

Upper Sioux Community Gaming Commission

Office of Regulation and Enforcement

PO Box 199 Granite Falls, MN 56241

Phone: 320-564-6067 Fax: 320-564-6013



May 19, 2006

Financial Crimes Enforcement Network
P O Box 39
Vienna, VA 22186

Re: 1506-AA84: Proposed Amendments to Bank Secrecy Act Regulations Regarding Casino Recordkeeping and Reporting Requirements.

Emailed to: regcomments@fincen.treas.gov

Dear Members of FinCEN;

Prairie's Edge Casino Resort is a duly licensed Tribal Casino doing business for the Upper Sioux Community in Granite Falls, Minnesota. The gaming operation has an annual gaming revenue exceeding \$1,000,000, which obligates the operation to comply with the Bank Secrecy Act as it pertains to Casinos.

The Upper Sioux Community Gaming Commission is the regulatory body assigned enforcement and oversight responsibility by the Tribal Government as established in their Ordinance. The Gaming Commission is responsible for monitoring compliance to all regulatory requirements, including but not limited to Title 31 provisions established for Currency Transaction Reporting and Suspicious Activity Reporting.

The members of the Commission have read the proposed amendment and have prepared the following comments as called for by RIN 1506-AA84.

We agree that reporting qualifying jackpots from slot machines and video terminal lotteries does not gather information that would likely reveal money laundering, terrorist financing, or tax evasion schemes. While we still track these payments because of the separate IRS law governing taxable gambling winnings, we find that the risk assigned to these payments from a reporting perspective is inconsequential to the scope of the Bank Secrecy Act and the categories contained in the Suspicious Activity Reporting language. Therefore, we find it reasonable to remove these transactions from the reporting process.

We have no comment regarding the transactions between casinos and currency dealers or check cashers since we do not participate in transactions with businesses operating in this capacity. We operate our own check cashing station, which is an extension of the Cage; therefore, all transactions are tracked accordingly as cash-out transactions. We understood the current rule specifically excluded transactions with check cashing companies and depository institutions. We were aware that while casinos were exempt from this reporting process, banks and check cashing companies followed separate standards for currency transaction reporting.

We agree with the reorganization in the definition of cash-in and cash-out transactions so that the terms fit the current practices in the gaming industry.

We strongly oppose the proposal for tracking all bills inserted into slot machines. Currently the definition of a currency transaction is "a physical exchange of currency from one person to another" which implies that wagering conducted in a non-personal environment is exempt from currency tracking and/or reporting. However, we track any payments or transactions netted from the game as cash-out transactions. We have many reservations to this proposal.

- While we maintain a database of guests who have enrolled in our player's club, we do not require that a guest use their player's card when they game at the casino. Membership is required to participate in casino promotions and receive playback coupons based on carded play. Therefore, we encourage carded play but do not demand it. It would be utterly impossible without major changes to our slot floor to require carded play. We would have to program the machines to recognize only carded play as eligible for operating the machine. While the database is quite extensive, only 40% (approx) of carded players actually use their card at the machine. To capture tracking information, we have identified known players and instituted procedures that ensure a rather comprehensive Title 31 packet given the amount of activity on the floor. To date, reconciliation investigations have produced about 96% accuracy with manual tracking.
- We have entered into contract with a third-party programmer to design a program that will capture all cash activity initiated by a customer. That project initiated in November of 2004. It is now 18 months later and we are nowhere close to a complete project. There are many factors to consider when instituting an automated process. You remove the human factor and physical features of a regular transaction. Without a physical exchange, you cannot be sure that the carded play at the machine can legitimately be tracked to the person playing the machine. It is common for husbands, wives, and friends to use each other's cards. There is also the potential of deceit as guests frequently lose their cards. When that happens, they can fall into the hands of those who will use them for their own benefit, thus resulting in tracking an individual who is not the correct person, which results in inaccurate CTRCs. This consumes FinCEN's time reviewing and possibly researching transactions linked to a person listed on the report that did not conduct the transactions.
- We currently monitor Suspicious Activity and define minimal gaming activities so that our employees recognize them. We do not feel that tracking each bill or ticket is conducive to the intent of the Bank Secrecy Act.
- If the proposed amendment passes with all provisions stated in the proposal and a casino contracts with a third-party vendor to assist in compliance with the new regulations, would that vendor assume accountability or liability for findings received through IRS examination of the property? If a gaming operation cannot be sure that the system is capturing comprehensive and accurate information, can the IRS and FinCEN hold them liable for missing or incorrect information? We are not sure a vendor would assume responsibility that would put them in a legal situation.

We agree with the amendment regarding adding "tickets" to cash-out transactions. We added these to our tracking process when we revised our State Compact to operate TI/TO machines in our establishment.

We have no comment regarding receipt of funds through wire transfers as we do not offer this service and do not plan to add this to our casino services; however should the Tribal Government or Management decide in

favor of this, we would track transactions accordingly.

We agree with the addition of tracking gaming incentives, tournaments, contests or promotions. We incorporated these into our tracking program when we implemented our Title 31 program at the time it became mandatory for casinos to report currency transactions.

We respectfully request that you review the comments offered and publish a final rule that will consider the intent of the Bank Secrecy Act, how casinos currently comply and how we can improve the process in a manner that is consistent with detecting and preventing money laundering, tax evasion, and terrorist financing.

Respectfully submitted,

/s/ **Brad J. Lerschen**

Brad J. Lerschen, Chairman
Upper Sioux Community Gaming Commission