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CHEROKEE NATION GAMING COMMISSION
RULES AND REGULATIONS

CHAPTER:	Enforcement	CHAPTER #:	X
SUBJECT:	Schedule of Civil Penalties	SECTION – SUBSECTION:	
EFFECTIVE DATE:		SUPERSEDES MATERIAL DATED:	
APPROVED BY:		DATE:	

Purpose

To provide the general framework for the enforcement of all regulations administered or enforced by the Cherokee Nation Gaming Commission. While this regulation provides for a progressive discipline approach to enforcement, there may be instances where the progressive discipline approach is omitted and strict enforcement action is necessary.

Scope

This regulation covers all natural persons and entities over which the Cherokee Nation Gaming Commission exercises civil-regulatory jurisdiction. Any criminal matters arising from any investigation conducted pursuant to CNGC regulation will be referred to the appropriate law enforcement agency.

Authority

Cherokee Nation Code Annotated Title 4 – Section 22 (D) (7)
Cherokee Nation Code Annotated Title 4 – Section 22 (D) (21)
Cherokee Nation Code Annotated Title 4 – Section 28 (D)

A. Definitions

1. *Apparent Violation* – conduct that constitutes an actual or possible violation of gaming laws and/or regulations, including the Indian Gaming Regulatory Act (IGRA; 25 U.S.C. 2701 et. seq.), National Indian Gaming Commission (NIGC; 25 CFR Part 501 et. seq.), the Cherokee Nation Gaming Commission (CNGC; Title 4 Cherokee Nation Code Annotated), any Tribal-State Compact to which the Cherokee Nation is a party, or any other statutes administered or enforced by the CNGC, as well as orders, directives, or licenses issued pursuant thereto.

2. *CNGC* – the Cherokee Nation Gaming Commission; the tribal government agency responsible for carrying out the Cherokee Nation’s regulatory and oversight responsibilities under all applicable statutes.
3. *Penalty* – the final civil penalty amount set forth in a Penalty Notice.
4. *Proposed Penalty* – the civil penalty amount set forth in a Pre-Penalty Notice.
5. *Regulator* – any Federal, State, or Tribal agency that has authority to license or examine an entity for compliance with federal, state, or tribal law.
6. *Subject Person* – an individual or entity subject to the jurisdiction of the CNGC.
7. *Voluntary Self-Disclosure* – self-initiated notification to the CNGC or other regulator of an apparent violation by a Subject Person that has committed, or otherwise participated in an apparent violation of a statute or regulation administered or enforced by the CNGC, prior to or at the same time that the CNGC or other regulator discovers the apparent violation or another substantially similar apparent violation. For these purposes, “*substantially similar apparent violation*” means an apparent violation that is a part of a series of similar apparent violations or is related to the same pattern or practice of conduct.

Notification of an apparent violation to another regulator (but not the CNGC) by a Subject Person, which is considered a voluntary self-disclosure by that regulator, may be considered a voluntary self-disclosure by the CNGC, based on a case-by-case assessment. Notification to the CNGC of an apparent violation is not a voluntary disclosure if: the disclosure includes false or misleading information; the disclosure (when considered along with supplemental information provided by the Subject Person) is materially incomplete; or, when the Subject Person is an entity, the disclosure is made by an individual in a Subject Person entity without the authorization of the entity’s senior management. Responding to an administrative subpoena or other inquiry from the CNGC is not a voluntary self-disclosure. In addition to notification, a voluntary self-disclosure must include, or be followed within a reasonable timeframe by, a report of sufficient detail to afford a complete understanding of an apparent violation’s circumstances, and should also be followed by responsiveness to any follow-up inquiries by the CNGC. (As discussed further below, a Subject Person’s level of cooperation with the CNGC is an important factor in determining the appropriate enforcement response to an apparent violation even in the absence of a voluntary self-disclosure as defined herein; disclosure by a Subject Person may result in mitigation insofar as it represents cooperation with the CNGC’s investigation.)

B. Types Of Responses To Apparent Violations

Depending on the facts and circumstances of a particular case, a CNGC investigation may lead to one or more of the following actions:

1. *No Action.* If the CNGC determines that there is insufficient evidence to conclude that a violation has occurred and/or, based on an analysis of the General Factors outlined in Section III, concludes that the conduct does not rise to a level warranting an administrative response, then no action will be taken. In those cases in which the CNGC is aware that the Subject Person has knowledge of the CNGC's investigation, the CNGC generally will issue a letter to the Subject Person indicating that the investigation is being closed with no administrative action being taken. A no-action determination represents a final determination as to the apparent violation, unless the CNGC later learns of additional related violations or other relevant facts.
2. *Request Additional Information.* If the CNGC determines that additional information regarding the apparent violation is needed, it may request further information from the Subject Person or third parties, including through an administrative subpoena issued pursuant to [citation]. Upon receipt of information determined to be sufficient to assess the apparent violation, the CNGC will decide, based on an analysis of the General Factors outlined in Section III, whether to pursue further enforcement action or whether some other response to the apparent violation is appropriate.
3. *Cautionary Letter.* If the CNGC determines that there is insufficient evidence to conclude that a violation has occurred or that a Finding of Violation or a civil monetary penalty is not warranted under the circumstances, but believes that the underlying conduct could lead to a violation in other circumstances and/or that a Subject Person does not appear to be exercising due diligence in assuring compliance with the statutes and regulations the CNGC enforces, the CNGC may issue a cautionary letter, which may convey the CNGC's concerns about the underlying conduct and/or the Subject Person's CNGC compliance policies, practices and/or procedures. A cautionary letter represents a final enforcement response to the apparent violation, unless the CNGC later learns of additional related violations or other relevant facts, but does not constitute a final determination as to whether a violation has occurred.
4. *Finding of Violation.* If the CNGC determines that a violation has occurred and considers it important to document the occurrence of a violation and, based on an analysis of the General Factors contained in Section III, concludes that the Subject Person's conduct warrants an administrative response but that a civil monetary penalty is not the most appropriate response, the CNGC may issue a Finding of Violation that

identifies the violation. A Finding of Violation may also convey the CNGC's concerns about the violation and/or the Subject Person's compliance policies, practices and/or procedures, and/or identify the need for further compliance steps to be taken. A Finding of Violation represents a final enforcement response to the violation, unless the CNGC later learns of additional related violations or other relevant facts, and constitutes a final determination that a violation has occurred. A Finding of Violation will afford the Subject Person an opportunity to respond to the CNGC's determination that a violation has occurred pursuant to CNGC Regulation Chapter IX, before that determination becomes final. In the event a Subject Person responds, the initial Finding of Violation will not constitute a final determination that a violation has occurred. In such cases, after considering the response received, the CNGC will inform the Subject Person of its final enforcement response to the apparent violation.

5. *Civil Monetary Penalty.* If the CNGC determines that a violation has occurred and, based on an analysis of the General Factors contained in Section III, concludes that the Subject Person's conduct warrants the imposition of a monetary penalty, the CNGC may impose a civil monetary penalty. Civil monetary penalties will be determined as discussed in Section E. The imposition of a civil monetary penalty constitutes a final determination that a violation has occurred and represents a final civil enforcement response to the violation. The CNGC will afford the Subject Person an opportunity to respond to the CNGC's determination that violation has occurred, pursuant to CNGC Regulation Chapter IX, before a final penalty is imposed.
6. *License Denial, Condition, Modification, or Revocation.* If the CNGC determines that a violation has occurred and, based on an analysis of the General Factors contained in Section III, concludes that the Subject Person's conduct warrants the denial, revocation, or imposing conditions under which the Subject Person may maintain a license issued by the CNGC, the CNGC may take such action as it deems appropriate. The imposition of a license denial, condition, modification, or revocation constitutes a final determination that a violation has occurred and represents a final civil enforcement response to the violation. The CNGC will afford the Subject Person an opportunity to respond to the CNGC's determination that violation has occurred, pursuant to CNGC Regulation Chapter IX, before a final license action is taken.
7. *Seek Prosecution.* If the CNGC determines that a violation has occurred and, based on an analysis of the General Factors contained in Section III, concludes that the Subject Person's conduct warrants civil prosecution, the CNGC may seek such prosecution in the appropriate court jurisdiction. In those cases where prosecution is sought, such action constitutes a final determination that a violation has occurred and represents a final civil enforcement response to the violation.

8. *Closure Order.* If the CNGC determines that a violation has occurred and, based on an analysis of the General Factors contained in Section III, concludes that the Subject Person's conduct warrants the closure of a portion or all of a licensed gaming facility, the CNGC may issue a Closure Order. The imposition of a Closure Order constitutes a final determination that a violation has occurred and represents a final civil enforcement response to the violation. The CNGC will afford the Subject Person an opportunity to respond to the CNGC's determination that violation has occurred, pursuant to CNGC Regulation Chapter IX, before a Closure Order is imposed.
9. *Criminal Referral.* In appropriate circumstances, the CNGC may refer the matter to appropriate law enforcement agencies for criminal investigation and/or prosecution. Apparent violations that the CNGC has referred for criminal investigation and/or prosecution may also be subject to CNGC civil penalty or other administrative action.
10. *Other Administrative Actions.* In addition to or in lieu of other administrative actions, the CNGC may take any action it deems necessary to ensure compliance with all applicable statutes including, but not limited to the issuance of a Cease and Desist Order. The CNGC may order the Subject Person to cease and desist from conduct that is prohibited by any of the statutes or regulations administered or enforced by the CNGC when the CNGC has reason to believe that a Subject Person has engaged in such conduct and/or that such conduct is ongoing or may recur.
11. *Notice to Other Regulatory Agencies.* In addition to or in lieu of other administrative actions, the CNGC may report the apparent violation to other tribal, state, or federal regulatory agencies for their review and action. Any action taken by the CNGC does not preclude any other action available to them as a matter of law.

C. General Factors Affecting Administrative Action

As a general matter, the CNGC will consider some or all of the following General Factors in determining the appropriate administrative action in response to an apparent violation(s) by a Subject Person:

1. *Willful or Reckless Violation of Law:* a Subject Person's willfulness or recklessness in violating, attempting to violate, conspiring to violate, or causing a violation of the law. Generally, to the extent the conduct at issue is the result of willful conduct or a deliberate intent to violate, attempt to violate, conspire to violate, or cause a violation of the law, the CNGC enforcement response will be stronger. Among the factors the CNGC may consider in evaluating willfulness or recklessness are:

- a. *Willfulness.* Was the conduct at issue the result of a decision to take action with the knowledge that such action would constitute a violation of the law? Did the Subject Person know that the underlying conduct constituted, or likely constituted, a violation of the law at the time of the conduct?
 - b. *Recklessness.* Did the Subject Person demonstrate reckless disregard for the law or otherwise fail to exercise a minimal degree of caution or care in avoiding conduct that led to the apparent violation? Were there warning signs that should have alerted the Subject Person that an action or failure to act would lead to an apparent violation?
 - c. *Concealment.* Was there an effort by the Subject Person to hide or purposely obfuscate their conduct in order to mislead the CNGC or other regulators, or other parties involved in the conduct about an apparent violation?
 - d. *Pattern of Conduct.* Did the apparent violation constitute or result from a pattern or practice of conduct or was it relatively isolated and atypical in nature?
 - e. *Prior Notice.* Was the Subject Person on notice, or should it reasonably have been on notice, that the conduct at issue, or similar conduct, constituted a violation of the law?
 - f. *Management Involvement.* In cases of entities, at what level within the organization did the willful or reckless conduct occur? Were supervisory or managerial level staff aware, or should they reasonably have been aware, of the willful or reckless conduct?
2. *Awareness of Conduct at Issue:* the Subject Person's awareness of the conduct giving rise to the apparent violation. Generally, the greater a Subject Person's actual knowledge of, or reason to know about, the conduct constituting an apparent violation, the stronger the CNGC enforcement response will be. In the case of a corporation, awareness will focus on supervisory or managerial level staff in the business unit at issue, as well as other senior officers and managers. Among other factors the CNGC may consider in evaluating the Subject Person's awareness of the conduct at issue are:
- a. *Actual Knowledge.* Did the Subject Person have actual knowledge that the conduct giving rise to an apparent violation took place? Was the conduct part of a business process, structure or arrangement that was designed or implemented with the intent to prevent or shield the Subject Person from having such actual knowledge, or was the conduct part of a business process, structure or arrangement implemented for other legitimate reasons that made it difficult or impossible for the Subject Person to have actual knowledge?

- b. *Reason to Know.* If the Subject Person did not have actual knowledge that the conduct took place, did the Subject Person have reason to know, or should the Subject Person reasonably have known, based on all readily available information and with the exercise of reasonable due diligence, that the conduct would or might take place?
 - c. *Management Involvement.* In the case of an entity, was the conduct undertaken with the explicit or implicit knowledge of senior management, or was the conduct undertaken by personnel outside the knowledge of senior management? If the apparent violation was undertaken without the knowledge of senior management, was there oversight intended to detect and prevent violations, or did the lack of knowledge by senior management result from disregard for its responsibility to comply with applicable laws?
3. *Harm to Regulatory Objectives:* the actual or potential harm to regulatory objectives caused by the conduct giving rise to an apparent violation. Among other factors the CNGC may consider in evaluating the harm to regulatory objectives are:
 - a. *Economic or Other Benefit to the Subject Person:* the economic or other benefit conferred or attempted to be conferred as a result of an apparent violation.
 - b. *License Eligibility:* whether the conduct constituting the apparent violation likely would have been licensed by the CNGC under existing license regulations.
 - c. *Non-Compliance:* whether the conduct constituting the apparent violation causes the Subject Person to be out of compliance with applicable statutes and regulations.
 - d. *Integrity Compromised:* whether the conduct constituting the apparent violation caused or attempted to cause the integrity of the games, financial accountability, or environmental, public health and safety to be compromised.
4. *Individual Characteristics:* the particular circumstances and characteristics of a Subject Person. Among the factors the CNGC may consider in evaluating individual characteristics are:
 - a. *Commercial Sophistication:* the commercial sophistication and experience of the Subject Person. Is the Subject Person an individual or entity? If an individual, was the conduct constituting the apparent violation for personal or business reasons?

- b. *Sanctions History*: the Subject Person's sanctions history, including the CNGC's issuance of prior penalties, findings of violations or cautionary, warning or evaluative letters, or other administrative actions. As a general matter, the CNGC will only consider a Subject Person's sanctions history for the five (5) years preceding the date of the issue giving rise to an apparent violation.
5. *Remedial Response*: the Subject Person's corrective action taken in response to the apparent violation. Among the factors the CNGC may consider in evaluating the remedial response are:
- a. The steps taken by the Subject Person upon learning of the apparent violation. Did the Subject Person immediately stop the conduct at issue?
 - b. In the case of an entity, the processes followed to resolve issues related to the apparent violation. Did the Subject Person discover necessary information to ascertain the causes and extent of the apparent violation, fully and expeditiously? Was senior management fully informed? If so, when?
 - c. In the case of an entity, whether the Subject Person adopted new and more effective internal controls and procedures to prevent a recurrence of the apparent violation. If the Subject Person did not have policies, practices or procedures in place at the time, did it prepare and implement them upon discovery of the apparent violation? If such policies, practices or procedures were in place, did it take appropriate steps to enhance them to prevent the recurrence of similar violations? Did the entity provide the individual(s) responsible for the apparent violation with additional training, and/or take other appropriate action, to ensure that similar violations do not occur in the future?
 - d. Where applicable, whether the Subject Person undertook a thorough review to identify other possible violations.
6. *Cooperation with the CNGC*: the nature and extent of the Subject Person's cooperation with the CNGC. Among other factors the CNGC may consider in evaluating cooperation are:
- a. Did the Subject Person voluntarily self-disclose the apparent violation to the CNGC?
 - b. Did the Subject Person provide the CNGC with all relevant information regarding an apparent violation (whether or not it was self-disclosed)?

- c. Did the Subject Person research and disclose to the CNGC relevant information regarding any other apparent violations caused by the same course of conduct?
 - d. Was information provided voluntarily or in response to an administrative subpoena?
 - e. Did the Subject Person cooperate with, and promptly respond to, all requests for information?
7. *Other Enforcement Action*: other enforcement actions taken by regulators against the Subject Person for the apparent violation or similar apparent violations, including any settlement agreements the Subject Person to which they are a party.
 8. *Future Compliance / Deterrence Effect*: the impact administrative action may have on promoting future compliance with applicable laws by the Subject Person and similar Subject Persons.
 9. *Other Relevant Factors On A Case-By-Case Basis*: such other factors that the CNGC deems relevant on a case-by-case basis in determining the appropriate enforcement response and/or the amount of any civil monetary penalty. The CNGC will consider the totality of the circumstances to ensure that its enforcement response is proportionate to the nature of the violation.

D. Civil Monetary Penalties For Failure To Comply With A Requirement To Furnish Information

As a general matter, the following civil monetary penalty amounts shall apply to a Subject Person's failure to comply with applicable statutes and regulations.

1. Failure to comply with applicable statutes and regulations may subject the Subject Person to and result in a civil monetary penalty in an amount up to \$25,000 per violation.
2. If a violation exists for more than one (1) day, the CNGC may treat each daily violation as a separate violation.
3. Failure to comply with a requirement to furnish information requested pursuant to a CNGC investigation may be considered a violation. The CNGC may seek to have a requirement to furnish information judicially enforced. Imposition of a civil monetary penalty for failure to comply with a requirement to furnish information does not preclude the CNGC from seeking such judicial enforcement of the requirement to furnish information.

4. A general schedule of civil monetary penalties is provided in Appendix A. This schedule does not preclude the CNGC from assessing an amount different than that contained within the schedule based on a case-by-case assessment of the apparent violation and corresponding base category calculation.
5. The imposition of a civil monetary penalty does not preclude the CNGC from taking any other administrative action it deems appropriate.

E. Civil Penalties

The CNGC will review the facts and circumstances surrounding an apparent violation and apply the General Factors contained in Section III above in determining whether to initiate a civil penalty proceeding and in determining the amount of any civil monetary penalty. The CNGC will give careful consideration to the appropriateness of issuing a cautionary letter or Finding of Violation in lieu of the imposition of a civil monetary penalty.

1. Civil Penalty Process

- a. *Pre-Penalty Notice.* If the CNGC has reason to believe that a violation has occurred and believes that a civil monetary penalty or other administrative response is appropriate, it will issue a Pre-Penalty Notice in accordance with the procedures set forth in CNGC Regulation Chapter IX. The amount of any proposed civil monetary penalty set forth in the Pre-Penalty Notice will reflect the CNGC's preliminary assessment of the appropriate penalty amount, based on the information then in the CNGC's possession. The amount of the final penalty may change as the CNGC learns additional relevant information. If, after the issuance of a Pre-Penalty Notice, the CNGC intends to allege additional violations, the CNGC will issue a revised Pre-Penalty Notice setting forth the new proposed penalty amount and/or alleged violations.
 - i. In general, the Pre-Penalty Notice will set forth the following with respect to the specific violations alleged and the proposed penalties:
 - a. Description of the alleged violation(s), including the number of violations and the penalty being proposed;
 - b. Identification of the regulatory or other provisions alleged to have been violated;

- c. Identification of the based category (defined below) according to which the proposed penalty amount was calculated and the General Factors that were most relevant to the determination of the proposed penalty amount;
 - d. The maximum amount of the penalty to which the Subject Person could be subject under applicable law; and
 - e. The proposed penalty amount, determined in accordance with the provisions set forth within this regulation.
 - b. The Pre-Penalty Notice will also include information regarding how to respond to the Pre-Penalty Notice including:
 - i. A statement that the Subject Person may submit a written response to the Pre-Penalty Notice by a date certain addressing the alleged violation(s), the General Factors identified by the CNGC, and any other information or evidence that the Subject Person deems relevant to the CNGC's consideration.
 - ii. A statement that a failure to respond to the Pre-Penalty Notice may result in the imposition of the proposed penalty.
- 2. *Response to Pre-Penalty Notice.* A Subject Person may submit a written response to the Pre-Penalty Notice in accordance with the procedures set forth in CNGC Regulation Chapter IX. Generally, the response should either agree to the proposed penalty set forth in the Pre-Penalty Notice or set forth the reasons why a penalty should not be imposed or, if imposed, why it should be a lesser amount than proposed, with particular attention paid to the General Factors contained in Section III. The response should include all documentary or other evidence available to the Subject Person that supports the arguments set forth in the response. The CNGC will consider all relevant materials submitted.
- 3. *Penalty Notice.* If the CNGC receives no response to the Pre-Penalty Notice within the time prescribed in the Pre-Penalty Notice, or if following the receipt of a response to a Pre-Penalty Notice and a review of the information and evidence contained therein the CNGC concludes that a civil monetary penalty is warranted, a Penalty Notice generally will be issued in accordance with the procedures set forth in CNGC Regulation Chapter IX. A Penalty Notice constitutes a final determination that a violation has occurred. The penalty amount set forth in the Penalty Notice will take into account relevant additional information provided in response to a Pre-Penalty Notice. In the absence of a response to

a Pre-Penalty Notice, the penalty amount set forth in the Penalty Notice will generally be the same as the proposed penalty set forth in the Pre-Penalty Notice.

4. *Referral to Cherokee Nation Financial Resources.* The imposition of a civil monetary penalty pursuant to a Penalty Notice creates a debt due to the Cherokee Nation. The CNGC will advise the Cherokee Nation Financial Resources division upon the imposition of a penalty. Financial Resources may take follow-up action to collect the penalty assessed if it is not paid within the prescribed time period specified in the Penalty Notice. In addition or instead, the matter may be referred to the Cherokee Nation Office of the Attorney General for appropriate action to recover the penalty. Further, the CNGC may take any additional administrative action it deems necessary.
5. *Final CNGC Action.* The issuance of a Penalty Notice constitutes a final CNGC action with respect to the violation(s) for which the penalty is assessed.

F. Amount of Civil Penalty

1. *Egregious Case.* In those cases in which a civil monetary penalty is deemed appropriate, the CNGC will make a determination as to whether a case is deemed “egregious” for purposes of the based penalty calculation. This determination will be based on an analysis of the applicable General Factors. In making the egregiousness determination, the CNGC generally will give substantial weight to General Factors A (“willful or reckless violation of law”), B (“awareness of conduct at issue”), C (“harm to regulatory objectives”), and D (“individual characteristics”), with particular emphasis on General Factors A and B. A case will be considered an “egregious case” where the analysis of the applicable General Factors, with a focus on those General Factors identified above, indicates that the case represents a particularly serious violation of the law calling for a strong enforcement response. A determination that a case is “egregious” will be made by vote of the CNGC Commissioners.
2. *Pre-Penalty Notice.* The penalty amount proposed in a Pre-Penalty Notice shall generally be calculated as follows, except that neither the base amount, as described below, nor the proposed penalty will exceed the applicable statutory maximum amount. (See Appendix B)
 - a. In a non-egregious case, if the apparent violation is disclosed through a voluntary self-disclosure by the Subject Person, the base amount of the proposed civil penalty in the Pre-Penalty Notice shall be one-half of the statutory maximum penalty amount.

- b. In a non-egregious case, if the apparent violation comes to the CNGC's attention by means other than a voluntary self-disclosure, the base amount of the proposed civil penalty in the Pre-Penalty Notice shall be the statutory maximum penalty amount as defined herein.
 - c. In an egregious case, if the apparent violation is disclosed through a voluntary self-disclosure by the Subject Person, the base amount of the proposed civil penalty in the Pre-Penalty Notice shall be one-half of the statutory maximum penalty amount applicable to the violation.
 - d. In an egregious case, if the apparent violation comes to the CNGC's attention by means other than a voluntary self-disclosure, the base amount of the proposed civil penalty in the Pre-Penalty Notice shall be the applicable statutory maximum penalty amount applicable to the violation.
3. *Adjustment for Applicable Relevant General Factors.* The base amount of the proposed civil monetary penalty may be adjusted to reflect applicable General Factors for Administrative Action set forth in Section III of this document. Each factor may be considered mitigating or aggravating, resulting in a lower or higher proposed penalty amount.
4. *Penalty Notice.* The amount of the proposed civil penalty in the Pre-Penalty Notice will be the presumptive starting point for calculation of the civil penalty amount in the Penalty Notice. The CNGC may adjust the penalty amount based on:
 - a. Evidence presented by the Subject Person in response to the Pre-Penalty Notice or otherwise received by the CNGC with respect to the underlying apparent violation(s); and/or
 - b. Any modification resulting from further review and reconsideration by the CNGC of the proposed civil monetary penalty in light of the General Factors for Administrative Action set forth in Section III of this document.
5. The Penalty Notice shall not include additional alleged violations, unless a revised Pre-Penalty Notice has first been sent to the Subject Person as set forth above.
6. In the event the CNGC determines upon further review that no penalty is appropriate, it will so inform the Subject Person in a no-action letter, a cautionary letter, or a Finding of Violation.

G. Settlements

A settlement does not constitute a final agency determination that a violation has occurred.

1. **Settlement Process.** Settlement discussions may be initiated by the CNGC or the Subject Person. Settlements generally be negotiated in accordance with the principles set forth in this document with respect to appropriate penalty amounts.
2. **Settlement Prior to Issuance of Pre-Penalty Notice.** Where settlement discussions occur prior to the issuance of a Pre-Penalty Notice, the Subject Person may request in writing that the CNGC withhold issuance of a Pre-Penalty Notice pending the conclusion of settlement discussions. The CNGC will generally agree to such a request provided settlement discussions are continuing in good faith and the statute of limitations is not at risk of expiring.
3. **Settlement Following Issuance of Pre-Penalty Notice.** If a matter is settled after a Pre-Penalty Notice has been issued, but before a final Penalty Notice is issued, the CNGC will not make a final determination as to whether a sanctions violation has occurred. In the event no settlement is reached, the period specified for written response to the Pre-Penalty Notice remains in effect unless additional time is granted by the CNGC.
4. **Settlement of Multiple Apparent Violations.** A settlement initiated for one apparent violation may also involve a comprehensive or global settlement of multiple apparent violations covered by other Pre-Penalty Notices, apparent violations for which a Pre-Penalty Notice has not yet been issued by the CNGC, or previously unknown apparent violations reported to the CNGC during the pendency of an investigation of an apparent violation.

H. Appeals

1. The CNGC's decision shall state that the decision may be appealed to the Cherokee Nation District Court within thirty (30) calendar days of the receipt of the CNGC's decision, or the decision will become final without further right of review.
2. The Subject Person may appeal the decision by filing a Notice of Appeal with the Cherokee Nation District Court, which shall contain a statement of the grounds for the appeal.
3. Should the Subject Person disagree with the decision of the Cherokee Nation District Court, the Subject Person may appeal to the Cherokee Nation Supreme Court by filing a written appeal within thirty (30) days of receipt of the District Court's decision. Failure

to file an appeal within this timeframe will render the District Court's decision final without further right of review. The decision of the Supreme Court will be final and binding

APPENDIX A

		Base Penalty	Maximum Penalty
Response	Level 1	\$ 1,000	\$ 5,000
	Level 2	\$ 5,000	\$ 10,000
	Level 3	\$ 10,000	\$ 25,000
	Level 4	Temporary Closure	Closure

APPENDIX B

Base Penalty Matrix

		Egregious Case	
		NO	YES
Voluntary Self-Disclosure	YES	(1) - One-Half of Applicable Statutory Maximum	(3) - One-Half of Applicable Statutory Maximum
	NO	(2) - Applicable Schedule Amount	(4) - Applicable Statutory Maximum