JUN 25 2009

Ms. Harper Ko
Assistant General Counsel
Bally Technologies
6601 South Bermuda Road
Las Vegas, NV 89119-3605

Dear Ms. Ko:

As you may recall, approximately two years ago the Office of General Counsel for the National Indian Gaming Commission (NIGC) raised concerns over the remedies section of a rental agreement with the Bay Mills Indian Community (copy enclosed). In conversations with attorney Jennifer Ward from my office, I understand that you advised her that the agreement with Bay Mills has likely expired. Nevertheless, because it is a standard agreement used with tribes nationwide, the issue will arise again.

The clause at issue is section 5.2 of the rental agreement, which entitles the non-defaulting party to "specific performance and any other equitable relief." My concern is that this provision may subject the Tribe to relief that improperly limits its decision-making authority. For example, keeping machines on its gaming floor against its will above and beyond the bargained-for contract term. Making decisions as to machines or vendors, for any length of time, is a management function and any agreement with such provision is a management contract requiring approval by the NIGC Chairman.

Nevertheless, I appreciate Bally's need to secure its machines in the event of default and believe that the issue may be avoided by a simple modification. You may wish to clarify in the agreement that Bally may invoke specific performance to take back its machines, but that in no event will the Tribe be required to keep machines on the floor beyond the timeframe bargained for in the agreement.

If you have any questions, please contact Jennifer Ward at 202-632-7003.

Sincerely,

Penny J Coleman

Penny J. Coleman
General Counsel (Acting)