



SEP 6 2006

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Re: Senior Secured Credit Agreement between the Kiowa Casino Operations
Authority and Luna Gaming Randlett, L.L.C.

Dear Sirs:

By letter dated June 16, 2006, the National Indian Gaming Commission (NIGC) Office of General Counsel determined that the Senior Secured Credit Agreement between the Kiowa Casino Operations Authority (Tribe) and Luna Gaming Randlett, L.L.C., and related agreements (Agreements), submitted on May 11, 2005, by their terms constitute a management contract as defined in the Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. § 2701 *et seq.*, and violate the sole proprietary interest provisions of the IGRA, NIGC's regulations and the Kiowa Tribe's gaming ordinance. *See* 25 U.S.C. § 2710 (b)(2)(A); 25 C.F.R. § 522.4(b)(1); Kiowa Gaming Ordinance Article 6.

We did not analyze whether the financial arrangement violated the sole proprietary interest requirement inasmuch as we did not have enough information to do so. Consequently, we requested the parties submit additional financial information. We

noted that review of the arrangement was complicated by the fact that the Tribe had also entered into separate agreements with other parties.

We met with the parties on June 28, 2006, and July 5, 2006. On July 11, 2006, Luna Gaming submitted financial and related information and on July 14, 2006, the Kiowa Tribe submitted financial and related information. On September 1, 2006, the Tribe submitted revised versions of Agreements (Revised Agreements).

We have reviewed the Revised Agreements. The parties have addressed all of the concerns we set forth in our June 16, 2006, letter relative to management control and sole proprietary interest. We therefore find that the Revised Agreements contain no indicia of management nor do they violate the sole proprietary interest requirement. Furthermore, we have reviewed the supplemental financial information the Tribe submitted at our request. While we find the compensation to Luna Gaming to be high, we find that the financial arrangement does not violate the sole proprietary interest requirement.¹ We set forth our discussion of the financial arrangement below.

The Financial Provisions

Luna Gaming will loan the KCOA [] to finance the development and construction of an approximately 60,000 square foot Class II and Class III casino in Randlett, Oklahoma which will operate approximately 1,000 slot machines and offer table games, food and beverage outlets and approximately 1,000 parking spaces. Inducement Agreement at Page 1;² Credit Agreement at §2.01; Definitions at page 48. The loan will carry an interest rate of [] Credit Agreement at § 1.04. The term of the loan is [] years from the date the project is completed. Credit Agreement at Definitions, page 44 ("Maturity Date"). Assuming no prepayment of the loan, the interest cost to the Tribe over the life of the loan will be over [] This amounts to over [] per month in principal and interest payments. 64

In addition, the KCOA shall pay monthly service fees for [] to Luna Gaming as follows: [] Agreement at § 2.01. According to information submitted by Luna Gaming, the compensation it will receive, in interest and monthly service fees, is equal to [] Credit 64

As to the financial provisions of the Revised Agreements, we are satisfied that the Tribe retains its proprietary interest in the operation, despite [] Our determination was influenced by the fixed nature of the interest rate and the 64

¹ Following receipt of your supplemental submissions and upon further reflection, we determined it more appropriate to review the Agreements as stand alone documents without regard to the terms and conditions of the agreements entered into with other parties. The Agreements with Luna Gaming are not contingent upon the other agreements and Luna has no relationship to those other parties.

² Luna Gaming's website states that the "Kiowa Casino" will have 1300 machines and 12 table games.

overall projected return to the Tribe. We also considered several circumstances facing the Tribe at the time it shopped for financing and by what appears to be its due diligence in securing the best deal possible.

[In addition, Luna was attractive to the Tribe because it offered [] and was generally flexible when it came to negotiations.]

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At the time of the initial funding by Luna Gaming, the Tribe's casino had been closed, by order of the NIGC, for nearly five years for substantial violations of the IGRA. This situation posed a significant risk to any potential developer. In fact, the casino remains shuttered and while the Tribe is taking steps to comply with a Pre-Opening Agreement, there is no guarantee that it will reopen. In addition, political instability within the Tribe, which has been an on-going issue for many years, presented a significant risk to Luna Gaming and to the overall success of any gaming operation.

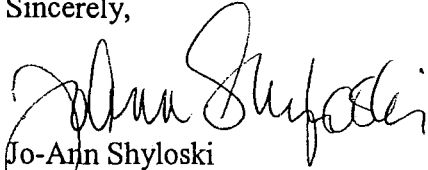
Finally, it is expected that during [] year period following opening of the casino, the Tribe's total return will be close to [] These figures demonstrate that the Tribe is the primary beneficiary of the project.

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In sum, given the fixed interest rate and the regulatory, legal, political and financial risks of the project, we find the financial terms do not violate the requirement that the Tribe retain the sole proprietary interest in the operation.

If you have any questions regarding this determination, please contact Maria Getoff in the Office of General Counsel.

Sincerely,


Jo-Ann Shyloski
Senior Attorney