Court Code, § 307A, allows the incorporation of Wisconsin state law charges in Tribal Court.

108. As a direct and proximate result of the Defendant's violation of Wisc. Stat. 943.20(1)(b), through the procurement and retention of the Miscellaneous Disbursements individually and/or collectively, the Tribe has suffered damages in an amount to be proven at trial.

Count 5—Misappropriation of Funds

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

110. By virtue of his position as a Gaming Commissioner, the Defendant held the authority to prevent the misuse of Tribe's money from its gaming operations.

111. Under the Defendant's watch, hundreds of checks were issued to individuals for purposes prohibited under federal and tribal law, allowing for the misappropriation of the Tribe's money.

112. The Defendant ignored his responsibilities as a Gaming Commissioner, and allowed egregious violations of the Tribe's Gaming Ordinance, and the IGRA, to occur.

113. As a direct and proximate result of the Defendant's willful allowance of the misappropriation of the Tribe's money, the Tribe has suffered damages in an amount to be proven at trial.

Count 6—Declaratory Judgment

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

115. 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.

116. The allegations made in any or all parts of Counts 1 to 5 satisfy the requirements of this section.

117. If this Court finds the defendant liable for any of the actions asserted in Counts 1 to 5, 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 1-6 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;
 - b. violated Wisc. Stat. 943.20(1)(b);
 - c. permitted the misappropriation of the Tribe's money for prohibited uses; and
 - d. 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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