



MEMORANDUM

To: Greg Bergfeld

From: Michael Gross *mg*

Date: May 5, 2005

Re: Pachinko machines

Penny has given me a number of backlogged game classification requests to clear, and I came across your February 4, 2004, inquiry and material on pachinko machines.

As your material indicates, pachinko machines are commonly used for gambling in Japan, apparently notwithstanding a gambling prohibition there. The balls that a player has won or has remaining are exchanged for cash or prizes, often at third-party establishments under common ownership with the pachinko parlor.

Assuming that pachinko machines were in fact used for gambling on Indian lands, they would be Class III. Pachinko is not Class I. It is not a social game played "solely for prizes of minimal value" or a "traditional form of Indian gaming" played "as a part of, or in connection with" a tribal ceremony or celebration. 25 U.S.C. § 2703(6). Likewise it is not Class II. It is not bingo, lotto, pull tabs, a tip jar, a punch board, instant bingo, a game similar to bingo, or a non-house banked card game. 25 U.S.C. § 2703(7)(A). Pachinko machines therefore fall within Class III, *i.e.* within all forms of gaming that are not Class I or Class II. 25 U.S.C. § 2703(8).

Please let me know if you require anything further.