

**NATIONAL
INDIAN
GAMING
COMMISSION**

MAR 16 1999

Mr. Marcel Guillemette
Marketing Division
D.E.Q. Casinos, Ltd.
1840 l'ere Rue
Suite 101-103
St. Romuald
Quebec, Canada G6W 5M6

Dear Mr. Guillemette:

I respond to your letter of December 31, 1998, in which you request information about the procedures to be followed in obtaining approval to market the "Promo Extra Match Bonus Series System" in tribal casinos. Your recent letter supersedes a prior request for our review of an earlier version of the "Promo Extra Match Game."

Gambling on Indian lands in the United States is subject to regulation under the Indian Gaming Regulatory Act, 25 U.S.C. § 2701, *et. seq.* The Act establishes the National Indian Gaming Commission which has authority to issue regulations in furtherance of the Act. Regulations issued by the Commission are found at 25 C.F.R. § 501, *et. seq.* The full text of the Act and the regulations may be viewed at the Commission's Web site (<http://www.nigc.gov>).

The Act and regulatory scheme establish three broad types of gaming. Class I games are social games or traditional forms of Indian gaming engaged in during or in connection with tribal celebrations. Class II and Class III represent games which enjoy broad public play. Class II gaming means bingo and, if played in the same location, pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo. Class II gaming also includes card games which are either expressly permitted in the state or are not explicitly prohibited by the laws of the state, are played at any location within the state, and are played in conformity with the laws and regulations of the state, if any, regarding hours for the gaming facility and pot-size limitation. If a particular game cannot come within the definition of Class I or Class II, then the game is considered to be Class III. See generally 25 U.S.C. § 2703.

The gaming series that you describe envisions the random selection by electronic equipment of a number or color; a prize is awarded to an individual participating in the match game who holds that number or color. The game is essentially a lottery played on a small scale. The position of the player at the gaming table, the cards dealt to the player, or the players's selection of a number or color to be matched determine the winner, depending on which game from the series is played. To be eligible a player must be a participant in another game of chance then ongoing at the table. In the simplest promotional form, mere participation in the ongoing game qualifies the player for the secondary match game; a person not participating in the basic game would not be considered eligible for the match game. In the advanced series, the player in

the match game affirmatively offers an entry payment for the match game in addition to the entry payment required for the basic game. In all games described in the series, the elements of consideration, chance, and prize are present.

Because the games played in the "Promo Extra Match Bonus Series" do not fall within the definition of Class I or Class II games, they are Class III games.

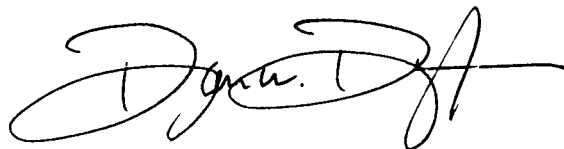
Under the Indian Gaming Regulation Act, Class III gaming is lawful on Indian lands only if it is authorized by an ordinance or resolution properly enacted by the governing body of a tribe and approved by the Chairman, NIGC, is located in a state that permits such gaming, and is conducted in conformance with a valid Tribal-State compact. 25 U.S.C. § 2710(d). Presently, twenty-one (21) states have agreed to compacts with one or more tribes operating casinos within those states. They are: Arizona, Colorado, Connecticut, Iowa, Idaho, Kansas, Louisiana, Michigan, Minnesota, Michigan, Montana, North Carolina, North Dakota, New Mexico, Nevada, New York, Oregon, South Dakota, Washington, Wisconsin, and Wyoming.

An effective marketing approach for the "Promo Extra Match Series" would appear to be one that is limited to tribes or to individual tribal casinos which operate under a valid state compact permitting Class III gaming and which play the type of games to which the match game would be adaptable. These compact agreements often contain specific provisions concerning the games which are authorized. Not every compact authorizes card games or roulette; some permit only video games or slot machines. Depending on the wording of the compact in effect, a tribal gaming operation wishing to utilize the "Promo Extra Match Bonus Series" may be required to negotiate that matter with state gaming authorities.

Assuming the existence of a valid tribal-state compact which recognizes play of the game in the particular tribal casino, the National Indian Gaming Commission would not, as a general matter, have objection to use of the "Promo Extra Match Bonus Series" in that tribal casino.

If you have questions please contact Bill Grant from our staff at (202) 632-7003.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry W. Brandon". The signature is stylized with large, sweeping loops and a long horizontal tail extending to the right.

Barry W. Brandon
General Counsel