

**NATIONAL
INDIAN
GAMING
COMMISSION**

James C. Malcolm
Vice President Marketing
Gaming Ventures International, Inc.
2459 E. Sunrise Blvd.
Ft. Lauderdale, FL 33304

APR 11 1999

Dear Mr. Malcolm:

You requested the National Indian Gaming Commission (NIGC) to review the game POKO and to inform you of how and where POKO may be played on Indian lands. The Indian Gaming Regulatory Act (IGRA) established the conditions under which gaming may take place on Indian lands. Games that are Class II may be played by tribes if they have an ordinance approved by the Chairman of the NIGC. Class III games may be played by tribes if they have an approved ordinance and an approved Tribal-State compact with the state in which the tribe and the land are located. If POKO is a class II game, it may be played by any federally recognized tribe with an approved ordinance. If POKO is a Class III game, a tribe must obtain an approved Tribal-State compact with the state authorizing the play of the game. Based on the information that you provided, the NIGC has determined that POKO is a Class III game and tribes must have an approved Tribal-State compact authorizing the game before they may offer this game.

The gaming facility banks POKO by selling the POKO cards to the players and by paying all the prizes won by the players. Each POKO card contains thirteen (13) columns and four (4) lines, creating fifty-two (52) boxes. The columns are designated from deuce to ten, jack, queen, king, and ace. The lines are designated by a spade, a heart, a club, and a diamond. The boxes are filled with numbers from 1 to 52 and are randomly arranged. Five (5) or seven (7) numbers are drawn and the players mark their cards accordingly. The placement of the called numbers on the player's card determines the player's "poker hand." If a player's "poker hand" is a pair of jacks or higher, the player wins. The amount a player wins depends on the strength of the "poker hand."

NIGC regulations define Class I gaming as "social games solely for prizes of minimal value or traditional forms of Indian gaming..." 25 C.F.R. § 502.2. Class II gaming is defined as:

(a) Bingo or lotto (whether or not electronic, computer, or other technological aids are used) when players:

- (1) Play for prizes with cards bearing numbers or other designations;
- (2) Cover numbers or other designations when object, similarly numbered or designated, are drawn or electronically determined; and

(3) Win the game by being the first person to cover a designated pattern on such cards;

(b) If played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo;

(c) Nonbanking card games that:

(1) State law explicitly authorizes, or does not explicitly prohibit, and are played legally elsewhere in the state; and

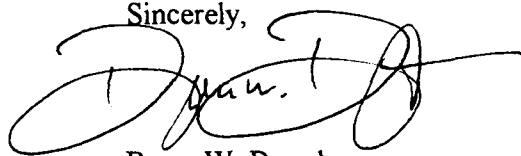
(2) Players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes.

25 C.F.R. § 502.3. Class III gaming is defined as “all forms of gaming that are not Class I gaming or Class II gaming.” 25 C.F.R. § 502.4.

POKO is clearly not Class I gaming. It is also not Class II gaming because it is not a bingo game, a game similar to bingo, or a card game. POKO is not a bingo game because it does not have a designated pattern and is not won by the first person covering a designated pattern. For this reason also, it is not a game similar to bingo. It is not a Class II card game because POKO does not use a deck of cards and it is a banked game. Therefore, because it is neither a Class I game nor a Class II game, it is a Class III game. As stated above, a tribe must have an approved Tribal-State compact authorizing POKO before it may play the game.

If you have any questions, please contact Mai Dinh at 202-632-7003.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry W. Brandon", with a long horizontal flourish extending to the right.

Barry W. Brandon
General Counsel