

RESOLUTION OF THE GOVERNING BODY OF
THE THREE AFFILIATED TRIBES OF THE
FORT BERTHOLD RESERVATION

- WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and
- WHEREAS, This Nation has accepted the Indian Gaming Regulatory Act of 1988, 25 U.S.C. 2701, et seq.; and
- WHEREAS, Pursuant to IGRA this Nation entered into a Compact with the State of North Dakota regarding the cooperative regulation of gaming on the Fort Berthold Reservation; and
- WHEREAS, The governing body of the Three Affiliated Tribes is interested in promoting full tribal employment on the Fort Berthold Reservation; and
- WHEREAS, The IGRA and Compact prohibit the employment of any person who has been convicted of a felony, any gaming offense, or fraud or misrepresentation unless the Tribe has formed a person to be rehabilitated; and
- WHEREAS, This body has created by resolution a Gaming Committee and delegated to it certain authority and responsibility regarding the Tribal Gaming Enterprise of the Four Bears Casino and Lodge.

NOW, THEREFORE, BE IT RESOLVED, that the attached policy regarding tribal findings of rehabilitation is hereby approved.


CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 6 were present at a special Meeting thereof duly called, noticed, convened, and held on the 14th day of June, 1995; that the forgoing Resolution was duly adopted at such meeting by the affirmative vote of 6 Members, 0 Members opposed, 0 Members abstained, 0 Members, not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 14th day of June, 1995.

Daylon Spotted Bear
Secretary, Tribal Business Council

ATTEST:


Chairman, Tribal Business Council

Jacobson, Buffalo, Schoessler & Magnuson, Ltd.

Attorneys at Law

810 Lumber Exchange Building
Ten South Fifth Street
Minneapolis, Minnesota 55402

John E. Jacobson
Henry M. Buffalo, Jr.*
James M. Schoessler
Mary B. Magnuson
Mark A. Anderson
Steven G. Thorne
Joseph F. Halloran

Tel: (612) 339-2071
Fax: (612) 349-6254
*Also admitted in Wisconsin

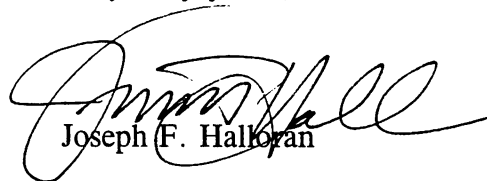
June 8, 1995

Mark Fox, Chair
Tribal Business Council/Gaming Committee
Mandan, Hidatsa, & Arikara Nation
Three Affiliated Tribes
Fort Berthold Indian Reservation
HC3 Box 2
New Town, ND 58763-9402

Dear Mark:

Enclosed is a draft Resolution adopting the rehabilitation determination policy and procedure. You will recall that I recently forwarded a memorandum regarding the need for a rehabilitation policy. When we discussed the matter you asked me to send to you some proposed language. Use it if you like it. Ignore it if you do not. In either event please let me know what the Council decides to do. Thanks for your help in this matter. I am,

Very truly yours,




Joseph F. Halloran

JFH/vla

Enclosure

cc: Three Affiliated Tribes Gaming Commission
Christopher Quale, Esq.

⁹⁵
attachment to R#195-DSB
Policy attached.


THREE AFFILIATED TRIBES TRIBAL BUSINESS COUNCIL POLICY

1. Statement of Policy.

It is the policy of the Three Affiliated Tribes that its gaming operations be free of employees who have been convicted of, or pled guilty or *nolo contendere* to, crimes including misdemeanors, gross misdemeanors and felonies.

It is further the policy of the Three Affiliated Tribes to promote full tribal employment and, where tribal members can demonstrate rehabilitation from criminal conduct, to employ tribal members notwithstanding a prior criminal record.

2. Scope of Policy.

This policy and the procedures provided herein only shall apply to applicants for employment ("Applicants") who are tribal members.

3. Role of Tribal Gaming Committee.

The authority for making a determination of rehabilitation from criminal conduct lies with the governing body of the Three Affiliated Tribes, the Tribal Business Council. That authority is hereby delegated to the Tribal Gaming Committee of the Tribal Business Council (the "Committee") which duly was created by Tribal Resolution #_____.

The Committee shall receive petitions for rehabilitation and shall make determinations thereon as is provided herein. The Committee further shall report dispositions to the Tribal Business Council on at least a monthly basis.

4. Criminal History Defined.

"Criminal history" for which an applicant must receive a determination of rehabilitation shall mean Misdemeanors, Gross Misdemeanors, and Felonies. Applicants shall not be barred

from employment, nor required to secure a determination of rehabilitation for petty misdemeanor convictions on guilty pleas.

5. Procedure for Processing Applicants with Criminal Records.

a. At the point when the Tribal Gaming Commission learns that an applicant has a criminal record, it shall:

1) Cease the processing of any license application, or suspend or revoke a license which has been issued to any applicant who has a criminal history;

2) Provide the applicant with notice of the bar presented to employment and his or her right to petition the Committee for a finding of rehabilitation;

3) Gather the following documents from any applicant who chooses to petition the Committee for a rehabilitation determination:

(a) copy of any local, state, or federal release order;

(b) evidence demonstrating compliance with all terms and conditions of probation or parole and documents showing completion of probation and parole supervision;

(c) letters of reference from persons who have been in contact with the applicant since the conviction or his or her release from a correctional facility attesting to the applicant's fitness and character;

(d) evidence showing that at least _____ (____) years have elapsed since the applicant's release from any correctional facility without subsequent conviction.

4) Forward the documents listed in subd. 3(a) through (d) to the Committee Chairperson with a request that the Committee review and decide on the petition for rehabilitation.

b. An applicant who wishes to petition the Committee for a rehabilitation determination shall provide written notice of its intent to the Tribal Gaming Commission within seven (7) calendar days of the date of notice required by 5(a)(2), *supra*.

c. Upon receiving a petition for rehabilitation and the documents set forth in 5(a)(3), *supra*, the Committee shall:

1) Meet and decide on a petition for rehabilitation within ten (10) days of the date the petition is received.

2) Make a written determination whether the petition is granted or denied;
and

3) Transmit its written determination to the Tribal Gaming Commission and the applicant.

6. Guidelines to be Applied by the Committee.

In evaluating a petition for rehabilitation the Committee shall consider at least the following criteria in arriving at its determination:

a. The nature and seriousness of the crime;

b. The circumstances of the crime, including the age of the person at the time the crime was committed, and any mitigating circumstances;

c. The length of time elapsed since the crime was committed and whether there has been any recurrence of the same or similar conduct;

d. The relationship of the crime to the duties and circumstances of the particular job for which application is made; and

e. The absence or presence of clear evidence of rehabilitation.

7. Prospective Use of a Determination Prohibited.

Any determination made pursuant to this policy shall apply retroactively only. Prospective use of a determination of rehabilitation is prohibited. Nothing contained in this policy shall be deemed to allow an applicant to assert a determination of rehabilitation with regard to crimes committed after such determination is made.

8. [Right of Appeal to Tribal Court.]