



JUN 10 2003

Jess Green
Attorney at Law
301 East Main
Ada, OK 74820

Re: "Ante-Up Tournament Blackjack"

Dear Mr. Green:

As requested in your letters of May 2, 2003, and May 5, 2003, and using the game description provided, we reviewed a blackjack tournament format referred to as "Eastern Shawnee Ante-Up Tournament Blackjack." We conclude that the proposed blackjack tournament cannot be considered a Class II gaming activity. Accordingly, we request the Tribe's gaming facilities not offer blackjack play in this format.

Description

The "ante-up" tournament is played in two stages: qualification and tournament championship. Each player must join the Blackjack Club to be eligible to play. During qualification, players play blackjack under normal game rules and their playing time is recorded. The top 100 players based on playing time accrued during a month are eligible to play in the next monthly tournament championship. Players can also "re-buy" into the tournament championship by paying an "ante" to the house.

During qualification, players buy chips from a cashier or the dealer and place bets on individual hands using the chips. Each player also pays an "ante" to the house based on the table limits for the game. The house keeps the ante to cover its expenses. Players compete against the dealer's hand. Players beat the dealer by forming a hand that totals 21, or as close to 21 without going over. If a player beats the dealer he is awarded an amount of chips equal to the amount risked with a higher payout for obtaining a blackjack. If a player loses the bet or "busts" that amount is removed from his betting area and placed in the dealer rack. Every hand results in either a win for the player or a win for the dealer. The dealer pays each winning hand. The player may redeem chips for their designated cash value from the cashier.

During the championship tournament, each player starts with a fixed number of points and plays through multiple elimination rounds for a grand prize by betting these points. The points are understood to not be redeemable for cash. Their value is confined to championship tournament play. Competitors play several hands during each

elimination round of the championship tournament and win a round or place second based on the number of points held at the end of the round. Prizes may be awarded at the conclusion of each round to these successful competitors as they advance to the final round where the grand prize is awarded.

All prizes in the tournament championship are paid from a player pool. These prizes are established in advance and a "prize distribution" of the cash prizes for the tournament will be announced prior to the start of the first round of the championship. The player pool fund is defined as "those amounts that remain after club member wins have been paid." The fund "will accumulate over time based on the win/loss of the blackjack tables." This is understood to mean that, at the end of each business day during qualification play, the house will determine its net win—the amount of money bet at blackjack less the amount paid to winners. The remainder will then constitute the player pool contribution for the day. The house administers the player pool and represents that it has no interest in the fund. However, the fund is to be seeded by the house and, under the rules for administration of the fund, the house must guarantee that the fund will always have a balance of \$100,000. The house will loan the fund any moneys needed to maintain the balance and accept repayment of the loan when the fund will support such a repayment. The house exercises full responsibility for administering the fund and, in addition to paying prizes from the fund in the championship tournament, will distribute the fund in a "Player Prize Lottery" held periodically or as player club comps that are otherwise unexplained.

Requirements for Blackjack Tournament Play

The legal basis for concluding that tournament blackjack play constitutes Class II gaming in Oklahoma was set forth in advisory opinions from the NIGC's Office of General Counsel in letters dated July 9, 1999, and January 15, 2003. Each letter stressed the importance of bona fide tournament play as a condition to invoking an exception established in Oklahoma law to the general prohibition of gambling card games.

The Eastern Shawnee Ante-up Blackjack Tournament does not meet the description of a tournament as envisioned in our earlier letters. Because "tournament" is not defined in IGRA, in regulations of the NIGC, or in statutes of the State of Oklahoma, we rely on a common usage definition of the term. A "tournament" is defined as a "a contest involving a number of competitors who vie against each other in a series of elimination games or trials." (Webster's II New College Dictionary, 1995.) In the first phase of the "ante-up" tournament format, players are not engaged in a "series of elimination games or trials." Instead, players play standard blackjack during this "qualifying play." Players purchase chips and play against the dealer's hand. Player's winning bets are paid by the dealer with cash-value chips. The argument that these bets are compensated from moneys that would otherwise flow into a "players pool" at the end of the day does not change the simple fact that the game plays as a standard, house banked, blackjack game. Players buy chips from the house, bet those chips, win or lose

those chips, and return winning chips to the house for money. The method for accounting for house wins at the end of the day does not change the nature of the game.

Players may participate during the qualification period with little or no interest in the monthly championship tournament. Eligibility for the championship tournament is not based on winning or any other measure of success in the daily qualification play. A player need only participate in this qualification play to be eligible. The format for the championship may likely qualify as a bona fide tournament because it based on competition and elimination, a pre-determined fixed prize is offered, and individual bets are not compensated. However, the daily play in the gaming facility bears no resemblance to tournament play and, accordingly, cannot qualify as Class II gaming as fully detailed in our earlier letters.

Thank you for submitting the format for our review. Please call William Grant or John Hay in the Office of General Counsel if you have questions regarding our review.

Sincerely yours,



Penny J. Coleman
Acting General Counsel