

The Bloodhorse

FL Supreme Court Denies Tribe's Request

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The Supreme Court of Florida Sept. 11 denied a request by the Seminole Tribe of Florida and Gov. Charlie Crist for a re-hearing on its July 3 ruling that blackjack and baccarat are illegal at the tribe's Hollywood, Fla., casino.

The court's 6-1 decision did not state a reason for its ruling regarding the Seminole Hard Rock Hotel & Casino. That property is the only Florida casino to have blackjack and baccarat. It is a rival for gaming dollars with Gulfstream Park, Calder Race Course, and other South Florida pari-mutuel facilities.

The court's decision will not lead to an immediate shutdown of the Seminoles' 71 blackjack and baccarat tables, which they began operating on June 22.

Attorney Barry Richards, who represents the Seminoles, told The Miami *Herald* the tribe has no intention of halting those table games because it believes they are legal under federal law.

As of Sept. 11, no Florida government agencies had sought court injunctions or other legal actions that would use the state high court's rulings to halt the Seminoles' blackjack and baccarat games.

In filings in the Supreme Court of Florida case, the Seminoles said they believe the games are legal because the U.S. Department of the Interior in January 2008 approved a compact between Crist and the Seminoles that permitted them to add blackjack and baccarat. That compact also permitted the Seminoles to upgrade from Class II bingo-like slot machines to Class III Las Vegas-style machines at their seven Florida casinos.

The Supreme Court of Florida on July 3 ruled that Crist exceeded his authority by authorizing forms of gambling, specifically blackjack and baccarat, that are not legal under state law, and invalidated his compact with the Seminoles.

Indian Tribes are sovereign nations under U.S. laws. Casinos on their lands are subject to the federal Indian Regulatory Gaming Act.

The Seminoles have the option of seeking federal court rulings to keep their blackjack and baccarat games. Or, the Florida legislature and Crist could agree to a revised compact that would permit the Seminoles to have those games.

Last Nov. 14, Crist and the Seminoles signed a compact that gave the tribe exclusive rights to blackjack and baccarat in Florida and allowed it to upgrade from Class II bingo-like slot machines to Las Vegas-style machines.

In return, the Seminoles are paying their first share of gaming revenues to Florida. This year, the payment will be \$100 million. Indian Gaming Report estimates that amount is less than 10% of the tribe's annual gaming revenues.

Gulfstream, which is 10 miles from them Seminole Hard Rock, and two other Broward County casinos pay a state tax of 5% of net slot machine revenue.

On Nov. 19, House Speaker Marco Rubio sued fellow Republican Crist to void the compact. Rubio asked the Supreme Court of Florida to rule that Crist had violated separation of powers laws and was permitting illegal expansion of gambling. Gulfstream filed an amicus brief to Rubio's suit Nov. 28.

The court July 3 did not rule on the separation of powers issue. It noted that the federal Indian Regulatory Gaming Act permits the Seminoles to have Class III machines because they are legal at certain other Florida entities. Those entities are the pari-mutuels in South Florida's Broward and Miami-Dade counties.

If Crist had not agreed to a compact with the Seminoles, the tribe would have been able to upgrade to Class III machines and not pay revenue to the state. Permitting blackjack and baccarat gave the Seminoles incentive to sign a compact.

Rubio and several other leaders in the legislature have said they oppose any expansion of gambling and do not plan negotiations with Crist on a new Seminole compact. But some observers expect the legislature in 2009 could agree to a new compact--under which the Seminoles would retain blackjack and baccarat but pay higher revenue to the state.

Officials of Gulfstream maintain that the 50% tax on their slots revenue is hindering expansion plans for their casino and is a disadvantage in their competition with the Seminoles.

For this July and August, slots play at Gulfstream's casino was \$71.7 million, and pre-tax revenue from those machines was \$5.7 million, according to the Florida Division of Pari-Mutuel Wagering. That continues the trend of overall slots play being lower than the Florida legislature in 2005 projected for Gulfstream, harness track Isle Racing & Casino at Pompano Park, and Greyhound track Mardi Gras Race Track and Gaming.

Churchill Downs Inc. plans to build a casino with Class III machines at Calder in Miami Gardens, Fla., but has not set a date for start of construction. Calder is about six miles from the Seminole Hard Rock, which is visible from upper floors of the track's grandstand.