



DEC 23 2010
via facsimile
and First Class Mail

Ron Lovato, CEO
Tsay Corporation
P.O. Box 1079
Ohkay Owingeh, NM 87566
Fax: (505) 747-5690

Re: Financing Documents between Tsay Corporation and the Bank of Albuquerque.

Dear Mr. Lavato:

This letter responds to your October 26, 2010 request on behalf of the Tsay Corporation (Tsay), a federally chartered corporation wholly owned by Ohkay Owingeh, a federally recognized Indian tribe, for the National Indian Gaming Commission's Office of General Counsel to review Tsay's loan documents with the Bank of Albuquerque (Bank). Specifically, you have asked for my opinion whether the documents are management contracts requiring the NIGC Chairwoman's approval under the Indian Gaming Regulatory Act (IGRA). You also asked for my opinion 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 Loan Documents"), which are drafts represented to be in substantially final form:

- a loan agreement between Tsay and the Bank dated October 26, 2010, with revisions dated November 30, 2010, and December 21, 2010;
- a deposit account control agreement between Tsay and the Bank dated as of November 30, 2010, with a revision dated that same date;
- a [] promissory note entitled "Loan 1 Note" made by Tsay in favor of the Bank and dated October 26, 2010;
- a [] promissory note entitled "Loan 2 Note" made by Tsay in favor of the Bank and dated October 26, 2010;
- an agreement entitled "Loan 1 Note Security Agreement" between Tsay and the Bank dated October 26, 2010, with a revision dated November 30, 2010;

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- an agreement entitled "Loan 2 Note Security Agreement" between Tsay and the Bank dated October 26, 2010, with a revision dated November 30, 2010; and
- a securities account control agreement between Tsay and the Bank dated October 26, 2010

The Loan Documents contain terms similar to other agreements the Office of General Counsel has already reviewed and analyzed. *See* www.nigc.gov/Reading_Room/Management_Review_Letters.aspx. Applying the same analysis here, it is my opinion that the Loan Documents are not management contracts and do not require the approval of the Chairwoman. It is also my opinion that they do not violate IGRA's sole proprietary interest requirement. I note that the Loan Documents have been submitted to us as unexecuted drafts in substantially final form. To the extent that they change in any material way prior to closing, this opinion shall not apply.

Finally, Tsay also submitted first and second leasehold mortgages and security agreements between it and the Bank, dated October 26, 2010. I express no opinion about them. The parties agree those agreements require review and approval by the Bureau of Indian Affairs under 25 U.S.C. § 81 to be valid.

I anticipate that this letter will be the subject of Freedom of Information Act ("FOIA") requests. Since we believe that some of the information in this letter may fall within FOIA exemption 4(c), which applies to confidential and proprietary information the release of which could cause substantial harm, I ask that you provide me with your views regarding release within ten days.

I am sending a copy of all of the documents to the Department of the Interior Office of Indian Gaming for review under 25 U.S.C. § 81. If you have any questions, please contact NIGC Staff Attorney Heather McMillan Nakai at 202-632-7003.

Sincerely,



Lawrence S. Roberts
General Counsel

cc: Paula Hart, Director, Office of Indian Gaming (w/ incoming)
William Scott, Esq. (via fax: 505-449-2024)
Lee Bergen, Esq. (via e-mail lbergen@nativeamericanlawyers.com)