

**NATIONAL
INDIAN
GAMING
COMMISSION**

SEP 26 2000

Raymond G. Stoken
President, Cory Consultants, Inc.
358 Main Street
P.O. Box W
North Huntingdon, PA 15642

Dear Mr. Stoken:

This responds to a report forwarded to the National Indian Gaming Commission (NIGC) by Congressman John P. Murtha. In this report, you sought to have the "Play Pull-Tab" machine recognized by the NIGC as a Class II device. We cannot do so.

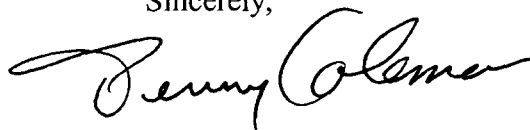
As noted in the report, you attempted, without success, to receive a designation by this office that your proposed game constitutes a Class II rather than a Class III game under the Indian Gaming Regulatory Act (IGRA). On July 22, 1996, December 11, 1997, and November 2, 2000, we issued advisory opinions to you which concluded that Play Pull-Tab is a Class III game. Since your report reflects that the description of the game (written "about a year" before the report was sent on April 29, 2000) predates the most recent advisory opinion (November 2, 1999), it appears this version of the machine has already been considered by the NIGC.

Finally, we are not persuaded by the distinctions drawn in your analysis between the Play Pull-Tab machine and the Clapper machine (also known as Lucky Tab II). Both machines are pull-tab video machines that deliver and play the pull-tab. Therefore, our earlier conclusions have not changed. Play Pull-Tab is a Class III game.

Please note that under the Indian Gaming Regulatory Act (IGRA) and its implementing regulations, the advisory opinions are at the discretion of the NIGC and not subject to appeal. The NIGC has proposed procedures, however, to establish a more formal adjudicatory process resulting in NIGC decisions that would be subject to appeal. You may wish to resubmit the subject machine for a classification decision if and when these procedures have been implemented.

Please feel free to contact Shawn Shaha at (202) 632-7003 if you have any questions.

Sincerely,



Penny J. Coleman
Deputy General Counsel