



Deferred until
Fall Session
8/18/83
6-0

MILLE LACS BAND OF CHIPPEWA INDIANS
Judicial Branch of Tribal Government

Opinion of the Solicitor General

06-056-83

TO: Arthur Gahbow, Chief Executive & Douglas Sam, Speaker of the Assembly
FROM: Jay Kanassatega, Solicitor General
SUBJECT: Compliance review of Band Statute 1000-MLC-4, Nay-Ah-Shing Gaming Commission

In reviewing the statutes of the Mille Lacs Band of Chippewa Indians for compliance with the provisions of the above referenced statute, I am concerned about the continuing activities of Nay-Ah-Shing Gaming Commission without legal authority. Additionally, reports have been filed with my office alleging fraud and deceit by certain individual Band members who engage in gaming activities under the auspices of the Gaming Commission. Further, there seems to be a cloud of mistrust which has generated in the community at-large that activities have been manipulated for the benefit of certain individuals at the expense of the lawful purposes as authorized in Section 9.07 of this statute.

Band Statute 1000-MLC-4 was enacted by the Band Assembly in order to regulate and control the conduct of gaming within the boundaries of the Reservation. On November 10, 1981 the Band Assembly enacted in Section 1 of this statute a three (3) member Gaming Commission whose duty it was to promulgate rules and regulations for the conduct of gaming. Since this statute has been on the books the government as a whole as well as individual members of the government have received reports regarding apparent illegal activities. Some of these reports have been investigated while others have been disregarded for one reason or another. Soon after the date of enactment the Band Assembly confirmed Arthur Gahbow, Douglas Sam, and Henry Davis for a one year term on the Nay-Ah-Shing Gaming Commission. As of the date of this opinion these same persons are now acting in the capacity of Gaming Commission members without legal authority since their term of office has expired and the Band Assembly has not confirmed any individuals.

This violation of Section 1.01 concerns me because under Band Law all activities since November 10, 1982 are determined to be illegal activities since they have been conducted and authorized by a commission without legal status.

Secondly, I find many organizations who have conducted bingo or who are presently conducting bingo, who have conducted raffles, and who have conducted paper slott machine tickets and who are now conducting paper slott machine tickets

without the benefit of licensure. Even the Gaming Commission since acceptance of this statute has operated illegally by virtue of and failing to gain licensure from the Band Assembly .

Thirdly, Section 5 regarding gross receipts and profit records have not generally been kept for the purposes of determining accurate financial records of a gaming operation. Additionally I find violations of Section 5.01 in that the person who accounts for gross receipts and profits is the same person who accounts for other revenues of the organization.

Fourthly, I find that organizations have not filed quarterly reports of their financial condition with the Gaming Commission as required under Section 6 of the statute.

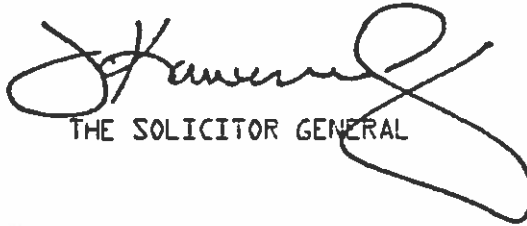
Fifth, reports have been forwarded to my office regarding unlawful use of profits of the Gaming Commission and some organizations which operate under the auspices of the Gaming Commission. The expenditure of profits has occurred without the adoption of the rules and regulations of the Gaming Commission for activities which are exterior to the lawful purpose of the Band Assembly in legalizing Gaming on the territories governed by the Non-removable Mille Lacs Band of Chippewa Indians.

As a result of this situation we have a series of illegal activities which have been compounded since the date of enactment of this statute. Since my confirmation and swearing in to the office of Solicitor General on May 26, 1983, I have restrained from exercising my lawful duty with regard to Band Statute 1000-MLC-4. It was during this time that the recommendations and suggestions offered at the Gaming Operations Workshop held in Las Vegas on April 28, 1983, would be implemented and that the impasse would be resolved. Unfortunately what has transpired during this interim period is more allegations of fraud and deceit perpetrated against the Nay-Ah-Shing Gaming Commission and its member organizations, even the elderly gaming activities was not exempt from being deceived by these illegal activities.

Further, in the interest of performing my statutorial authority and to remove the cloud of illegality, I officially request the Executive and Legislative branches of government for the Mille Lacs Band of Chippewa Indians to take appropriate steps necessary to bring gaming activities under compliance with Band Statute 1000-MLC-4. Additionally, I request new laws with which I can combat fraud and deceit whenever it occurs within the territorial jurisdiction of the Band. As of this date there now totals three (3) cases in which I have not been able to protect the interests of the Band members or the government as a whole in matters of illegality because we lack statutory authority to do so.

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Finally, should these compliance differences continue beyond July 31, 1983, I must perform my legal duty and request the Court of Central Jurisdiction to issue a writ of prohibition on all types of gaming activities within the jurisdiction of the Mille Lacs Band of Chippewa Indians until such time as full legal compliance is obtained. Should you require additional information or clarification regarding this matter, please do not hesitate to contact me. Please be assured of my intention to uphold the laws of the Band as enacted by the Band Assembly and request your assistance in this legal effort in the interests of upholding the conditions of our oath of office for the benefit of the people.


THE SOLICITOR GENERAL

DATED:

July 26, 1983