Reading file

National Indian Gaming Commission

APR 2 5 1996

Morris Jimenez, Chairman The Klamath Tribes P.O. Box 436 Chiloquin, Oregon 97624

Charles Colombe, President CC Gaming, Inc. P.O. Box 21 Mission, South Dakota 57555

Re: Appeal of the Disapproval of the Management Contract Between the Klamath Tribes and CC Gaming, Inc..

## INTRODUCTION

CC Gaming, Inc. (CC Gaming) appeals the decision of the Chairman of the National Indian Gaming Commission (Commission) disapproving a management contract between the Klamath Tribes (Tribe) and CC Gaming. A management contract between the parties, dated June 30, 1994, was received by the NIGC on August 8, 1994. The contract was disapproved by the Chairman of the Commission on January 3, 1996 because of a failure to meet the submission requirements pursuant to 25 C.F.R. Parts 533 and 537.

Pursuant to 25 C.F.R. § 539.2, the parties had thirty (30) days from the date of the Chairman's decision to appeal to the full Commission. On February 1, 1996, the Commission received the appeal of CC Gaming. On February 16, 1996, the Chairman agreed to reconsider the January 3, 1996 decision because CC Gaming had submitted additional information on February 1, 1996. Upon review of the contract submission including the additional submissions, the Chairman again disapproved the management contract on March 1, 1996 finding that the contract submissions had failed to meet the submission requirements of 25 C.F.R. Part 537.

On March 29, 1996, the Commission received the instant appeal of the Chairman's March 1, 1996 decision filed by CC Gaming. The Tribe does not appeal the Chairman's decision. On April 5, 1996, the Commission was notified by letter that the Tribe had terminated the contract with CC Gaming. On April 18, 1996, the Commission received a copy by facsimile of CC Gaming's responsive letter to the Tribe.

## OPINION

CC Gaming argues that the deficiencies upon which the Chairman based the disapproval are relatively minor and were caused by

oversight or the failure to understand what information was necessary for compliance with the regulations. Specifically, CC Gaming argues that it was not aware the financial statements required by 25 C.F.R. § 537.1 (c)(2)(ix) included income and cash flow statements. CC Gaming also argues that it did not believe 25 C.F.R. § 537.1 (b)(xi) required amounts be included in the source of income statement. Finally, CC Gaming notes that Mr. Fred Mertz is no longer a participant in the management contract and his name should be withdrawn from consideration. CC Gaming has once again submitted additional information along with the appeal.

While the Commission appreciates the additional information submitted by CC Gaming, it is not properly before the Commission for consideration. The issue to be addressed by the Commission is a narrow one. That is, did the Chairman err in disapproving the management contract as it existed at the time of his review? The answer to that question is no. The Chairman correctly disapproved the management contract for failure to meet the submission requirements of 25 C.F.R. Part 537. While CC Gaming may consider the requested information minor, or not submitted because of a misunderstanding, the fact remains that it was not there for review. Therefore, the Commission agrees with the Chairman and affirms the disapproval of the submission of the management contract on that basis.

Secondly, since this appeal was filed, the Tribe has notified the Commission that it is terminating the contract with CC Gaming. Therefore, there is no management contract legally before the Commission to review. CC Gaming's request for reconsideration is therefore moot.

For all the foregoing reasons, the decision of the Chairman is affirmed.

Harold A. Monteau, Chairman ( )

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Tom Foley, Commissioner

Philip N. Hogen, Commissioner