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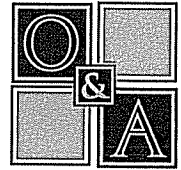
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August 27, 2008

VIA E-MAIL AND FIRST CLASS MAIL

Mary Pat Fleming, Esq.
U.S. Attorney's Office
Federal Centre
138 Delaware Avenue
Buffalo NY 14202

Re: Citizens Against Casino Gambling in Erie County, et al. v. Hogen, et al., 07-CV-0451-WMS

Dear Ms. Fleming:

As you are undoubtedly aware, the Court's order in the above matter dated August 26, 2008 directed the National Indian Gaming Commission (NIGC) and its Chairman:

... to comply forthwith with Congress's mandate as set forth in 25 U.S.C. § 2713(a)(3), and with NIGC regulations. Upon issuance of the Notice(s) of Violation, the Chairman is directed to take such action as is consistent with the Court's July 8, 2008 decision, the IGRA's mandates and intent, and NIGC regulations (emphasis supplied) (Dkt No. 76 at 21).

Under the Commission's own regulations, the Notice of Violation(s) to be sent to the Senecas must advise as to the "measures required to correct the violation." See 25 C.F.R. § 573.3(a). Since this Court held that gambling "cannot lawfully occur on the Buffalo Parcel" (Dkt No. 61 at 126), the only remedial measure that can be taken by the Senecas is to cease the gambling. Any other action short of that would only continue the illegality. If any gambling occurs in the absence of a valid ordinance, it is illegal. You cannot be a "little bit pregnant." It is as simple as that!

We shall, therefore, be closely monitoring the actions of your client, who has been ordered by the Court, "to take such action as is consistent with this Court's July 8, 2000 Decision, the IGRA's mandate and intent, and NIGC

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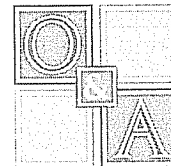
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regulations" (Dkt No. 76 at 21). It is the mandate of Congress and IGRA that Class III gambling be lawful *only* if, *inter alia*, there is a valid ordinance approved by the Chairman of the NIGC, 25 U.S.C. § 2710(d)(1)(A)(iii). The Court vacated the Chairman's approval. Furthermore, it is also Congress's mandate and IGRA's intent that no such gambling "shall be conducted" on Indian lands acquired after October 17, 2008 absent certain exceptions which the Court found did not apply in this case. *See* 25 U.S.C. § 2719. We further note that under the Commission's own regulations, the conduct of gaming in the absence of an ordinance is a "substantial violation" of IGRA. 25 C.F.R. 573.6(a)(3). *See also* Dkt No. 73 at 1.

We hereby respectfully request that you provide us with a copy of the Notice of Violation(s) we expect you to forward to the Senecas in compliance with this Court's Order. We further respectfully request that you provide us with a copy concurrently with its issuance to the Senecas.

Please be further advised that if said Notice is not issued to the Senecas by no later than 5:00 p.m. (Eastern Daylight Time) Wednesday, September 3, 2008, we shall immediately move to hold your clients in contempt of court and seek such other and further and different relief as may be appropriate. "Forthwith" means forthwith!

Very truly yours,

O'CONNELL AND ARONOWITZ

By:

Cornelius D. Murray

CDM:cm

cc: Gina Louise Allery, Esq. (via e-mail and first class mail)