

Little Traverse Bay Bands of Odawa Indians

7500 Odawa Circle
Harbor Springs, Michigan 49740
231-242-1401 • Fax 231-242-1411

August 23, 2013

National Indian Gaming Commission
1441 L Street NW., Suite 9100
Washington, DC 20005
delivered via email to reg.review@nigc.gov

RE: The Little Traverse Bay Bands of Odawa Indians' comments on Electronic One Touch Bingo System

Dear National Indian Gaming Commission:

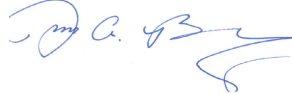
I submit these comments on behalf of, and as general counsel to, the Little Traverse Bay Bands of Odawa Indians (LTBB). LTBB strongly agrees with the NIGC's revised legal analysis set out in its June 25, 2013 Federal Register notice. The proposed reinterpretation of the status of electronic one touch bingo systems, correctly classifying them as class II, would bring consistency and clarity to the determination in accordance with the IGRA definition at 25 U.S.C. §2703(7). LTBB fully agrees that the express definition in IGRA, as analyzed by the federal courts (e.g. *United States v. 103 Elec. Gambling Devices*, 223 F.3d 1091, 1096 (9th Cir. 2000); *United States v. 162 Megamania Gambling Devices*, 231 F.3d 713 (10th Cir. Okla. 2000)) in no way requires separate steps for initiation of play and covering numbers. Preserving the possibility of a player "sleeping" through a win is simply not in the IGRA class II definition.

Rather than a subjective case-by-case determination, the NIGC's revised approach would enable the development and usage of technical standards that could be accurately analyzed through testing laboratories. 25 CFR Parts 543 and 547 include class II minimum internal control standards, and minimum technical standards for class II gaming systems and equipment that the Tribal regulations must equate or exceed in stringency. One key provision requires the Tribal regulatory authority to submit the class II equipment to an approved testing laboratory to certify its compliance with Parts 543 and 547. The erroneous 2008 position of the NIGC created unnecessary inconsistency between legal and technical determinations. Independent test labs, such as Gaming Laboratories, Inc., test and certify games based on the written technical standards. The NIGC's "two touch rule" expressed in its 2008 Metlakatla gaming ordinance denial letter was not included in the NIGC's published technical standards. This resulted in many games being tested and certified as class II games that do not include the "two touch rule." The June 25, 2013 reinterpretation would resolve this inconsistency between technical standards and

legal interpretation. The revised approach, eliminating the extra-statutory distinction between one and two touch systems, would allow for the creation of technical standards that track only the statutory IGRA class II definition. This would give Tribal operations a means of obtaining reliable objective determinations of machine status through certified testing laboratories.

We appreciate the NIGC's careful analysis reflected in the June 25, 2013 notice, and the opportunity to provide comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "James A. Bransky", with a stylized flourish at the end.

James A. Bransky
General Counsel