



MILLE LACS BAND OF OJIBWE

Judicial Branch of Tribal Government

COURT OF CENTRAL JURISDICTION

Court Order # 41

IN THE MATTER OF GAMING REGULATORY APPEALS PROCEDURES IN TRIBAL COURT:

The Court of Central Jurisdiction adopts the following procedures pursuant to Mille Lacs Band Statutes Annotated Title 15: Gaming Regulatory Act.

Title 15 Mille Lacs Band Statutes Annotated (MLBSA) §501 establishes an action for an aggrieved party under the Mille Lacs Band of Ojibwe Gaming Regulatory Act:

(a) A person who has been denied reversal of an adverse Compliance Recommendation or denied any other relief requested from the Authority may appeal such Compliance Determination or final enforcement order to the Court of Central Jurisdiction.

(b) A person who has received a Compliance Recommendation that recommends a license denial, suspension, or revocation may directly appeal to the Court of Central Jurisdiction. If a person takes such action, then he or she waives any right to receive a Compliance Determination from the Authority.

Appeal to Tribal Court

1. Notice of Appeal. Within twenty (20) calendar days after the effective date of the issuance of a Compliance Determination, Order, or Recommendation pursuant to 15 MLBSA §502, an aggrieved party may file a Notice of Appeal with the Tribal Court to obtain a hearing. When the twentieth day is a Band holiday or weekend, the next regular working day is the deadline. If the aggrieved party fails to file such Notice in a timely manner, the opportunity for appeal is considered waived.

There is a \$20.00 filing fee for appeals and a \$25.00 service fee to be paid at the time of filing.

2. Contents of Notice. Notice of Appeal shall be in writing and contain the following information in addition to the case caption: (i) the name, address and the telephone number of the appealing party and legal counsel, if any; and (ii) a brief description of the decision of the Gaming

Regulatory Authority being appealed.

3. Service of Notice of Appeal. The Clerk of Court shall serve a copy of the Notice of Appeal on all parties. Any briefs and additional documents filed by the Appellant after the Notice of Appeal, shall be served by Appellant on the Gaming Authority at the address below:

Director, Gaming Regulatory Authority Board
Office of Gaming Regulation and Compliance
700 Grand Avenue
Onamia, MN 56359

Appellants may request the Court to serve any or all briefs or additional documents on behalf of Appellant.

4. Filing of Briefs. The Clerk of Court shall schedule specific filing deadlines after the Notice of Appeal has been filed. A Scheduling Order with deadlines for briefs will be sent to the parties by the Court. Appellant may file a brief not to exceed 30 pages. Appellant has 40 days from the mailing of the Notice of Appeal to file a brief; the exact date will be part of the Scheduling Order issued by the Clerk of Court.

Appellees may file a responsive brief, not to exceed 30 pages, within 30 days; the exact date will be part of the Scheduling Order issued by the Clerk of Court.

Appellant may file a reply brief, not to exceed 15 pages, within 14 days after Appellee's responsive brief; the exact date will be part of the Scheduling Order issued by the Clerk of Court.

Each party shall submit to the Clerk of Court five copies of each brief or reply brief.

5. Notice of hearing. The Clerk of Court shall mail a Scheduling Order within ten (10) days after receipt of Appellant's Notice of Appeal to all the interested parties. The Scheduling Order will state the date of the hearing.

6. Contents of Notice of Hearing. The Clerk of Court shall issue a notice of hearing and it shall contain the following procedures and duties that shall be applied for Appeals cases relating to Gaming Regulation:

- a. the time, date, and place for the hearing;
- b. notification of the right of each party to be represented by an attorney;
- c. a citation to these regulations and notification of how copies of pertinent rules and regulations may be obtained;

- d. a brief description of the procedure to be followed at the hearing;
- e. the hearing shall be confined to a review of the Gaming Regulatory Authority record;
- f. a standard of abuse of discretion is applied in these hearings;
- g. a statement advising the parties that failure to appear at the hearing may result in a dismissal of the action or a default judgment;
- h. there is no jury; and
- j. oral arguments will be limited to 45 minutes by each side.

7. Appeals hearing. There is no trial at the appellate level. The parties will follow the Federal Rules of Appellate Procedure if there are no specific rules adopted by the Court of Central Jurisdiction. Briefs may be filed and oral arguments will be presented at the hearing. Appeals will be heard by the District Court Judge or Special Magistrate. Further appeals shall be heard by the Appellate Court.

8. Duties of Tribal Court Judge. The tribal court judge shall perform the following duties:

- a. hear and rule on motions;
- b. preside at the appeal hearing and decide the dispute;
- c. administer oaths and affirmations;
- d. grant or deny continuances; and
- e. prepare findings of fact, conclusions of law and a final order within 20 days of the final hearing.

9. Standard of Review. As required by 15 MLBSA §503, the Court shall apply an abuse of discretion standard of review.

10. Gaming Authority Record. The Gaming Regulatory Authority shall provide a certified copy of the entire record of the Authority's actions to the Court of Central Jurisdiction within 10 days of the Authority's receipt of Appellant's filing of a Notice of Appeal.

11. Appeal Procedure

a) As required by 15 MLBSA §503, the Tribal Court may affirm, remand, or reverse the Compliance Recommendation or Order of the Authority. A reversal of the Gaming Regulatory Authority's decision occurs if there is a determination that the substantial rights of the petitioner have been prejudiced because the decision is:

- i) in excess of the statutory authority of jurisdiction of the Authority;
- ii) made upon unlawful procedure;
- iii) unsupported by any evidence; or
- iv) plainly in error.

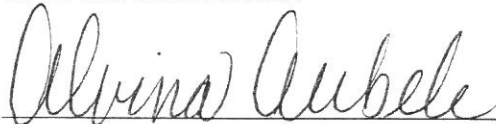
See 15 MLBSA §503(b)

Every order rendered by a Tribal Court Judge shall be in writing, be issued within 20 days of the hearing, shall be based on the record, and shall include the Tribal Court Judge's findings of the fact and conclusions of law on all material issues.

b) The Tribal Court shall serve a copy of the decision and order simultaneously upon each party or the party's representative by first class mail or personal delivery.

12. Finality of order. The Tribal Court order is considered final the date it is file-stamped by the Clerk of Court.

IT IS SO ORDERED.



Alvina Aubele, Chief Justice

Dated at Vineland, Minnesota, this 4th day of November, 2005.

Official Seal of the Court: