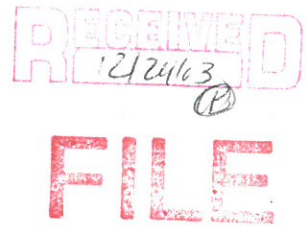




THE MILLE LACS BAND OF
OJIBWE INDIANS

Office of the Solicitor General



Solicitor's Opinion 26-03

On December 23, 2003, the Office of the Solicitor General received a request for a Solicitor's Opinion from Herb Weyaus, the Secretary-Treasurer of the Mille Lacs Band. The Mille Lacs Band of Chippewa Indians, a federally recognized Indian tribe, also known as the Mille Lacs Band of Ojibwe Indians (the "Band"). The Band has endeavored to obtain a loan from Wells Fargo for 43,000,000. The loan is for (7) seven years and is combined with restatement for notes of the Corporate Commission, although I lack a specific description of the notes. I have provided a limited review of the Consent Agreement between the Band, the Corporate Commission (the "Corporate Commission") and Wells Fargo Bank, National Association, acting for certain Secured Creditors therein described (the "Consent Agreement"). I understand that this opinion is required in connection with (a) a \$43,000,0000 loan to the Corporate Commission by the Bank, and (b) the restatement of certain notes of the Corporate Commission.¹

I have reviewed the Consent Agreement with the exception of any attachments, exhibits or supporting documents, along with originals or true and correct copies of the following:

- A. the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe (the "MCT Constitution"), as amended;
- B. the Mille Lacs Band Statutes Annotated ("MLBSA");

¹ The Corporate Commission failed to provide the Solicitor General the material in time to conduct a full and thorough review of all documents. In the future, the Solicitor General suggests that Corporate Commission provide all necessary parties the documents well in advance of closing.

- C. each of the tribal state compacts (the “Compacts”) for the Band entered into under the Indian Gaming Regulatory Act;
- D. Joint Session Resolution No. ____, approving the Consent Agreement (“Band Approving Action”);
- E. the Band’s Gaming Regulatory Act, adopted in 2003; and
- F. to the extent I have deemed appropriate, only the enumerated documents referred to in this opinion have been reviewed. This opinion makes no representations to any other document, agreement, resolution and has no applicability to any transaction beyond \$43,000.000 loan and Bond restatements stated in this Opinion.

Based on the foregoing, I am of the opinion that:

1. The Band is part of the Minnesota Chippewa Tribe (the “MCT”), a federally recognized Indian tribe organized under Section 16 of the Indian Reorganization Act of 1934 and the Constitution of the Minnesota Chippewa Tribe (the “MCT Constitution”). Under the MCT Constitution, the Band is to be governed by the Executive Committee of the MCT and the Reservation Business Committee of the Band, except that the Reservation Business Committees is authorized to manage, lease, permit or otherwise deal with tribal lands, interests in lands or other tribal assets owned exclusively by the Band. The Band is recognized as a federally recognized Indian tribe in its own right, and is an “Indian tribe” within the meaning of the Indian Gaming Regulatory Act of 1988, as amended (25 U.S.C. § 2701 et. seq.) (“IGRA”).
2. The powers of the Reservation Business Committee referred to in the MCT Constitution are exercised by the Band Assembly of the Band as described in 3 MLBSA § 1 (the “Band Assembly”), in conjunction with the Chief Executive of the Band described in 4 MLBSA § 2 (“Chief Executive”). The Band Assembly is the legislative branch of Band’s government and the Chief Executive is the Chairman of the Band, as referred to in the MCT Constitution. The

Band Assembly and the Chief Executive together possess all requisite power and authority necessary to authorize the Band to enter into the Consent Agreement.

3. Title 16 of the Mille Lacs Band Statutes is currently in effect as a valid law of the Band, and has not been amended, supplemented, or repealed since publication of the MLBSA in 1996.

4. All class II or class III gaming as defined in IGRA that is currently carried on by or on behalf of the Band is carried on solely by the Borrower (Corporate Commission).

5. Title 15 of the Mille Lacs Band Statutes, entitled "Gaming Regulatory Act" (the "Gaming Ordinance") was repealed and replaced by Band Ordinance 44-03, and constitutes the gaming ordinance required by IGRA for the Band to engage in class III gaming that is currently in effect. The Gaming Ordinance is currently in effect as a valid law of the Band, without amendment, supplement or repeal of any provision thereof. In compliance with IGRA, the Gaming Ordinance has been approved by the chairman of the National Indian Gaming Commission and such approval has been published in the federal register.

6. To my current and actual knowledge subject to my limited inquiry, the Band Assembly and Chief Executive are not in violation of any federal, state or tribal law, ordinance, resolution, regulation, rule, order, judgment or decree applicable to the Band or any such Affiliate, or any of the operations of the Band or any such Affiliate, or the Gaming Business Real Estate, whether created in writing or by custom or tradition (each, an "Applicable Law"), or in violation or in default under any contract, agreement, deed indenture, mortgage, instrument or agreement of any nature to which the Band or any of its Affiliates (excluding Borrower) is a party or to which property of the Band or any such Affiliate or the Gaming Business Real Estate is subject (each, an "Applicable Agreement"), other than violations or defaults that will not, individually or in the

aggregate, result in a material adverse effect on the operations, financial condition or prospects of the gaming and related business of the Corporate Commission (a "Material Adverse Effect").

7. To my current and actual knowledge, the Band is in compliance with the Gaming Ordinance, each of the Compacts and IGRA.

8. The Band Assembly and Chief Executive have duly authorized the Band's execution, delivery and performance of the Consent Agreement. The Band has all requisite power and authority to execute, deliver and perform its obligations under the Consent Agreement. The Joint Session resolution is a valid law of the Band, without amendment, supplement or repeal of any provision.

9. The Consent Agreement has been duly executed and delivered by the Band. Assuming due authorization, execution, and delivery by all parties thereto (other than the Band), the Consent Agreement, including the stated governing law and the Band's agreement to arbitrate as therein provided, is a valid and binding agreement of the Band, enforceable against the Band in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting enforcement of creditors' rights generally, or by general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law).

10. To my current and actual knowledge, none of the execution, delivery or performance of the Consent Agreement or will result in a default under or a breach or violation of any Band Resolution or Ordinance affecting the Band or any Agreement which binds the Band, the imposition of a lien or encumbrance on any properties of the Band or any of its their Affiliates

(excluding Borrower) (except as provided for in the Financing Documents) an acceleration of indebtedness or other performance by the Band or the revocation of any Approval.

11. Presently, no suits, actions, proceedings, inquiries or investigations, at law or in equity, by or before any tribal, federal, state, or local governmental agency, board, authority or instrumentality (“Proceedings”) now pending, or to the best of our knowledge threatened, by or against the Band, any of its Affiliates (excluding Borrower), any present or past member of the Band Assembly, any present or past Chief Executive, or as against or affecting the Gaming Business Real Estate: (i) that challenge or puts in issue any powers of the Band as a sovereign Indian tribe, the status of the Band as an Indian tribe under IGRA, or the right of either the Band Borrower to engage in gaming pursuant to terms of the Compacts as it is presently conducted. To the best of my current and actual knowledge, no Proceeding is now pending or threatened which calls into question the validity of any provision of any Tribal-State compact within the meaning of IGRA for any other Indian tribe in the State.

12. 18 MLBSA § 301 is currently in effect as Band law, without amendment, supplement or repeal of any provision, and enacted as Band law the Minnesota Uniform Commercial Code as in effect on the date of such enactment.

13. Except as provided in Article XIV, Section 2 of the MCT Constitution or in 3 MLBSA § 3, no Applicable Laws that authorize any referendum or election with respect to the Borrower Approving Resolution, the Band Approving Action or the actions approved. The referendum processes provided for in Article XIV, Section 2 of the MCT Constitution or in 3 MLBSA § 3 do not allow the disavowal of the Financing Documents, nor the abridgement of rights created thereunder in favor of the other parties thereto. Neither the exercise of rights available under such referendum or election provisions nor any other action of the Borrower, whether acting

through the General Council, Tribal Council, or any Affiliate can be lawfully exercised to revoke the General Council's authorization of the execution, delivery or performance of the Financing Documents by the Borrower and the otherwise materially impair the contractual rights of the Lenders under the Financing Documents.

14. This opinion letter may be relied upon only by the Lenders, the Agent, and their legal counsel, successors and assigns. This opinion is limited to the matters expressly set forth in the opinion letter and no opinion is to be implied or may be inferred beyond the matters expressly so stated. I undertake no obligation to update the opinion for events occurring after the date of the opinion letter. This Opinion shall be narrowly construed and applies only to this loan transaction. This Opinion shall automatically sunset upon the expiration of the loan and the restatement of any applicable notes.

Dated this ___ day of December, 2003

John Swimmer, Solicitor General, Mille Lacs Band
of Ojibwe Indians