JAN 21 2004

Ms. Catherine Lhotte
616 rue Meyne Claire
84100 Orange
France

RE: Game Classification Request – Lotrec I and Lotrec II

Dear Ms. Lhotte:

This letter responds to your request in which you ask the National Indian Gaming Commission ("NIGC") to issue an advisory opinion on whether Lotrec I and Lotrec II are class II or class III games as defined by the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2710 et. seq. I apologize for the delay in responding to your request.

Our opinion is based on a review of the game descriptions you provided. For the reasons outlined below, we conclude that Lotrec I and Lotrec II are class III games. They may be played lawfully only pursuant to a tribal-state compact.

The Indian Gaming Regulatory Act

IGRA creates three classes of gaming, which differ in the degree of tribal, state, and federal oversight. Class I gaming consists of "social games [played] solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as part of, or in connection with, tribal ceremonies or celebrations." 25 U.S.C. § 2703(6). Class II gaming includes bingo, related activities, and certain non-banking card games. 25 U.S.C. § 2703(7)(A). IGRA specifically excludes any banking card games from classification as class II games. 25 U.S.C. § 2703(7)(B). Class III gaming is defined residually; it includes "all forms of gaming that are not class I gaming or class II gaming." 25 U.S.C. § 2703(8).

As mentioned above, IGRA specifically excludes any banking card game from classification as a class II game. Therefore, the first inquiry when analyzing a card game is whether it is a banking or non-banking card game. See 25 C.F.R. § 502.3(c). Banking games, as commonly understood and as defined in NIGC regulations, are games in which the banker (usually the house) takes on, that is, competes against, all players, collecting from losers and paying winners. See 25 C.F.R. § 502.11. Conversely, non-banking card games are games where players play against each other.

Game Descriptions

Lotrec I

In the materials provided, Lotrec I is described as a banked card game. It is played with six decks of 24 cards each. Each deck is comprised of cards with shapes depicted on the face of each card. Four shapes are used: circle, star, square and triangle. These shapes are colored by one of

six colors: blue, yellow, black, red, green or white. Four cards are dealt face up on the table for each game. All results are determined by these four cards.

The game table consists of a grid with colored shapes that match those on the cards. Players bet on one or more of the squares on the grid by placing their bet on their desired square(s). A player may bet on only one color or one shape, or on a combination of the two. A player may also place a bet in the middle of two squares containing different colors and shapes. In addition, a player may bet that, of the four cards dealt, no two shapes or colors will be the same.

The maximum bet requirement is to be set by the casino and there is no maximum number of players. All the players bet on the grid and the dealer draws four cards for the house. The dealer then places those four cards into four designated rectangles. The dealer then determines the majority of both shapes and colors of the four cards. The dealer announces the results to the players and collects all the losing bets and pays the winners. The dealer then begins a new game by dealing four new cards. This game involves betting against the house, which is also referred to as a banking card game.

Lotrec II

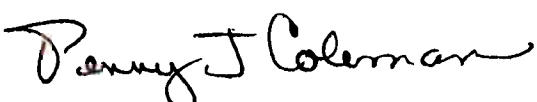
Lotrec II is similar to Lotrec I, with the addition of four six-sided dice and six designated rectangles instead of four. Sides of the dice represent colors and shapes. In addition, one side has an "F", which represents all shapes, and one side has a "C" which represents all colors. The player is dealt six cards. The player then places the six cards as he wishes on the six designated rectangles. The dice are thrown, either by the player or the dealer. If the dice match any of the dealt cards, the player wins.

Determination

Both Lotrec I and Lotrec II are banked card games. Players bet against the house. Because of this characteristic, the games are not class II games. They are, therefore, class III games. (Class II does not include "any banking card games..." 25 U.S.C. § 2703 (7)(B)(i); Class III is defined as "all forms of gaming that are not class I or class II gaming." 25 U.S.C. § 2703 (8)). They may be played on Indian lands only pursuant to a tribal-state compact.

If you have any questions about this opinion, please contact Maria Getoff at (202) 632-7003.

Sincerely,



Penny J. Coleman
Acting General Counsel