

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF  
FLORIDA TALLAHASSEE DIVISION

CASE NO. 4:15-CV-00516-RH-CAS

SEMINOLE TRIBE OF FLORIDA,  
Plaintiff,

vs.

STATE OF FLORIDA,  
Defendant.

---

DEPOSITION OF: KEN LAWSON  
TAKEN AT THE INSTANCE OF: The PLAINTIFF  
DATE: February 22, 2016  
TIME: Commenced at 9:29 a.m.  
Concluded at 10:34 a.m.  
LOCATION: 1940 North Monroe Street  
Tallahassee, FL  
REPORTED BY: JUDY CHIN  
RPR, CRR

ACCURATE STENOGRAPHY REPORTERS, INC  
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APPEARANCES :

REPRESENTING PLAINTIFF:

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ALSO PRESENT: Garo Nargiz, videographer

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1                                   **STIPULATIONS**

2                    The following deposition of KEN LAWSON  
3 was taken on oral examination, pursuant to notice, for  
4 purposes of discovery, and for use as evidence, and for  
5 other uses and purposes as may be permitted by the  
6 applicable and governing rules. Reading and signing is  
7 not waived.

8                                   \* \* \*

9    Thereupon,

10                               **KEN LAWSON**

11    was called as a witness, having been first duly sworn,  
12    was examined and testified as follows:

13                    THE VIDEOGRAPHER: Good morning.

14                    We are now on the record.

15                    This is the videotaped deposition of Mr. Ken  
16                    Lawson, taken in Tallahassee, Florida, on  
17                    February 22nd, 2016.

18                    The time is 9:29 a.m.

19                    In the case styled Seminole Tribe of Florida,  
20                    plaintiff, versus State of Florida, Defendant.

21                    Filed in the United States District Court, Northern  
22                    District of Florida, Tallahassee Division. Case  
23                    Number 415-CV-00516-RH-CAS.

24                    The court reporter this morning is Judy Chin.

25                    The videographer is Garo Nargiz.

1           Counsel, would you please introduce yourselves  
2           and then the witness will be sworn.

3           MR. RICHARD: Barry Richard, representing the  
4           Seminole Tribe.

5           MR. ANDERSEN: And Carter Andersen, with Bush  
6           Ross. And I'm representing the Department of  
7           Business and Professional Regulation, Division of  
8           Pari-Mutuel Wagering of the State of Florida.

9           And they don't have microphones on. But  
10          together with me are my co-counsel Dennis  
11          Whittlesey and Robert Stocker, both with the  
12          Dickinson Wright firm.

13                           \* \* \*

14          Thereupon,

15                           **KENNETH LAWSON**

16          was called as a witness, having been first duly sworn,  
17          was examined and testified as follows:

18                   THE WITNESS: I do.

19                   MR. ANDERSEN: This will take two seconds.

20                   Are we in agreement that no one is going to  
21          use this video for anything other than the purposes  
22          of this lawsuit?

23                   MR. RICHARD: I was actually going to begin  
24          with a couple of preliminary matters. That was one  
25          of them.

1           Yes, we have a stipulation that this video  
2 will not be used for any purpose except in  
3 connection with litigation.

4           MR. ANDERSEN: That's great.

5           MR. RICHARD: Which I wouldn't do that anyway,  
6 Secretary Lawson, without your written  
7 authorization. Sure.

8           MR. ANDERSEN: Thank you, Barry.

9           Did you have anything else?

10          MR. RICHARD: Yeah. I just wanted also to put  
11 on the record that we stipulated that the documents  
12 that have been produced to us on a disk in response  
13 to our request are authentic.

14          MR. ANDERSEN: Yes. And we will do that  
15 through the lawyers in the case. We agree with  
16 that.

17          MR. RICHARD: Okay.

18          MR. ANDERSEN: And then I had one last very  
19 quick thing.

20          The Secretary has had many communications with  
21 lawyers throughout this timeframe, the last year or  
22 so that involve the mediation or the negotiation of  
23 the Compact. And people like Will Spicola, Ben  
24 Gibson, he is not going to reveal attorney-client  
25 communications or attorney-work product in his

1           answers, but he is going to answer your questions  
2           to the best of his ability without doing that.

3           MR. RICHARD: Well, that's understood. Of  
4           course.

5           MR. ANDERSEN: Okay.

6           MR. RICHARD: It is my understanding that the  
7           mediation itself was not confidential. Are we in  
8           agreement with that?

9           I think we all agreed and told the court  
10          reporter it was not confidential because there is  
11          no basis in Florida law for it to be. But I  
12          understand that any advice that he was given as  
13          attorney-client advice or any work-product  
14          discussions that he had are privileged and that  
15          you'll declare the privilege if a question comes up  
16          that you think it applies to.

17          But I will not intentionally ask him for any  
18          of that information.

19          MR. ANDERSEN: Okay. And I'm going to just  
20          ask him to be careful not to reveal any of that,  
21          even if I'm not aware that the question might  
22          elicit that.

23          MR. RICHARD: All right.

24          MR. ANDERSEN: But I think we are on the same  
25          page.

1 MR. RICHARD: Yeah. I'll tell the Secretary  
2 now, none of my questions are intended to elicit  
3 information relating to attorney advice you  
4 received from your attorneys, legal advice you  
5 received from your attorneys, or discussions you  
6 had in preparation for litigation.

7 DIRECT EXAMINATION

8 BY MR. RICHARD

9 Q Mr. Secretary, what year did you become  
10 Secretary of the Department of Business and Professional  
11 Regulations, which by the I will refer to as the  
12 Department throughout the deposition?

13 A 2011.

14 Q Prior to that time, did you have any  
15 experience with gaming, with the gambling industry?

16 A No.

17 Q Did you engage in any effort to become  
18 conversant with gambling and the gambling industry after  
19 you became Secretary?

20 A Yes.

21 Q And what was it that you did?

22 A Reading statutes and working with my staff.

23 As the Secretary, I oversee the Division of  
24 Pari-Mutuel Wagering, which regulates gaming in the  
25 State of Florida.



1 Q Have you been personally involved in decisions  
2 regarding authorization of activities by the gaming  
3 industry?

4 MR. ANDERSEN: Objection. Form.

5 THE WITNESS: As a Secretary, since the  
6 Division of Pari-Mutuel Wagering is underneath me,  
7 I'm involved with decisions involving that  
8 Division, along with others.

9 BY MR. RICHARD

10 Q Let me talk to you for a few minutes about the  
11 relationship between the Seminole Tribe of Florida and  
12 the Department with respect to the Seminole Tribe's  
13 gaming operations.

14 Have you had an opportunity since you have  
15 become Secretary to observe the relationship between the  
16 Tribe and the State?

17 A Yes.

18 Q How would you describe that relationship in  
19 terms of how smooth the operation and the  
20 inter-relationship has been?

21 A Professional, respectful, conversant. It's  
22 been a good healthy relationship between the Department  
23 in its role as SCA and with the Tribe.

24 Q The Tribe files regular reports with the  
25 Department as required by the Compact, correct?

1           A     Yes.

2           Q     And the Tribe makes payments to the State  
3 pursuant to the Compact, correct?

4           A     Yes.

5           Q     Are you aware of any instance in which the  
6 Tribe did not timely file a report or timely make a  
7 payment to the State?

8           A     I'm not aware of it.

9                     But any details involving the day-to-day  
10 operations with the Tribe, reports or so would be  
11 handled by my staff. But I'm not personally aware of  
12 any problems, reports, or payments.

13          Q     Who in particular was in charge of reviewing  
14 those reports and payments?

15          A     Sure. Any detail questions involving  
16 oversight of the Tribe or any gaming activities would be  
17 through Leon Biegalski, my deputy secretary of Business  
18 Reg. He used to be the head of PMW, pari-mutuel  
19 wagering; and Johnathon Zachem, who is now the current  
20 director of pari-mutuel wagering.

21                   MR. RICHARD: Let me pause to tell the court  
22 reporter that you can feel free to interrupt if you  
23 need anything spelled.

24                   THE COURT REPORTER: I'll get it after.

25

1 BY MR. RICHARD

2 Q Now, the Department conducts regular  
3 inspections of the tribal casinos in accordance with the  
4 Compact, correct?

5 A Correct.

6 Q Are you aware of any instances in which those  
7 inspections have resulted in a finding that the Tribe  
8 was not in compliance with the Compact or with federal  
9 law?

10 A I'm not aware of anything. However, any  
11 detailed questions would be best directed to John Zachem  
12 or Leon Biegalski.

13 Q Are you aware of any other problems that the  
14 Department has had in connection with the Tribe's  
15 conduct of gaming operations?

16 A I'm not aware.

17 Q The Tribe has been in the practice and the  
18 Department has been in the practice on meeting together  
19 on a quarterly basis; is that correct?

20 A Correct.

21 Q And my recollection is that you personally  
22 have attended all of those meetings, haven't you?

23 A I personally started that practice once I  
24 became the Secretary and determined that we should meet  
25 quarterly so we could discuss any issues before our

1 annual meeting.

2 Q And the purpose of those meetings was to, as  
3 you say, to discuss issues with -- was for either side  
4 to bring up any issues that they considered were  
5 problematic or to discuss any -- to seek agreement as to  
6 any issues that could be problematic, is that correct?

7 A True.

8 Q And during the course of those meetings do you  
9 recall any issues that the Department raised with the  
10 Tribe that was of concern to it?

11 A Through the course of the five years I've been  
12 Secretary, we've had various issues discussed in our  
13 quarterly meetings. From the Department's standpoint,  
14 nothing really stands out now. Of course the Tribe had  
15 issues they raised to us and we addressed them as best  
16 we could.

17 Q And do you recall that those issues generally  
18 were related to the Tribe's concern over gaming taking  
19 place elsewhere other than on the tribal land that they  
20 considered to be an invasion of their exclusivity?

21 MR. ANDERSEN: Objection. Form.

22 THE WITNESS: Directly what you're asking, did  
23 they raise any objections about the advertisement  
24 of card theme slot machines outside of the Seminole  
25 facilities; yes, that came up during quarterly

1 meetings.

2 BY MR. RICHARD

3 Q And my recollection is from time to time there  
4 were also issues that the Tribe raised regarding the  
5 types of machines that were being used by the racinos?

6 A In general the Tribe asked questions about  
7 what was happening in the gaming environment in Florida.  
8 If they had a concern, they raised them to us and we  
9 would address those questions.

10 Q And in particular has the Department ever had  
11 an issue with regard to the conduct of banked card games  
12 by the Tribe?

13 A There have been discussions about the -- about  
14 blackjack and banked card games.

15 But in general the Department has had a good  
16 relationship with the Seminoles, and any issues we had  
17 were addressed either in our quarterly meetings or  
18 annual meetings.

19 Q Let me clarify that.

20 A Please do.

21 Q Obviously I meant prior to the dispute that  
22 arose that was the subject matter of the mediation --

23 A No.

24 Q -- is the subject matter of this lawsuit.

25 A The answer is no.

1           Q       Has the Department had any issues with the  
2 Tribe with respect to criminal activity in the areas in  
3 which it conducts gaming operations?

4           A       Not that I'm aware of.

5           Q       How about any issues with regard to consumer  
6 relations or consumer protection?

7           A       Not that I'm aware of.

8                   I think there was an issue regarding workers'  
9 comp. that was directed to the Tribe at one point, but  
10 that's the only thing I remember.

11          Q       Do you have occasion to meet with other  
12 officials in other states with respect to gaming  
13 operations?

14          A       No.

15          Q       That's not anything that you've done.

16                   I want to talk to you for a few moments about  
17 the issue of the termination under the Compact of the  
18 provision for the Tribe to conduct banked card games.

19          A       Sure.

20          Q       That's what the series of questions I'll ask  
21 you now relate to.

22          A       Okay.

23          Q       On June 24th, 2015 the Tribe sent a letter to  
24 Governor Scott which was a notice of commencement of the  
25 dispute resolution provisions in the Compact.

1           Have you previously had occasion to see that  
2 letter?

3           A     Yes.

4           Q     And did you see it on or about the time that  
5 it was received by the Governor's Office?

6           A     It was around that time and since then.

7           Q     And do you recall that it was received around  
8 the time that the letter is dated June 24th, 2015?

9           A     I'm aware it was received sometime after this  
10 date. The exact date it was received, I couldn't tell  
11 you.

12          Q     At the time that that letter -- that you  
13 became aware of that letter did you have occasions to  
14 have discussions with the Governor's Office regarding  
15 the letter?

16          A     Of course.

17                 And as the Secretary of my Department I would  
18 have discussions with the Governor's Office involving  
19 any significant issues impacting my Department.

20          Q     Do you have any recollection of any of the  
21 specifics of those discussions, I'm speaking  
22 particularly about the invocation of the dispute  
23 resolution procedure?

24          A     Not really; no.

25          Q     Did you have any discussions with members of

1 the legislature regarding the request?

2 A No. No.

3 Q You personally attended the --

4 Well, let me ask the question before --

5 A Yeah.

6 Q Under those procedures the Tribe and the  
7 Department commenced a 30-day period of negotiations in  
8 an effort to resolve the issues raised in the letter  
9 prior to mediation?

10 A Right.

11 Q Do you recall that?

12 A Um-hum.

13 Q Did you participate in those negotiations?

14 A I did not.

15 Q But you did attend the mediation --

16 A Correct.

17 Q -- meetings?

18 And I believe that you were personally present  
19 at all of them, correct?

20 A Correct.

21 Q And would it be fair for me to assume that you  
22 had discussions with representatives of the Governor's  
23 Office with respect to the position taken by the  
24 Department?

25 A Of course.



1           Q       Now, the request for mediation is directed to  
2 the State of Florida.

3                   Was a decision made as to who it would be that  
4 would represent the State of Florida at the mediation?

5           A       The Department would. And through the  
6 Division, with me as the Secretary, it was determined  
7 that we would handle the mediation.

8           Q       What was your understanding of the authority  
9 that the Department, and you in particular had insofar  
10 as what you were able to negotiate in that mediation?

11          A       I had full authority to negotiate any matters  
12 to rebut the allegations of the Seminoles, those  
13 allegations being that the State of Florida violated *the*  
14 Compact.

15          Q       Did you have the authority to enter into an  
16 agreement with the Tribe that would enable them to  
17 continue to conduct banked card games pursuant to the  
18 provision of the Compact?

19          A       Well, that was not an issue involving the  
20 mediation four corners.

21                   But during the mediation there was a request  
22 from the Seminoles for that to occur, and then explained  
23 during the mediation that would require myself as a  
24 Secretary to act outside of my legal authority. So  
25 legally I had no authority to negotiate an extension or

1 a new Compact. That authority rests with the governor  
2 and legislature.

3 Q Were there representatives of the Governor's  
4 Office present at the mediation?

5 A Of course. There was Ben Gibson from the  
6 General Counsel's office.

7 But one thing, for the record, there are two  
8 different tracks to be clear. We had mediation  
9 occurring with myself, my team, and Ben Gibson, and then  
10 you had a separate track involving negotiation, a new  
11 Compact that was totally outside of the mediation.

12 So my role as the Secretary is simply to  
13 handle the mediation.

14 Q That mediation that you are referring to that  
15 was outside -- I mean the negotiation was outside of the  
16 mediation, that was an attempt to negotiate a new full  
17 Compact --

18 A Correct.

19 Q -- not just the card game, correct?

20 A New Compact. Correct.

21 Q And we say a new Compact, to replace the  
22 Compact that currently runs until 2030?

23 A Right. With the slot machine provision.

24 Q Now, those persons who attended the mediation  
25 from the Governor's Office, do you know what the extent

1 of authority was that they had to negotiate an  
2 agreement?

3 MR. ANDERSEN: Object to the form.

4 THE WITNESS: The only authority for anyone  
5 involved in the mediation was to deal with the  
6 mediation and rebut the allegation that the State  
7 of Florida violated the Compact.

8 BY MR. RICHARD

9 Q Well, do I understand you to be saying that to  
10 your knowledge everyone who attended the mediation on  
11 behalf of the State believed that they did not have the  
12 authority to negotiate a renewal of the banked card game  
13 provision?

14 A I mean, that would be correct.

15 However, once that issue was raised by the  
16 Seminoles, you know, since that was outside our legal  
17 authority, we went back to the principals to see if it  
18 would be acceptable. But the four corners of the  
19 mediation, again, were to rebut the fact that we  
20 violated the Compact.

21 Q And who were the principals that you went back  
22 to?

23 A Well, as the Secretary, regardless of any  
24 issue, I would coordinate with the Governor's Office.

25 So during the course of the mediation, once

1 the Seminoles made their request for an extension -- not  
2 enforcing the Compact, to the Governor's Office.

3 Q After your discussions with the Governor's  
4 Office, did your understanding of the breadth of the  
5 Department's authority to negotiate change at all?

6 A No. I was always clear during the course of  
7 the mediation regarding my authority. Because during  
8 the course of the mediation one request of the Seminoles  
9 was that we take action regarding player rules. So  
10 if -- in my authority as the Secretary we expressed a  
11 desire to hold a workshop of designated player. So  
12 looking at the mediation separately, as a Secretary and  
13 also members of my team, we had authority to handle  
14 mediation issues. But those were separate and apart  
15 from any issues involving negotiation of the Compact.

16 Q Did you have any discussions with any  
17 legislators or representatives of the legislature with  
18 respect to your scope of authority?

19 A No.

20 Q Did you have an understanding that the  
21 Governor's Office or the legislative leadership desired  
22 that there not be a negotiation of the extension of the  
23 banked card games except in connection with an agreement  
24 as to the full compact?

25 MR. ANDERSEN: Objection to the form.

1           Barry, let me just object along the lines that  
2           the mediation started on September 8th and ran at  
3           least until October 26th. You're asking questions  
4           about discussions with the Governor's Office. I  
5           know there were five or six meetings of the  
6           mediation. So if you could be a little more clear  
7           as to --

8           MR. RICHARD: Well, I don't know when  
9           discussions took place, and I don't care what the  
10          timeframe was.

11          So the Secretary is welcome to place his  
12          responses within a timeframe, and I will attempt to  
13          clarify that now.

14          MR. ANDERSEN: Okay. Thank you.

15 BY MR. RICHARD

16          Q       With respect to your responses to me about  
17          your understanding of your authority to negotiate, would  
18          that apply to the entire range of discussions that took  
19          place in connection with the mediation?

20          A       Well, in terms of the mediation, I had full  
21          authority to deal with any issues involving the  
22          allegation of Seminoles regarding the violation of  
23          Compact.

24          But as a Secretary I knew that I did not have  
25          authority to negotiate any provision of the Compact

1 regarding extension or renewal by virtue of the law, and  
2 I expressed that clearly to all parties during the  
3 mediation.

4 Q When you say that you understood your  
5 authority to be to negotiate the claims that the Tribe  
6 had made in its June 24th letter, what do you mean by  
7 negotiate in that respect?

8 A Well, to mediate. And I used the term <sup>negotiate</sup>  
9 negotiate. I meant to say mediate.

10 Regarding mediation, since the Seminoles  
11 stated that the State of Florida breached the Compact by  
12 approving card theme slot machines and questioned  
13 designated player rules, I clearly as the Secretary  
14 during mediation came with my team to rebut that and  
15 reach some resolution regarding those issues in the  
16 mediation; but not to negotiate any provision of an  
17 extension of the Compact or waive our enforcement  
18 rights. However, once it was raised by the Seminoles  
19 that that was a proposal, I took it back to the  
20 principals to consider.

21 Q Was there any resolution reached in the  
22 mediation?

23 A Well, I think in general, no.

24 But when request<sup>ed</sup> by the Seminoles, I guess  
25 player rules, is that we made the -- I want to say made

1 a request, we suggested we have a rule workshop. We've  
2 done so. And we've taken action. So and -- in part you  
3 can say yes.

4 Q What was the action that was taken?

5 A Rule workshop regarding designated players,  
6 determination that we didn't have authority to allow  
7 games to be played. And so it shows that through the  
8 course of the mediation there was a discussion, action  
9 was considered, and then we had the workshop.

10 Q And what happened after the workshop with  
11 respect to those issues?

12 A Well, you can talk to my staff, Leon Biegalski  
13 and John Zachem.

14 But the Department has taken certain actions  
15 involved in litigation at this time.

16 Q And I assume you are talking about the actions  
17 that resulted in administrative complaints being filed?

18 A Yes.

19 Q And what actions was it that the Department  
20 took that you believed precipitated those administrative  
21 complaints?

22 A Well, by virtue of the rule workshop and  
23 determined what our authority was regarding these  
24 designated players.

25 So back to your original question, you know,

1 in part because of mediation we looked at our own  
2 procedures and rules and had a workshop.

3 Q Did the Department make any changes in its  
4 rules as a result of the workshop?

5 A Yes.

6 Q What were those changes?

7 A We determined that we did not have the  
8 authority to designate -- well, to -- we didn't have the  
9 authority to authorize designated players. So we had a  
10 workshop, determined that we did not have rulemaking  
11 authority at that time, and then notified the industry  
12 through the workshop.

13 Q And what did you notify the industry of?

14 A What I just said.

15 Q That you didn't have authority to --

16 A For designated players.

17 Q To authorize designated players?

18 A Correct.

19 Q Okay. Would you describe for us what you mean  
20 when you refer to designated players.

21 A Designated players, that is where a player in  
22 a poker game can -- will serve as the -- essentially the  
23 bank for the game. And there is a button that's passed  
24 around to each player to allow each player to serve as  
25 the bank. And in that situation they cover the wages



1 for those people in the game. But they can't -- did not  
2 cover all potential wagers.

3 Q And why did the Department conclude that it  
4 did not have the authority to authorize those types of  
5 designated players?

6 A Well, you can talk to John Zachem, who is my  
7 head of PMW, because he held the workshop and he can go  
8 into more detail on that issue for you.

9 Q Did you have occasion to talk to him about  
10 that?

11 A In general, but not in particular. I was not  
12 present during the workshop.

13 Q Did you personally approve the decision to  
14 notify the -- I assume the racinos --

15 And we understand what I mean by racinos?

16 A Sure.

17 Q I'm referring to the pari-mutuels that have  
18 the authority to conduct gaming --

19 A Um-hum.

20 Q -- in the form of slot machines.

21 A Um-hum.

22 Q So did you have discussions with anyone in  
23 your staff or did you --

24 I'm sorry.

25 Did you personally approve the decision to

1 notify the racinos that the Department did not have the  
2 authority to approve the designated players?

3 A Yes.

4 MR. ANDERSEN: Objection to form, foundation.

5 THE WITNESS: As a result of the workshop,  
6 yes.

7 BY MR. RICHARD

8 Q Did the Department subsequently change its  
9 position again with regard to the designated players?

10 A What do you mean by again?

11 Q Well, once you decided that you didn't have  
12 the authority to authorize designated players, did  
13 you -- is that still the position today of the  
14 Department?

15 A Yes.

16 MR. ANDERSEN: Objection to form, foundation.

17 You need to give me a second to object.

18 THE WITNESS: I'm sorry. I apologize.

19 MR. ANDERSEN: No problem.

20 MR. RICHARD: Then you can ignore him after.

21 MR. ANDERSEN: Then you can answer the  
22 question if you understand it.

23 THE WITNESS: You objected.

24 MR. RICHARD: I'm only joking. But if he  
25 doesn't want you to answer a question, he will tell

1           you not to answer it.

2           THE WITNESS: I understand.

3           MR. RICHARD: Just the objection doesn't mean  
4           you shouldn't answer it.

5           THE WITNESS: I understand.

6 BY MR. RICHARD

7           Q       What is the position of the Department today  
8           with respect to the use of designated players by the  
9           racinos?

10          A       Well, it's not permitted at this time.

11          Q       In any form?

12          A       I believe so.

13                 But, again, talk to John Zachem in more detail  
14           in terms of technical finding of the workshop.

15          Q       In the notice of invoking the Compact  
16           procedures --

17          A       Um-hum.

18          Q       -- for dispute resolution, the Tribe also  
19           raised the issue of electronic card games, correct?

20          A       Raised the issue involving card theme slot  
21           machines.

22          Q       The Tribe asserted that the conduct by the  
23           pari-mutuels of blackjack and other similar games on  
24           machines was a violation of the exclusivity of the  
25           Compact, correct?

1           MR. ANDERSEN:  Objection to the form and  
2           foundation.

3           THE WITNESS:  That was their assertion.  And  
4           we objected regarding the use of card theme slot  
5           machines.

6  BY MR. RICHARD

7           Q       Correct.

8           A       Um-hum.

9           Q       And did the Department make any changes in  
10          connection with that assertion?

11          A       No.

12          Q       And did the Department hold any workshops in  
13          connection with that issue?

14          A       No.

15          Q       I'm showing you an email message exchange  
16          between me and your general counsel, William Spicola on  
17          February 18th, 2016.  I want to ask you some questions  
18          about that.

19                 I'm going to read this for the record.  I had  
20          sent an email to Mr. Spicola in which I said, "Per our  
21          telephone conversation this morning, in preparation for  
22          Secretary Lawson's deposition this coming Monday, I  
23          would like to obtain from the Department the following  
24          documents:  All submissions from racinos of requests for  
25          approval of proposed designated player games including

1 the rules of each such game. All responses to the above  
2 requests."

3           And Mr. Spicola responded by saying, "The  
4 Division does not approve games, and therefore we do not  
5 have documents relating to the approval of games.  
6 However, if your intention is to request documents  
7 relating to the approval of plans and safety  
8 regulations, et cetera, we will have the first batch of  
9 those documents available for pickup later today."

10           How do you distinguish between approval of  
11 games and approval of plans and safety regulations?

12           A       Well, per our rules, we can -- we do approve  
13 internal controls for facilities.

14           So we don't approve games, but we approve how  
15 a facility will, you know, implement and -- you know,  
16 their operations; and that's it.

17           Q       Does that include the rules of particular  
18 games?

19           A       I'm not sure. I think so. But, again, you  
20 can check with John Zachem. He can clarify that for  
21 you.

22           Q       Let me show you a letter dated August 4th,  
23 2011 from Milton Champion. Let me first tell you about  
24 the letter, and then I will ask you. From Milton  
25 Champion to Dennis Hone, cardroom manager at Ebro

1 Greyhound Park. Let me ask you some questions.

2 A Sure.

3 Q Who is Mr. Champion and what's his position?

4 A He was the director of pari-mutuel wagering  
5 when I first arrived in 2011, and he was subsequently  
6 later released from that position.

7 Q Is he still with the Department?

8 A No.

9 Q Do you know where he is now?

10 A No.

11 Q Did you have occasion to review this letter at  
12 any point prior to this deposition?

13 A I did see this letter prior to the deposition.  
14 But at the creation of this letter, no.

15 Q So you had no input to the creation of the  
16 letter?

17 A Correct.

18 Q The second paragraph of the letter says, "In  
19 January, the Division approved the play of double hand  
20 poker and that approval has continued in effect to this  
21 day. In the April letter, the Division conveyed its  
22 determination as a final agency action that 'the game  
23 which was demonstrated' during a meeting held with the  
24 Division did not comport with the proscription of  
25 banking games found in Section 849.086, Florida

1 Statutes;" correct?

2 A The letter speaks for itself. Yes.

3 Q Now, that appears to be saying that the  
4 Department does approve or disapprove of particular  
5 games?

6 MR. ANDERSEN: Objection. Form, foundation.

7 BY MR. RICHARD

8 Q Do you agree?

9 A It appears to. But also there is a Second DCA  
10 case that states we do not have the authority to approve  
11 games.

12 Q Well, I'm not trying to be tricky here.

13 A I know that. Me either.

14 Q I'm trying to understand for my own purposes  
15 what it is that the Department does.

16 Let me ask it this way: If the Department  
17 determines that a pari-mutuel is conducting a gaming  
18 operation according to certain rules that is not in  
19 conformance with Florida law, is it your belief that the  
20 Department has the authority to take action to stop them  
21 from conducting those games?

22 A Yes. But as I said earlier, we reviewed  
23 facility's internal control that would determine --  
24 simply state how that facility manages the playing of  
25 those games and other activities. And if it doesn't

1 comport with the law, then of course we take action of  
2 some type.

3 But that question in terms of technical  
4 application of our enforcement authority is better  
5 suited towards Johnathon Zachem who will deal with this  
6 issue on a day-to-day basis.

7 Q I want to see if I correctly understand what  
8 you're saying. And I appreciate the fact that you're  
9 saying that you don't get into the weeds of the  
10 question.

11 A Yeah. Yeah.

12 And I think I answered your question.

13 I will tell you what we generally do as the  
14 Department; and then what we generally have done in  
15 terms of enforcement; and then in terms of day to day,  
16 to answer your question more directly, the right person.  
17 But I think I'm answering the question.

18 Q All right. Let me continue this letter.

19 A Yes.

20 Q Let me continue the letter.

21 A Sure.

22 Q It says, "On May 16, 2011, in response to the  
23 April letter, Ebro timely filed a petition contesting  
24 final agency action. As there is no evidence that Ebro  
25 intends to operate double hand poker in an unapproved



1 manner, the Division hereby rescinds its letter and  
2 final agency action of April 25, 2011, and therefore,  
3 considers Ebro's petition to be rendered moot. Ebro may  
4 immediately resume play of double hand poker as approved  
5 by the Division.

6           Do you know what the problem was -- or what  
7 the problem was as initially perceived by the Department  
8 or the Division with respect to the manner in which they  
9 were conducting that card game?

10          A       I don't know at this time.

11          Q       Does the Department require that pari-mutuels  
12 submit copies of the rules of their games for approval?

13          A       I believe so.

14          Q       And that would include both card games and  
15 slot machines, correct?

16          A       I believe so. That would be part of the  
17 internal control that they would submit to the  
18 Department -- or to the Division, rather.

19          Q       Are you familiar with DigiDeal house banked  
20 card games?

21          A       I remember the concept when it came up  
22 sometime early in my administration.

23          Q       Do you know how it's played?

24          A       No.

25          Q       Are you aware of the fact that the Department

1 -- when I refer to the Department, I'm not  
2 distinguishing between Department and --

3 A And Division. Yeah. You bring them both  
4 together. Yeah.

5 Q Are you aware of the fact that the Department  
6 issued a variance on February 17th, 2011 with respect to  
7 DigiDeal?

8 MR. ANDERSEN: Let me object on the grounds,  
9 that you just pointed out, Barry, I think he has  
10 been using the term Division and Department  
11 specifically to mean two different things.

12 So I think it is most appropriate to use them  
13 to what they mean, because one is a smaller subset  
14 of the other.

15 MR. RICHARD: I understand. We are talking  
16 about the Division of Pari-Mutuel Wagering --

17 THE WITNESS: There we are.

18 MR. RICHARD: -- and the Department of  
19 Business and Professional Regulations.

20 THE WITNESS: Right.

21 BY MR. RICHARD

22 Q I'm assuming in most of these instances we are  
23 talking about the Division of Pari-Mutuel Wagering.

24 A That we are.

25 Q I welcome your delineation at the time.

1           And I don't think it's an issue in this case,  
2 so I haven't bothered to distinguish it.

3           At any time you can tell me.

4           So are you aware of a variance issue on  
5 February 17th, 2011?

6           A     I think the variance issue involved the --  
7 basically the backroom <sup>accounting</sup> counting of the machine, going  
8 from an electro-mechanical device to an electronic  
9 device.

10           So any variance was based upon, you know, how  
11 information is collected. And then that variance  
12 basically said that whether it is electro-mechanical  
13 versus electronic it collected the information as  
14 required by rule and the law. So that was the basis of  
15 the variance, if I remember that correctly.

16           Q     And the reason that I have used the term  
17 Department is I'm assuming that most of what we are  
18 talking about was done by the Division. But I don't  
19 want to limit it to that. So if there was any actions  
20 taken by the Department beyond the Division, then I'm  
21 including that in this discussion.

22           A     Sure.

23           And let me say this on that point: You know,  
24 as the Department, as the Secretary of the Department,  
25 we are an umbrella for various divisions. And then each

1 division has its own individual work. And with the  
2 Division of Pari-Mutuel Wagering it would be solely  
3 responsible for the enforcement of our pari-mutuel  
4 waging of rules and laws. So understand that you are  
5 marrying both, focus on the work of the Division. As  
6 the Secretary, I'm responsible for all.

7 Q I understand.

8 Did the Division inspect the DigiDeal games as  
9 it was being conducted at pari-mutuels at any time after  
10 those games became operational?

11 MR. ANDERSEN: Objection. Form. I'm not sure  
12 what you mean by DigiDeal games.

13 You can answer.

14 BY MR. RICHARD

15 Q Well, I think that --

16 Well, the DigiDeal machines.

17 MR. ANDERSEN: Same objection. Form.

18 THE WITNESS: First, I don't have personal  
19 knowledge. I assume so by virtue of that dec  
20 statement. But -- That's my answer.

21 BY MR. RICHARD

22 Q And who did you say was the person in the  
23 Division who would be responsible for making decisions  
24 or conducting inspections regarding gaming machines?

25 A Well, the director of pari-mutuel waging at

1 that time was Leon Biegalski, who is now my deputy  
2 secretary of this regulation. Currently the director of  
3 pari-mutuel wagering is Johnathon Zachem.

4 So someone underneath them if there's any type  
5 of inspection would actually do the hands-on inspection.  
6 But in terms of answering direct technical questions,  
7 one of those two gentlemen would be the appropriate  
8 party to ask.

9 Q Would I be correct in assuming that the  
10 Department collects information on revenue generated by  
11 these types of gaming machines at the pari-mutuels?

12 MR. ANDERSEN: Objection. Form.

13 THE WITNESS: Yes.

14 BY MR. RICHARD

15 Q In a letter dated February 28th, 2011 to  
16 Governor Scott, which I apologize but I do not have a  
17 copy of the -- the Tribe informed the State that it  
18 believed that the DigiDeal -- the use of the DigiDeal  
19 machines by pari-mutuels was a violation of the  
20 exclusivity provisions of the Compact. Are you aware of  
21 that?

22 A I've seen that letter.

23 Q Did you have any discussion with the  
24 Governor's Office regarding the letter?

25 A I don't know.

1           Q     Did the Division or the Department take any  
2 action in response to the letter?

3           A     I don't remember if we did or didn't.

4           Q     On July --

5           A     But I will say this: I think probably had  
6 some discussions with Seminoles during our quarterly  
7 meetings about the distinction about how this was a dec  
8 statement based upon the use of a new technology to  
9 collect information about machines. So I think that  
10 occurred during our quarterly meetings at one point  
11 explaining the Department's position.

12          Q     Has the Division or the Department approved  
13 the use of DigiDeal type machines by the pari-mutuels?

14                   MR. ANDERSEN: Objection. Form.

15                   THE WITNESS: I think the dec statement speaks  
16 for itself, where it did allow the use of a  
17 electronic monitoring -- metering system.

18 BY MR. RICHARD

19          Q     Well, I'm speaking about the use of the  
20 DigiDeal machines in general.

21                   Let me back up and ask you another question.

22          A     Um-hum.

23          Q     Does the Department inspect the use of gaming  
24 machines at the pari-mutuels for the purpose of  
25 determining whether or not they are in compliance with

1 Florida law?

2 A Yes.

3 Q So in this instance, other than the niceties  
4 of determining whether certain aspects of it are  
5 permissible, is it the Department's position that the  
6 DigiDeal machines as they are being operated are  
7 compliant with Florida law?

8 A Well, I have to push back the term niceties.  
9 Because the dec statement dealt with electro-mechanical  
10 system versus electronic, and based upon the dec  
11 statement we determined that it would be an appropriate  
12 use.

13 Q Let me go back to the issue of Dennis Hone  
14 again.

15 What was the reason that Mr. Hone's employment  
16 with the Department was terminated?

17 A I don't -- have no knowledge.

18 Q Did that happen before you became Secretary?

19 MR. ANDERSEN: Objection. Form and  
20 foundation.

21 THE WITNESS: I'm not familiar with Mr. Hone  
22 at all.

23 BY MR. RICHARD

24 Q You have mentioned a number of persons during  
25 the course of the deposition who you felt had

1 information related to the question that I asked.

2 Is there anyone else in the Division or in the  
3 Department who would have information relating to the  
4 conduct of card games or the conduct of gaming machines  
5 by the pari-mutuels that we haven't talked about?

6 A I think those two would be the best. I mean,  
7 I have the staff in the Division of Pari-Mutuel  
8 Wagering, and each person has an assignment, and I'm  
9 sure that there is a person who has hands-on access to a  
10 machine or a facility.

11 In terms of being best representatives, would  
12 be John Zachem or Leone Biegalski.

13 MR. RICHARD: Okay. Thank you. I have no  
14 further questions.

15 MR. ANDERSEN: Maybe we can take a short  
16 break.

17 I don't anticipate I will have questions. If  
18 I do, it will be real short. I want to talk to my  
19 team.

20 THE VIDEOGRAPHER: Going off the record at  
21 10:13 a.m.

22 (Brief recess.)

23 THE VIDEOGRAPHER: 10:21 a.m. We are back on  
24 the record.

25 CROSS EXAMINATION



1 BY MR. ANDERSEN

2 Q Secretary Lawson, I have a couple quick  
3 follow-up questions.

4 A Sure.

5 Q I think Mr. Richard cleared this up.

6 But on the -- he asked you about violations by  
7 the Tribe. And I think he was excluding questions about  
8 after this dispute has arisen.

9 A Right.

10 Q Do you have any awareness of violations of the  
11 current Compact by the Tribe after October 29th, 2015?

12 A Oh, yeah. Definitely.

13 The thing is after October 29th, 2015, the  
14 five-year provision of the Compact had ended. And then  
15 I sent my letter to the Seminoles in July -- July 27th  
16 of 2015 asking for them to give me their plan on  
17 wrapping up their banked card games at their facilities.

18 So at this time the Seminoles have not given  
19 me their plan and that provision has ended. It is part  
20 of litigation. But prior to all that, no problems. But  
21 at this point that's where we stand.

22 Q Do you have an understanding that October 29th  
23 was the end of the 90-day grace period following the  
24 five year --

25 A Yeah.

1           Q     And then just one separate topic.  
2                     Mr. Richard asked you some question about  
3 racinos.

4           A     Um-hum.

5           Q     And do you have knowledge of the difference  
6 between a racino and a cardroom?

7           A     Yeah. You know, cardroom -- the difference is  
8 a racino you have a facility that has slot machines and  
9 also racing. All right. Cardroom does not.

10          Q     Okay. And so --

11                     And do you have an understanding of whether  
12 the theme based slot machines are -- have been used in  
13 -- beyond what Mr. Richard referred to as racinos but in  
14 cardrooms?

15          A     I know that the Seminoles have some card theme  
16 slot machines.

17                     MR. ANDERSEN: Okay. That's all I have.

18                     MR. RICHARD: Let me follow up on one of those  
19 questions.

20                     THE WITNESS: Okay.

21                                     REDIRECT EXAMINATION

22 BY MR. RICHARD

23          Q     With regard to the issue of the distinction  
24 between racinos and cardrooms that are not connected to  
25 racing, when you testified with respect to the

1 designated player issue, was the Department's position  
2 applicable to all cardrooms or just to the racino  
3 cardrooms?

4 MR. ANDERSEN: Objection. Form.

5 THE WITNESS: All cardrooms.

6 MR. RICHARD: Okay.

7 THE WITNESS: That it, sir?

8 MR. RICHARD: That's it. I promised I would  
9 have you out in time for lunch.

10 THE VIDEOGRAPHER: 10:24 a.m. We are going  
11 off the record. This is the end of the deposition.

12 (The proceedings concluded at 10:24 a.m.)

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**CERTIFICATE OF OATH**

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STATE OF FLORIDA                    )  
COUNTY OF LEON                    )

I, the undersigned authority, certify that  
said designated witness personally appeared before me  
and was duly sworn.

WITNESS my hand and official seal this 23rd  
day of February, 2016.



JUDY CHIN, RPR, CRR  
1-800-934-9090  
850-878-2221

CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF LEON )

I, JUDY CHIN, Registered Professional Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1 through 43 are a true and correct record of the aforesaid proceedings.

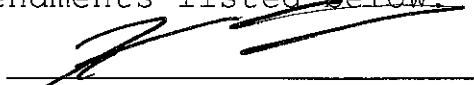
I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 23rd day of February, 2016.



JUDY CHIN, RPR, CRR  
Notary Public  
1-800-934-9090  
850-878-2221

1 I have read the transcript of my deposition, pages 1  
 2 through 43, and hereby subscribe to same, including any  
 3 corrections and/or amendments listed below.

4 2/26/16 

5 Date: KEN LAWSON

6

7 Page/Line Correction/Amendment Reason for Change

8 17/13 add the word "the" missing word

9 22/8 is it missing word

10 22/24 add change to "requested" missing "ed"

11 35/7 change word to accounting wrong word.

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21 Date of Deposition: February 22, 2016

22 Reporter: Judy Chin, RPR, CRR

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25

1 ACCURATE STENOGRAPHY REPORTERS, INC.  
2 2894 Remington Green Lane  
3 Tallahassee, Florida 32308  
4 (850) 878-2221

5 February 23, 2016

6 J. CARTER ANDERSEN, ESQUIRE  
7 candersen@bushross.com  
8 BUSH ROSS  
9 1801 North Highland Avenue  
10 Tampa, Florida 33602  
11 813.224.9255

12 Dear Mr. Andersen:

13 Re: Seminole Tribe v State of Florida

14 This is to advise you that your witness did not waive  
15 reading and signing of his deposition.

16 Please have your witness read his copy of your  
17 transcript, noting corrections/changes on the errata  
18 sheet, or date and sign the errata sheet, **and return the**  
19 **original errata sheet to MR. ANDERSEN within the next 30**  
20 **days or before the final trial in this matter, whichever**  
21 **comes first.**

22 Sincerely yours,

23 JUDY CHIN, RPR, CRR

24 Enclosures (Errata Sheet and Transcript.)

25 cc Counsel of Record

ACCURATE STENOGRAPHY REPORTERS, INC.

	9090 [2] 44/23 45/23 9:29 [1] 1/13 9:29 a.m [1] 4/18	apply [1] 21/18 appreciate [1] 32/8 appropriate [3] 34/12 37/7 39/11 approval [7] 28/25 29/5 29/7 29/10 29/11 30/20 33/12 approve [9] 25/13 25/25 26/2 29/4 29/12 29/14 29/14 31/4 31/10 approved [3] 30/19 33/4 38/12 approving [1] 22/12 April [3] 30/21 32/23 33/2 are [35] 4/14 5/10 5/20 6/13 7/7 7/14 7/24 8/2 10/5 11/6 11/13 18/7 18/14 23/16 33/19 33/25 34/5 34/15 34/17 34/22 34/24 35/4 35/17 35/25 36/4 37/20 38/25 39/4 39/6 39/6 40/23 42/12 42/24 43/10 45/11 areas [1] 14/2 arisen [1] 41/8 arose [1] 13/22 around [3] 15/6 15/7 24/24 arrived [1] 30/5 as [45] 4/4 4/5 4/11 4/12 5/16 5/17 7/12 8/11 8/23 9/5 9/23 9/25 12/2 12/5 12/15 15/17 17/3 17/6 17/10 17/23 18/12 19/23 20/10 20/12 20/24 21/7 21/24 22/13 24/4 24/22 24/24 26/5 30/22 31/22 32/13 32/24 33/4 33/7 35/13 35/24 35/24 36/5 36/8 39/6 42/13 ask [10] 7/17 7/20 14/20 16/4 28/17 29/24 30/1 31/16 37/8 38/21 asked [4] 13/6 40/1 41/6 42/2 asking [3] 12/22 21/3 41/16 aspects [1] 39/4 asserted [1] 27/22 assertion [2] 28/3 28/10 assignment [1] 40/8 assume [4] 16/21 23/16 25/14 36/19 assuming [3] 34/22 35/17 37/9 attempt [2] 18/16 21/12 attend [1] 16/15 attended [4] 11/22 16/3 18/24 19/10 attorney [6] 6/24 6/25 7/13 8/3 45/15 45/17 attorney-client [2] 6/24 7/13 attorney-work [1] 6/25 attorneys [2] 8/4 8/5 August [1] 29/22 August 4th [1] 29/22 authentic [1] 6/13 authority [33] 17/8 17/11 17/15 17/24 17/25 18/1 19/1 19/4 19/12 19/17 20/5 20/7 20/10 20/13 20/18 21/17 21/21 21/25 22/5 23/6 23/23 24/8 24/9 24/11 24/15 25/4 25/18 26/2 26/12 31/10 31/20 32/4 44/9 authorization [2] 6/7 9/2 authorize [4] 24/9 24/17 25/4 26/12 available [1] 29/9 Avenue [3] 2/5 2/10 47/7 aware [16] 7/21 10/5 10/8 10/11 11/6 11/10 11/13 11/16 14/4 14/7 15/9 15/13 33/25 34/5 35/4 37/20 awareness [1] 41/10
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