



December 3, 2015

Via email: vdevol@devollaw.com
and First Class Mail

Valerie R. Devol, Esq.
Devol & Associates
2529 S. Kelly Ave., Suite A
Edmond, Oklahoma 73013

Re: Review of the 2015 Loan Documents for the Fort Sill Apache Tribe of Oklahoma

Dear Ms. Devol:

This letter responds to your October 30, 2015 request, on behalf of the Fort Sill Apache Tribe of Oklahoma, for the National Indian Gaming Commission, Office of the General Counsel, to review certain financing documents and to provide an opinion as to whether the submitted financing documents are management contracts requiring the NIGC Chairman's approval pursuant to the Indian Gaming Regulatory Act of 1988. The Tribe also requested OGC's opinion as to whether the financing documents violate IGRA's requirement that a tribe have the sole proprietary interest in its gaming operation.

In my review, I considered the following submissions (collectively, "the 2015 Loan Documents"):

- *Business Loan Agreement Fort Sill Apache Tribe Economic Development Authority* (marked at bottom left as "SMRH:206880135.6" and at top right as "SMRH Draft 10/30/15");
 - Exhibit A – *Borrowing Request* (marked at bottom left as "SMRH:224260119.3" and at top right as "SMRH Draft 10-30-15");
 - Exhibit B – *Form of Promissory Note* (marked at bottom left as "SMRH:224260119.3" and at top right as "SMRH Draft 10-30-15");
 - Exhibit D – *Form of Certificate of Fort Sill Apache Tribe of Oklahoma Economic Development Authority* (marked at bottom left as "SMRH:224260119.3" and at top right as "SMRH Draft 10-30-15");
 - Exhibit E – *Form of Certificate of Fort Sill Apache Tribe of Oklahoma* (marked at bottom left as "SMRH:224260119.3" and at top right as "SMRH Draft 10-30-15");
 - Exhibit F – *Compliance Certificate* (marked at bottom left as "SMRH:224260119.3" and at top right as "SMRH Draft 10-30-15");

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- Exhibit G – *Funded Debt Certificate* (marked at bottom left as “SMRH:224260119.3” and at top right as “SMRH Draft 10-30-15”);
- *Tribal Agreement* (marked at bottom left as “SMRH:224259587.4” and at top right as “SMRH Draft 10-30-15”);
- *Joinder Agreement* (marked at bottom left as “SMRH:224312538.4” and at top right as “SMRH Draft 10/30/15”);
- *Amendment to Intercreditor Agreement* (marked at bottom left as “1 –Amendment to Intercreditor Agreement” and at top right as “Draft Dated: 10/30/15”);
- *Amendment to Control Agreement Regarding Deposit Accounts* (marked at bottom left as “1 - Amendment to Control Agreement Regarding Deposit Accounts” and at top right as “Draft Dated: 10/30/15”); and
- *Direct Debit Agreement (ACH)* (marked at bottom left as “4824-8029-8281\1” and at top left as “SMRH Draft 10-30-15”).

The 2015 Loan Documents contain terms similar to other agreements that OGC has previously reviewed and analyzed. Some of these opinion letters may be found on the NIGC website. Applying the same analysis here, it is my opinion that, collectively, the 2015 Loan Documents are not management contracts and do not require the approval of the NIGC Chairman. It is also my opinion that they do not violate IGRA’s sole proprietary interest requirement.

It is my understanding that the 2015 Loan Documents are represented to be in substantially final form, and any further changes will not be material to OGC’s analysis. This opinion shall not apply if the 2015 Loan Documents: (i) change in any material way prior to closing; (ii) are not executed; or (iii) are inconsistent with assumptions made herein. Further, this opinion is limited to the aforementioned 2015 Loan Documents and does not include or extend to any other agreements not submitted for review.

I anticipate that this letter will be posted on the NIGC’s website. Prior to posting, the NIGC FOIA Officer will notify you and provide you with an opportunity to identify and request that information subject to the exemptions under the Freedom of Information Act be redacted or withheld. A list of the FOIA exemptions may be found at 5 U.S.C. § 552(b).

If you have any questions, please contact Armando Acosta, Senior Attorney, at (202) 632-7003.

Sincerely,



Michael Hoenig
General Counsel