



# The Florida House of Representatives

## Office of the Speaker

Larry Cretul  
Speaker

October 21, 2009

Mr. George Skibine, Chairman  
National Indian Gaming Commission  
1441 L Street N.W., Suite 9100  
Washington, D.C. 20005

Dear Mr. Skibine:

Thank you for taking the time to meet with Chairman Bill Galvano and me yesterday. To recap our position, the State of Florida has been actively engaged in good faith negotiations with the Seminole Tribe of Florida. Although significant progress has been made in moving toward a compact that would be mutually agreeable to both the Tribe and the State; we are still far apart in respect to what the Tribe is demanding and what we are willing to permit under a gaming compact and under the state's other gaming laws. Furthermore, it is my opinion that we have reached an impasse that can only be remedied with your intervention.

The Indian Gaming Regulatory Act (IGRA) clearly prohibits the conduct of Class III gaming activities on Indian lands in the absence of a tribal-state compact that is in effect. The only exception to the compact requirement Congress envisioned was the promulgation of a gaming compact through administrative procedures after a bad-faith determination and in concert with a proposal selected by a court-appointed mediator. Notwithstanding these mandatory prerequisites, the Seminole Indian Tribe is presently conducting Class III gaming at all seven of its tribal gaming facilities in Florida under the provisions of a tribal-state compact that was held invalid in *Florida House of Representatives v. Crist*, 990 So.2d 1035 (Fla. 2008).

Whether a tribal-state compact has been entered into and is in effect is a matter of state law. In *Pueblo of Santa Ana v. Kelly*, 104 F.3d 1546 (10<sup>th</sup> Cir. 1997), the court held that the compact must be valid under state law to be valid and in effect. The court, surveying several cases in various states, concluded that the "entered into" language in 25 U.S.C. 2710(d)(1)(C) imposes an independent requirement that the compact must be validly entered into by a state before it can go into effect via Secretarial approval.

In *Florida House of Representatives v. Crist*, the Florida Supreme Court held "that the Governor does not have the constitutional authority to bind the State to a gaming compact that clearly departs from the State's public policy by legalizing types of gaming that are illegal

Mr. George Skibine, Chairman

October 21, 2009

Page 2

everywhere else in the state.” The Seminole Tribe petitioned the court to be made a party to the case and that request was granted. The Court withheld the issuance of the writ of quo warranto to enforce its decision because the court believed that the parties, which included the Seminole Tribe upon the Tribe’s own petition, would fully comply with the dictates of the opinion.

The Tribe has not complied. In fact, the Tribe has expanded its Class III games to include the offering of banked card games at its Tampa and Immokalee facilities after the Court issued its ruling. The Tribe is still conducting Class III gaming without a valid compact in direct noncompliance with the decision of the Florida Supreme Court and federal law. The Tribe’s ability to profit from these illegal games creates a disincentive to enter into a compact, and places the State at a significant disadvantage in negotiating games to which it never gave its consent.

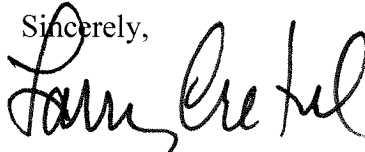
As the Chairman of the National Indian Gaming Commission (NIGC) you have the authority to levy and collect appropriate civil fines up to \$25,000 per violation against any tribal operator or management contractor who violates any provision of IGRA, Commission regulations, or tribal regulations, ordinances, or resolutions. You also have the authority on behalf of the NIGC to issue orders of temporary closure of gaming activities for substantial violations of the provisions of IGRA, of regulations prescribed by the Commission pursuant to IGRA, or of tribal regulations, ordinances, or resolutions. It is our hope that the NIGC exercises this authority to bring the Tribe into compliance with federal law.

The disadvantages to the State in attempting to negotiate a compact under the present circumstances are clear. Until the banked card games (and slot machines) are shut down and the Tribe gives some indication that it is willing to abide by the law, and ultimately its agreements, it would appear that the State would be ill-advised to enter into any compact with the Tribe.

In conclusion, I would clearly state we are willing to negotiate in good faith with the Seminole Tribe of Florida; however, we cannot agree to something that would be ultimately detrimental to our State or our residents. We will not be forced into accepting a compact that grants the Tribe more games than they may rightfully demand under IGRA.

Thank you for your attention and consideration of this matter. If you would like to discuss these issues further, we are willing and able to do so.

Sincerely,



Larry Cretul  
Speaker

cc: Governor Charlie Crist  
President Jeff Atwater  
Representative Bill Galvano