



It's Time for Tribal Casinos to Take Title 31 Seriously

On April 21, 2011 the Financial Crimes Enforcement Network (FinCEN) announced the assessment of a \$250,000 civil money penalty against a Midwestern Tribal casino for violating Bank Secrecy Act (BSA) requirements for casinos. The Casino, without admitting the allegations, consented to the payment of civil money penalties which were assessed for violations of the anti-money laundering program, reporting and recordkeeping requirements of the BSA (also known as Title 31). This also serves as a wake-up to smaller casinos that do not think they have much exposure to Title 31. The casino which consented to the fine was a lower-tiered facility with approximately 1,200 gaming machines and 20 table games. The facility was more than 350 miles from the Canadian border and not in a HIFCA (High Intensity Financial Crime Area) location. A list of HIFCA locations can be found on FinCEN's website and the program is intended to concentrate law enforcement efforts at the federal, state, and local level to combat money laundering in designated high-intensity money laundering zones.

The violations cited in FinCEN's assessment of the civil money penalty included the following:

- Failure to implement effective internal controls to ensure compliance with the BSA.
- Failure to develop and implement effective procedures for the preparation, review and filing of reports or the retention of records associated with suspicious activity.
- The Casino's written BSA compliance program and procedures were ineffective and did not consistently reflect BSA requirements for filing currency transaction reports.
- The Casino failed to conduct sufficient independent testing to comply with BSA requirements. The internal audits were conducted with the participation of the BSA compliance officer, which compromised the independence of the audit function.
- The Casino failed to conduct sufficient training related to BSA recordkeeping and reporting requirements.
- The Casino did not have a BSA compliance office in place for several months.
- The Casino failed to implement procedures to fully utilize some automated systems that could be used to aggregate player transactions and identify and monitor suspicious activity.
- The Casino lacked effective systems and controls to record monetary instrument transactions over \$3,000.
- The Casino violated the requirement to report transactions in currency by late filing incorrect and incomplete Currency Transactions Reports by Casinos (CTRC).
- The Casino violated the requirement to report suspicious activity by late filing incorrect and incomplete Suspicious Activity Reports for Casinos (SARC).

The above list of violations cited by FinCEN should serve as a warning to Tribal casinos that the Internal Revenue Service and FinCEN take Title 31 non-compliance very seriously and failure to comply with the BSA requirements can subject both casinos and casino employees with significant monetary penalties. In 2006, federal authorities announced not only a \$1,000,000 fine against a small Oklahoma casino, it also assessed \$1,500,000 fine against the former General Manager.



When our firm is performing a Title 31 compliance audit of a casino we quite frequently identify one or more of the above noted violations. Casino management should be pro active and perform either an internal audit or contract with a firm specializing in Title 31 compliance audits to make sure they are compliant with Title 31 to minimize the likelihood of money penalties assessed by FinCEN.

Best Practices

No matter the size or location of casinos, it is important to continually analyze your casino's system of internal controls to assure ongoing compliance with the BSA. The BSA Compliance Officer is the individual (or individuals) that need to take charge and responsibility of the day-to-day compliance.

It is also "best practices" to perform internal or external independent testing for compliance. Once the testing is reported, casino management should take corrective action to implement recommendations resulting from Title 31 risk assessments and compliance audits to minimize the likelihood of monetary penalties being assessed by FinCEN

JOSEPH EVE

The CPA firm of JOSEPH EVE, as part of its casino practice department, provides Title 31 training seminars several times a year. For a more tailored approach, we also provide customized on-site training for casino staff. JE also performs internal audits of Title 31 compliance and external Title 31 risk assessments for Casinos.

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