UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
WASHINGTON, D.C.

CHICKASAW NATION operating
Winstar World Casino

Respondent

and

Cases 17-CA-25031
17-CA-25121

International Brotherhood
of Teamsters Local 886,
affiliated with THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

Charging Union

JOINT STATEMENT OF ISSUES AND JOINT STATEMENT OF STIPULATED FACTS

I. Statement of Issues

1. Whether the Board has jurisdiction over the Respondent.

2. Whether, if the Board has such jurisdiction, the Respondent has violated Section 8(a)(1) of the Act by informing employees that they did not have the protections of the Act because of tribal sovereignty.

II. Statement of Stipulated Facts

The parties stipulate as follows:

1. The Chickasaw Nation (Nation) is a federally-recognized American Indian Tribe that holds a series of treaties with the United States and is governed by its citizen-elected government in accord with the Chickasaw Nation Constitution. The Nation's Constitution was originally ratified in 1856 and was subsequently reformed by Chickasaw citizens, as approved by the United States, in 1983, and has thereafter from time to time been amended. Generally, the

Exhibit 3

Nation's Constitution sets up a classic separation of powers between the executive branch, the legislative branch, and the judicial branch.

2. The Chickasaw Nation's executive branch operates under the authority of the Chickasaw Nation. The Office of the Governor exercises direct supervisory authority over all executive branch departments of the Nation, including the Chickasaw Nation Division of Commerce.

3. The Chickasaw Nation Division of Commerce (CNDC) conducts all tribal gaming activities of the Chickasaw Nation. The Nation operates its gaming facilities in accordance with a comprehensive body of federal and tribal law, including the Indian Gaming Regulatory Act (IGRA); the Nation's Tribal Gaming Compact with the State of Oklahoma, executed by the Nation on November 23, 2004 and approved by the United States Department of Interior on January 12, 2005; the Nation's Tribal Internal Control Standards, revised as of June 4, 2010; the Chickasaw Nation Gaming Commission Technical Standards; and The Chickasaw Nation Gaming Commission regulations (hereinafter "IGRA gaming").

4. The Nation conducts IGRA gaming at several tribal gaming facilities within the Nation's jurisdiction, each of which is operated pursuant to location-specific licenses issued and overseen by the Chickasaw Nation Office of the Gaming Commissioner (CNOGC). Each licensed gaming location is situated on tribal trust property within the Nation's treaty boundaries, and one of those locations is the WinStar World Casino, located on Nation trust lands outside of Thackerville, Oklahoma. All licensed gaming locations are managed centrally from CNDC offices that are located on Nation trust lands in Ada, Oklahoma.

5. Net revenues generated by the Nation's IGRA gaming are used exclusively by the Nation to fund tribal government operations or programs, or to provide for the general welfare of

the Nation and its citizens, consistent with the requirements of IGRA. These functions and purposes include but are not limited to:

a. **HEALTHCARE** - The Chickasaw Nation operates a 72-bed state-of-the-art hospital, the Chickasaw Nation Medical Center (CNMC), located in Ada, Oklahoma. In addition to this hospital, the Nation operates health center clinics in Ardmore, OK, Tishomingo, OK, Purcell, OK and Durant, OK. The Nation also operates wellness centers in Ada, OK, Ardmore, OK and Tishomingo, OK. The Nation operates nutritional centers in Ardmore, OK and Purcell, OK.

These healthcare facilities have approximately 1,100 employees consisting of physicians, registered nurses, dentists, physicians' assistants, nurse practitioners, midwifes and support staff.

In connection with the healthcare provided by the Nation, the Nation has a Dental Clinic program, Denture Program, a Diabetic Care Center, an Eyeglasses Program, a Hearing Aid Program, a Medical Assistance Program and a program for Optometry (vision/eye exam).

For the period of time from June 1, 2010 to May 31, 2011, at CNMC there were 2,664 surgeries performed, 588 births, 8,422 inpatient days and 2,392 admissions. With regard to outpatient visits at CNMC and the other Chickasaw Nation-related healthcare facilities outlined above, during the same period there were a total of 445,478 patient visits.

b. **EDUCATION** - The Chickasaw Nation operates the Chickasaw Nation Division of Education (CNDE). The CNDE has 210 employees and consists of 5 sub-departments: child care, early childhood, office of supportive programs, education services and vocational rehabilitation. The functions of the CNDE and its sub-departments are set forth in a

public document distributed by the CNDE, which is noted as Exhibit m to the parties' Stipulated List of Exhibits filed herewith.

c. **LAW ENFORCEMENT** - The Chickasaw Nation's principal law enforcement division is the Chickasaw Lighthorse Police Department (CLPD), which operates across the entire Chickasaw Nation. The CLPD headquarters are located in Ada, Oklahoma. The CLPD north substation is located in Newcastle, Oklahoma and the CLPD south substation is located in Thackerville, Oklahoma. The CLPD has 38 employees consisting of 30 officers, 5 dispatch operators, 2 administrative assistants and 1 crime analyst. The CLPD has a SWAT team, Dive team and 4 K-9 units used to detect drugs and bombs.

The duties of the CLPD consist of patrolling and investigating crimes within the Chickasaw Nation. The CLPD also has cross-deputization agreements with certain district attorneys' offices located within the Chickasaw Nation, the Oklahoma Bureau of Narcotics and East Central University Campus Police located in Ada, Oklahoma. Pursuant to these cross-deputization agreements, the CLPD works closely with other law enforcement agencies in connection with investigating criminal activities occurring within the Chickasaw Nation. The CLPD handles approximately 16,000 calls a year.

d. **YOUTH AND FAMILY SERVICES** - The Chickasaw Nation operates the Division of Youth and Family Services, which consists of 7 departments and approximately 150 employees. These departments include the following:

i. **Family Resource Center** - This center is located on the University of Oklahoma campus in Norman, Oklahoma. The objectives are to teach citizens of the Nation best practices for families. The center is involved in research projects with the University of Oklahoma for the development of best family practices.

ii. **Office of Strong Family Development** - This office is located in Ada, Oklahoma and provides therapeutic services with counselors for citizens of the Chickasaw Nation.

iii. **Chickasaw Children's Village** - This village is located in Kingston, Oklahoma and is a group home that houses between 65 to 75 children of citizens of the Chickasaw Nation. These children attend Kingston Public Schools in Kingston, Oklahoma.

iv. **Department of Child Support Services** - This department is located in Ada, Oklahoma and assists citizens of the Chickasaw Nation in enforcing child support orders in divorce cases.

v. **Department of Family Advocacy** - This department is located in Ada, Oklahoma and investigates alleged child neglect or abuse involving the children of the Chickasaw Nation. The department works with the Tribal and State Court systems in connection with supervised visitation.

vi. **Department of Safe and Stable Families** - This department deals with issues of domestic violence involving citizens of the Chickasaw Nation. The department has crisis consultants and a domestic violence shelter located in Ada, Oklahoma.

vii. **Department of Youth Services** - This department conducts approximately 15 educational camps attended by approximately 1,200 children of the Chickasaw Nation. The department also sponsors leadership programs for approximately 50 children of the Chickasaw Nation. The department on an annual basis gives about 8,000 clothing grants in the amount of $200 each to needy children of the Chickasaw Nation.

6. **HISTORY AND CULTURE** - The Chickasaw Nation Division of History and Culture (CNHC) conducts and provides historical research, archival and archaeological item

collection and maintenance, language preservation and instruction, and other services and activities of cultural importance to the Nation and its citizens. CNHC has approximately 150 employees, including persons with professional and/or advanced graduate degrees in history, language, and museum studies. The Nation has organized CNHC into 8 departments: Chickasaw Press; Cultural Education and Outreach; Cultural Resources; Horticulture; Museums and Historic Sites; Libraries, Archives, and Collections; Chickasaw Cultural Center Operations; and Chickasaw Cultural Center Facilities and Maintenance. Among its programs and services, CNHC operates the Nation's genealogy program, which provides the constitutionally-required documentation for purposes of establishing an individual's tribal citizenship. In 2006, CNHC launched the Chickasaw Press, a tribal publishing house that focuses exclusively on subjects relating to Chickasaw language instruction, history, and culture and has already produced a dozen books. On July 24, 2010, after two decades of effort among Chickasaw citizens, CNHC oversaw the completion and opening of the Chickasaw Cultural Center (www.chickasawculturalcenter.com)—a 109-acre complex that serves as the Nation's central repository for its expanding archival and archaeological collections as well as its Smithsonian-quality museum and cultural resource center, including an exhibit hall, grounds, and professional research library. Since its opening, more than 50,000 people have visited the center.

7. In 2010, the Chickasaw Nation made purchases exceeding $50,000 from points outside the State of Oklahoma, and derived gross revenues in excess of $500,000, in business conducted at its licensed gaming location known as WinStar World Casino.

8. A majority of the Chickasaw Nation workforce employed at the Chickasaw Nation's licensed gaming location known as WinStar World Casino is non-Indian.

9. A majority of the patrons entering the Chickasaw Nation's licensed gaming location known as WinStar World Casino is non-Indian.

10. The Chickasaw Nation engages in advertising both within and outside of the Chickasaw Nation's jurisdictional area in connection with the Chickasaw Nation's licensed gaming location known as WinStar World Casino.

11. The Charging Union, International Brotherhood of Teamsters Local 886, affiliated with the International Brotherhood of Teamsters, is, and at all material times has been, a labor organization within the meaning of Section 2(5) of the National Labor Relations Act.

12. On or about December 18, 2010, Respondent, acting through its supervisor and/or agent Bill Foley, informed employees working at the Chickasaw Nation's WinStar World Casino facility that they did not have the protections of the Act because of the Chickasaw Nation's sovereignty

13. On or about December 10, 2010, the Charging Union filed a timely unfair labor practice charge against "Winstar Casino." That charge was docketed as Case 17-CA-25031 and subsequently amended on or about December 23, 2010, and February 22, 2011. As amended, the charge in Case 17-CA-25031 alleges multiple violations of Section 8(a)(1) and a violation of Section 8(a)(3).

14. On or about April 8, 2011, the Charging Union timely filed a second unfair labor practice charge against "WinStar World Casino." That charge was docketed as Case 17-CA-25121 and subsequently amended on or about May 3, 2011. As amended, the charge in Case 17-CA-25121 alleges multiple violations of Section 8(a)(1) and a violation of Section 8(a)(3).

15. On or about May 10, 2011, the Regional Director for Region 17 issued an Order Consolidating Cases, Consolidated Complaint, and Notice of Hearing in Cases 17-CA-25031 and

17-CA-25121. The named Respondent is "Chickasaw Nation d/b/a WinStar World Casino." Among the violations alleged by the Consolidated Complaint is Paragraph 5(p), which alleges that Respondent, acting through its supervisor and/or agent Bill Foley, "[i]nformed employees that they did not have the protections of the Act because of tribal sovereignty."

16. On May 10, 2011, the Chickasaw Nation filed a complaint against the Board and its sitting members, who were named in their official capacities, in the United States District Court for the Western District of Oklahoma (Civil Action No. 5:11-cv-506-W). The complaint requested an injunction to prevent the Board from applying the NLRA to the Chickasaw Nation's WinStar World Casino facility.

17. On July 11, 2011, in response to the Chickasaw Nation's motion for a preliminary injunction, the District Court entered an order enjoining the NLRB "from proceeding to hearing on its complaint against the Chickasaw Nation."

18. Following the entry of the preliminary injunction, the Board appealed to the United States Court of Appeals for the Tenth Circuit (No. 11-6209). At the same time, the Board entered into settlement negotiations with the Chickasaw Nation. Pursuant to those negotiations, the Board, the Chickasaw Nation, and the Charging Union (who was not a party to the District Court case or the Tenth Circuit appeal) agreed to jointly request that the District Court modify its injunction to permit the NLRB to proceed on a new complaint alleging a single violation of the Act – i.e., paragraph 5(p) of the Consolidated Complaint. On June 20, 2012, the District Court issued an Order granting the requested relief.

19. The parties do not stipulate to the relevance of the facts herein, and any party objecting to the relevance may do so in their briefs.

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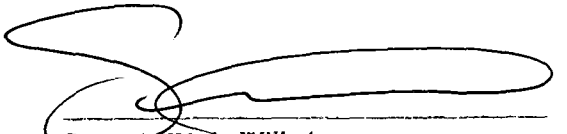
Respectfully submitted this 19th day of July 2012.



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