

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RECEIVED

STATE OF ALABAMA,

2013 MAR 21 P 4: 10

Plaintiff,

DEBRA B. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

v.

PCI GAMING AUTHORITY, BUFORD
ROLIN, STEPHANIE BRYAN, ROBERT
MCGHEE, DAVID GEHMAN, ARTHUR
MOTHERSHED, SANDY HOLLINGER,
GARVIS SELLS, EDDIE TULLIS, KEITH
MARTIN, BRIDGET WASDIN, MATTHEW
MARTIN, BILLY SMITH, and TIM
MANNING,

CIVIL ACTION NO. 2:13-cv-178-WKW-WC

Defendants.

NOTICE OF REMOVAL OF CIVIL ACTION

Pursuant to the provisions of 28 U.S.C. §§ 1331, 1441, and 1442, the above-named Defendants hereby give notice of the removal of this action from the Circuit Court of Elmore County, Alabama, to the United States District Court for the Middle District of Alabama. In support of this removal, the Defendants show the Court the following:

1. On February 19, 2013, the Plaintiff filed a complaint against the Defendants in the Circuit Court of Elmore County, Alabama (File No. CV-2013-900057.00).
2. The various Defendants were served with the complaint via certified mail or had their legal counsel accept service on their behalf between February 19, 2013 and March 21, 2013.
3. This case is removable because it presents a putative state law claim that would affect tribal governance and regulation and federal oversight of gaming activity on Indian trust lands. Any such claim is completely preempted by the Indian Gaming Regulatory Act ("IGRA"),

25 U.S.C. §§ 2701, *et seq.*, and its implementing regulations. *See, e.g., Gaming Corp. of Am. v. Dorsey & Whitney*, 88 F.3d 536 (8th Cir. 1996) (holding that IGRA completely preempts any putative state law “claims that would intrude on the tribe’s regulation of gaming”); *Tamiami Partners, Ltd. v. Miccosukee Tribe of Indians of Fla.*, 63 F.3d 1030 (11th Cir. 1995) (discussing the extraordinarily broad preemptive scope of IGRA with respect to gaming activity on Indian lands).

4. Additionally, the putative state law claim set forth in the complaint is completely preempted because it necessarily challenges the status of Indian Country lands held in trust by the United States for the benefit of the Poarch Band of Creek Indians (“PBCI”).¹ As the United States Supreme Court has recognized, claims involving the status of Indian lands are so deeply rooted in federal law that they are properly decided in federal courts even in the absence of an expressly preemptive statute. *See, e.g., Oneida Indian Nation of N.Y. State v. Oneida Cnty., N.Y.*, 414 U.S. 661, 677-78 (1974) (holding that state claim asserting right to possession of Indian tribal lands arises under federal law and is completely preempted).

5. Alternatively, this case is removable under 28 U.S.C. § 1441 because it necessarily raises substantial, actually disputed, federal issues regarding the status of Indian lands held in trust by the United States and the validity of federal decisions recognizing the legality of the federally regulated gaming activity conducted on those lands, the resolution of which in federal court would not disrupt the federal-state balance approved by Congress. *See, e.g., Gunn v. Minton*, 133 S. Ct. 1059, 1065 (2013); *Grable & Sons Metal Prods. v. Darue Eng’g*

¹ The lands on which the PBCI and the Tribal Defendants oversee gaming activities are held in trust by the Secretary of the Interior for the benefit of PBCI. *See* Certified Copy, November 13, 1984 Escambia County Deed; Certified Copy November 21, 1984 Elmore County Deed; Certified Copy August 17, 1992 Escambia County Deed; Certified Copy March 23, 1995 Montgomery County Deed, attached collectively as Exhibit A.

& Mfg., 545 U.S. 308, 314 (2005); Letter from National Indian Gaming Commission to Luther Strange, Alabama Attorney General (March 14, 2013), attached as Exhibit B; Letter from Luther Strange, Alabama Attorney General, to National Indian Gaming Commission (March 15, 2013) (acknowledging that this case necessarily involves and is intended to resolve a “substantial question” regarding the legal status of lands held in trust by the United States), attached as Exhibit C; Letter from Luther Strange, Alabama Attorney General, to Joseph C. Espy, III (Oct. 19, 2012) (“Federal law governs those facilities [on Indian lands], and I do not have jurisdiction to enforce either federal or Alabama law against them.”), attached as Exhibit D; *Op. Ala. Att’y Gen.* 86-00327 (1986), attached as Exhibit E.

6. Finally, this case is removable under 28 U.S.C. § 1442(a)(2) because Defendants’ interests in the Indian tribal lands are derived from the federal Secretary of the Interior, and the claims here necessarily call into question the validity of federal law(s), regulations, and administrative decisions pertaining to Indian tribal lands and the lawfulness and regulation of gaming activity on such lands.

7. In accordance with 28 U.S.C. § 1446(a) and Local Rule 81.1, copies of all process, pleadings, and orders served upon the Defendants to date in the state court action are attached hereto as Exhibit F.

8. By filing this notice of removal, the Defendants do not waive and hereby expressly reserve the right to assert any and all available defenses or motions.

9. This notice of removal is timely, as it is being filed within thirty days of the complaint’s filing and of each Defendant’s receipt of the complaint. *See* 28 U.S.C. § 1446(b).

10. Written notice of this removal will be promptly provided to the Plaintiff through its attorney of record in the state court action and filed with the clerk of the state court as

required by 28 U.S.C. § 1446(d). All of the named Defendants are represented by the undersigned counsel and consent to the removal of this case from the Circuit Court of Elmore County, Alabama to this Court.

WHEREFORE the Defendants respectfully give notice of the removal of this action to this Court. Respectfully submitted this 21st day of March, 2013.



One of the Attorneys for Defendants

OF COUNSEL:

Robin G. Laurie (ASB-4216-U64R)
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Mark H. Reeves (*pro hac vice admission pending*)
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Kilpatrick Townsend & Stockton LLP
699 Broad Street, Suite 1400
Augusta, GA 30901-1453
Telephone: (706) 823-4206
Facsimile: (706) 828-4488

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon the following by placing a copy of same in the United States mail, properly addressed and postage prepaid, on this the 21st day of March, 2013:

Andrew L. Brasher
Henry S. Reagan III
Office of the Attorney General
501 Washington Avenue
Post Office Box 300152
Montgomery, AL 36130-0152


OF COUNSEL

EXHIBIT A

EXHIBIT A

Beginning at a point on the West line of Alabama Highway No. 21 which is 577.5 feet North of the South line of Northwest Quarter of Southwest Quarter of Section 28, Township 2 North, Range 6 East; thence run South 28° 32' West along the West line of said highway 750 feet; thence run North 84° 40' West 555.80 feet to make or form the starting point; thence continue North 84° 40' West 950.20 feet to the East line of Escambia County Road 14; thence run South 39° 30' East along the East line of said Road 14 a distance of 450 feet; thence run in an Easterly direction along the curve of the North line of said Road 14 a distance of 690 feet (chord: S 67° 15' E 663.6 feet); thence run North 85° 15' East along the North line of said Road 14 a distance of 172.6 feet; thence run North 13° 51' West 511.73 feet to the point of beginning, lying partly in Southeast Quarter of Southeast Quarter and partly in Northeast Quarter of Southeast Quarter of Section 29, Township 2 North, Range 6 East, in Escambia County, Alabama,

LESS AND EXCEPT all oil, gas and minerals.

ESCAMBIA COUNTY, STATE OF ALABAMA
Robert H. Maxwell
Judge of Probate in and for said County and State hereby certify that the above is a true and correct copy of the same being recorded in Book 432, page 4-5 now on file in my office. Witness my hand and seal this 20 day of March, 2013
Robert H. Maxwell
Judge of Probate

Signed for identification:

Joseph Walker Jerry
Jamell Wise Jerry

This instrument was prepared by
ROBERT H. MAXWELL
ATTORNEY AT LAW
104 North Main Street
ATMORE, ALABAMA 36502

Read. : #500
Ohio Doc. :

The State of Alabama, Escambia County
I hereby certify that the within instrument
was filed in my office for record on the 13 day of March, 1984 at 4:30 clock P.M., recorded in Book 432 at Page 4-5

Martha Kirkland
Judge of Probate

STATE OF ALABAMA X
:
ESCAMBIA COUNTY X

KNOW ALL MEN BY THESE PRESENTS: That we, JOSEPH WALKER TERRY and JEWELL WISE TERRY, husband and wife, hereinafter called Grantors, for and in consideration of the sum of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATIONS, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey unto UNITED STATES OF AMERICA, in Trust for the Poarch Band of Creek Indians, hereinafter called Grantee, the real estate situated in Escambia County, Alabama described on the attached Exhibit A.

TO HAVE AND TO HOLD to the said Grantee, its successors in trust and assigns.

And we do, for ourselves and our heirs, executors and administrators, covenant with the said Grantee, its successors in trust and assigns, that we are lawfully seized in fee simple of said premises; that they are free from all encumbrances and that we have a good right to sell and convey said property; that we will and our heirs, executors and administrators, shall warrant and defend the same to the said Grantee, its successors in trust and assigns forever, against the lawful claims of all persons.

IN WITNESS WHEREOF we have hereunto set our hands and seals this 13th day of November, 1984.

Joseph Walker Terry (SEAL)
JOSEPH WALKER TERRY

Jewell Wise Terry (SEAL)
JEWELL WISE TERRY

STATE OF ALABAMA X
:
ESCAMBIA COUNTY X

I, Robert H. Maxwell, a notary public in and for said state and county, hereby certify that JOSEPH WALKER TERRY and JEWELL WISE TERRY, husband and wife, whose names are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 13th day of November, 1984.

Robert H. Maxwell
NOTARY PUBLIC

My commission expires: 8-8-88.

750
50
900

STATE OF ALABAMA |
: STATUTORY WARRANTY DEED
ELMORE COUNTY |

KNOW ALL MEN BY THESE PRESENTS: That CREEK NATION EAST OF THE MISSISSIPPI, INCORPORATED (POARCH BAND OF CREEKS), a corporation, herein joined by its successor, POARCH BAND OF CREEK INDIANS, a federally recognized Indian tribe organized under the laws of the United States, for and in consideration of the sum of ONE DOLLAR AND OTHER GOOD AND VALUABLE CONSIDERATIONS to it in hand paid by UNITED STATES OF AMERICA, in Trust for the Poarch Band of Creek Indians as authorized by Sec. 5 of the act of June 18, 1934 (48 Stat. 985, 25 U.S.C. 465), the Grantee, the receipt whereof is hereby acknowledged, do grant, bargain, sell and convey unto the said Grantee the real estate situated, lying and being in Elmore County, Alabama which is described on the attached Schedule A.

TO HAVE AND TO HOLD the same unto the Grantee, its successors in trust and assigns.

IN WITNESS WHEREOF the undersigned has caused these presents to be executed this 21st day of November, 1984.

ATTEST:

CREEK NATION EAST OF THE MISSISSIPPI, INCORPORATED (POARCH BAND OF CREEKS), a corporation

Eugene Madison
Secretary

By: *Eddie L. Lullie*
Tribal Chairman

ATTEST:

POARCH BAND OF CREEK INDIANS

Eugene Madison
Secretary

By: *Eddie L. Lullie*
Tribal Chairman

ROLL 35 FRAME

000970

FILED IN PROBATE OFFICE
ELMORE COUNTY, AL.
E.W. ENSLEN, JUDGE

1984 NOV 28 AM 10:42

State of Alabama, Elmore County
I, John Enslen, Judge of Probate, Elmore County, Alabama, hereby certify that the within and foregoing is a true and correct copy of the original on file in this office.

Witness my hand and seal this 20th day of March 1984
John E. Enslen
John Enslen, Judge of Probate

ROLL 35 FRAME

FILED IN PROBATE OFFICE
ELMORE COUNTY, AL.
E.W. ENSLEY, CLERK

000971

1984 NOV 28 AM 10:42

STATE OF ALABAMA X
:
ESCAMBIA COUNTY X

I, Robert H. Maxwell, a notary public in and for the State of Alabama at Large, hereby certify that Eddie L. Tullis and Eugene Madison, whose names as Tribal Chairman and Secretary, respectively, of CREEK NATION EAST OF THE MISSISSIPPI, INCORPORATED (POARCH BAND OF CREEKS), a corporation, are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they as such officers and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 21st day of November, 1984.



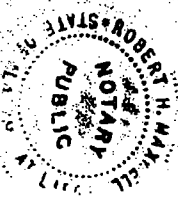
Robert H. Maxwell

NOTARY PUBLIC
My commission expires: 8-8-88.

STATE OF ALABAMA X
:
ESCAMBIA COUNTY X

I, Robert H. Maxwell, a notary public in and for the State of Alabama at Large, hereby certify that Eddie L. Tullis and Eugene Madison, whose names as Tribal Chairman and Secretary, respectively, of POARCH BAND OF CREEK INDIANS, a federally recognized Indian tribe organized under the laws of the United States, are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they as such officers and with full authority, executed the same voluntarily for and as the act of said tribe.

Given under my hand and official seal this 21st day of November, 1984.



Robert H. Maxwell

NOTARY PUBLIC
My commission expires: 8-8-88.

SCHEDULE A

Commence at the Southeast corner of Section 24, Township 18, Range 18, Elmore County, Alabama, and run thence West along section line a distance of 900.0 feet; thence N 1° 02' West along West property line of Southern Natural Gas Co. a distance of 340 feet; thence N 19° 09' East a distance of 1019.03 feet to West right of way of U. S. Highway 231; thence S 78° 16' West a distance of 316.80 feet; thence N 59° 56' West a distance of 440 feet; thence N 30° 04' E a distance of 875 feet; thence S 59° 56' East a distance of 489.46 feet to the point of beginning of tract herein conveyed; thence N 9° 04' East a distance of 231.24 feet; thence N 8° 56' East a distance of 150.26 feet; thence N 80° 59' W a distance of 17.41 feet; thence N 0° 39' E a distance of 120.0 feet; thence N 80° 29' W a distance of 97.56 feet; thence N 0° 21' W a distance of 665 feet; thence N 89° 39' East a distance of 50 feet; thence N 0° 21' West a distance of 645.87 feet (said point shall be hereinafter called "POINT A" for a 60 foot easement described below); thence continue N 0° 21' West a distance of 495 feet; thence N 70° 42' W a distance of 425 feet, more or less, to the East bank of the Coosa River; thence run South-westerly along said East bank a distance of 1960 feet, more or less; thence S 59° 56' East a distance of 1264.46 feet, more or less, to the point of beginning, said tract being located in the East Half of Section 24, Township 18, Range 18, Elmore County, Alabama, and containing 35.8 acres, more or less,

LESS AND EXCEPT a 60 foot by 60 foot easement on the Northeast corner for rights of egress and ingress;

ALSO: a 60 foot easement described as beginning at "POINT A" in above description and run thence N 89° 39' East a distance of 254.81 feet, more or less, to the West right of way of U. S. Highway 231 and South Main Street in the City of Wetumpka, Alabama, and said bearing and distance being the centerline of a 60 foot easement to above described property;

SUBJECT TO restrictive covenants dated July 28, 1980 (Card 014716) in the office of the Judge of Probate of Elmore County, Alabama,

SUBJECT TO sewage easement to the city of Wetumpka, and

SUBJECT TO flood rights of the United States of America.

Pursuant to the authority delegated in 3 B.I.A.M. 3.1.3 and Sec. 5 of the Act of 1934 (48 Stat. 984, 25 U.S.C. 465) this deed is herewith APPROVED AND ACCEPTED by the Secretary of the Interior.



Acting Area Director
Eastern Area Office - B.I.A.
FILED IN PROBATE OFFICE
ELMORE COUNTY, AL.
E.W. ENGLISH, JUDGE

This instrument was prepared by:
ROBERT H. MAXWELL
ATTORNEY AT LAW
104 North Main Street
ATMORE, ALABAMA 36502

ROLL 35 FRAME
000972

NOV 28 AM 10:42

mail: Ray V. Drew
Rt. 3 Box 243-A
Atmore, Al 36502

STATE OF ALABAMA

PAGE 1 of 2

ESCAMBIA COUNTY

WARRANTY DEED

FROM: The Poarch Band of Creek Indians

TO: United States of American
in Trust for the Poarch
Band of Creek Indians as
authorized by Sec. 5 of
the Act of June 18, 1934
(48 Stat. 985, 25 USC 465)

THIS DEED, made this 17th day of August, 1992, between the Poarch Band of Creek Indians, party of the first part, and the United States of American in Trust for the Poarch Band of Creek Indians as authorized by Sec. 5 of the Act of June 18, 1934, (48 Stat. 985, 25 USC 465), party of the second part.

WITNESSETH, that the said party of the first part, in consideration of the sum of one dollar and other kind of considerations (\$ 1.00), to the grantee in hand paid by the party of the second part, the receipt of which is hereby acknowledged, by these presents, does grant, bargain, and convey unto the United States of American in Trust for the Poarch Band of Creek Indians as authorized by Sec. 5 of the Act of June 18, 1934 (48 Stat. 985, 25 USC 465) and its assigns, all that tract of land lying in Escambia County, Alabama, described as follows:

That parcel of land named as Parcel 10, and further described as:

Commencing at the Southeast corner of the Northeast 1/4 of South-west 1/4 - Section 28 Township 2 North Range 6 East; thence North 577.5 feet; thence North 89 degrees West 2726 feet to the point of beginning; thence North 89 degrees West 100 feet; thence South 210 feet; thence North 89 degrees West 855 feet; thence South 0 degrees 21 minutes West 378.37 feet; thence South 84 degrees 40 minutes East 966 feet; thence North 28 degrees 32 minutes East 300 feet; thence North 89 degrees West 148 feet; thence North 395.34 feet to point of beginning. Containing 10.08 acres.

TO HAVE AND TO HOLD THE SAME together with all and singular the water rights and other rights, tenements, appurtenances, and hereitaments thereunto belonging to or anywise appertaining, unto the United States of American and its assigns forever.

AND the same party of the first part, heirs, successors, executors and administrators will warrant and forever defend the rights and title to the said land unto the United States of America and its assigns against the lawful claim of all persons whomsoever.

IN WITNESS WHEREOF, the party of the first part has hereunto set hand and seal on the date first above written.

Eddie L. Tullis
Chairman, Poarch Band of Creeks

Laverne P. Sweeney
Secretary, Poarch Band of Creeks

IN THE PRESENCE OF:

John R. Lambert
Wanda James

ESCAMBIA COUNTY, STATE OF ALABAMA
Robert D. McQueen
Judge of Probate in and for said County and State hereby certify
that the above is a true and correct copy of
Deed the same being
recorded in Book 20 page 306-307
now on file in my office. Witness my hand and seal this
17th day of March, 2013
Robert D. McQueen
Judge of Probate Sandra

AFFIDAVIT

Regarding the parcel of land named as Parcel 10:

Pursuant to the authority delegated in 209 DM 8 and 230 DM 3, I hereby accept the lands conveyed by this deed on behalf of the United States of American in Trust for the Poarch Band of Creek Indians of Alabama pursuant to Section 5 of the Indian Reorganization Act (Act of June 18, 1934, C. 576, 48 Stat. 986, 25 USC 465) and Section 203 of the Indian Land Consolidation Act.

The land which I have been authorized to accept, and do hereby accept on behalf of the United States, is:

Commencing at the Southeast corner of the Northeast 1/4 of South-west 1/4 - Section 28 Township 2 North Range 6 East; thence North 577.5 feet; thence North 89 degrees West 2726 feet to the point of beginning; thence North 89 degrees West 100 feet; thence South 210 feet; thence North 89 degrees West 855 feet; thence South 0 degrees 21 minutes West 378.37 feet; thence South 84 degrees 40 minutes East 966 feet; thence North 28 degrees 32 minutes East 300 feet thence North 89 degrees West 148 feet; thence North 395.34 feet to point of beginning. Containing 10.08 acres.

FURTHER, the Affiant Sayeth Not.

Date

8/17/92

B. D. Ott

B. D. Ott
Area Director
Eastern Area Office
Bureau of Indian Affairs

STATE:

Virginia

COUNTY:

Arlington

On this 17 day of August, 19 92, before me Francis V. Schales the undersigned Notary Public, personally appeared B. D. Ott know to me to be the Eastern Area Director, Eastern Area Office, Bureau of Indians Affairs, whose name is subscribed to the within instrument and who acknowledged to me that he/she executed and signed the same.

Francis V. Schales
Notary Public

August 17, 1992
Date

August 31, 1996
My Commission Expires

THE STATE OF ALABAMA, ESCAMBIA COUNTY
HEREBY CERTIFY THAT THE WITHIN INSTRUMENT

WAS FILED IN MY OFFICE FOR RECORD ON
THE 19 DAY OF August
1992 AT 11:31/11 O'CLOCK A M
AND RECORDED IN OR
BOOK 27 AT PAGE 306-307

W. W. N. G. J. Jr.
JUDGE OF PROBATE

S. O. Keen



RLPY 1555 PAGE 0699

STATE OF ALABAMA)
MONTGOMERY COUNTY)

PAGE 1 OF 2

WARRANTY DEED

FROM: The Poarch Band of Creek Indians TO: United States of America
in Trust for the Poarch
Band of Creek Indians as
authorized by Sec. 5 of
the Act of June 18, 1934
(48 Stat. 985, 25 USC
465)

THIS DEED, made this 23rd day of March, 1995,
between the Poarch Band of Creek Indians, party of the first part, and the
United States of America in Trust for the Poarch Band of Creek Indians as
authorized by Sec. 5 of the Act of June 18, 1934, (48 Stat. 985, 25 USC 465),
party of the second part.

WITNESSETH, that the said party of the first part, in consideration of the sum
of one dollar and other kind of considerations (\$1.00), to the grantee in hand
paid by the party of the second part, the receipt of which is hereby
acknowledged, by these presents, does grant, bargain, and convey unto the
United States of America in Trust for the Poarch Band of Creek Indians, as
authorized by Sec. 5 of the Act of June 18, 1934 (48 Stat. 985, 25 USC 465)
and its assigns, all that tract of land lying in Montgomery County, Alabama,
described as follows:

Commence at the SW corner of Section 27, T-17-N, R-19-
E, Montgomery County, Alabama and run EAST, 4340.49
feet; thence NORTH, 1806.29 feet to a point on
existing fence line and being the Point of Beginning;
Thence continue along said fence line 889°13'03"E,
136.34 feet; Thence continue along said fence line
S23°49'20" E, 62.92 feet; Thence continue along said
fence line N69°23'34"E, 219.92 feet to an existing
iron pin; Thence continue along said fence line
N17°23'26"W, 968.84 feet to an existing iron pin;
Thence leaving said fence line N18°23'18"W, 503.62
feet to a point on the southeast edge of the
Tallapoosa River; Thence along said edge S43°24'16"W,
618.01 feet; Thence leaving said edge S39°49'22"E,
150.00 feet to a point on an existing fence line;
Thence along said fence line S26°17'56"E, 374.05 feet;
Thence continue along said fence line S39°39'24"E,
198.60 feet; Thence continue along said fence line
S17°36'01"E, 386.15 feet to the Point of Beginning.
All lying in the E 1/2 Section 27, T-17-N, R-19-E,
Montgomery County, Alabama, and containing 12.86 acres
more or less.

TO HAVE AND TO HOLD THE SAME together with all and singular the water rights
and other rights, tenements, appurtenances, and hereditaments thereunto
belonging to or anywise appertaining, unto the United States of America and
its assigns forever.

AND the same party of the first part, heirs, successors, executors and
administrators will warrant and forever defend the rights and title to the
said land unto the United States of America and its assigns against the lawful
claim of all persons whomsoever.

IN WITNESS WHEREOF, the party of the first party has hereunto set hand and
seal on the date first above written.

Eddie L. Tullis
Chairman, Poarch Band of Creek Indians
Lavera Pohnoszny
Secretary, Poarch Band of Creek Indians

STATE OF ALABAMA)
ESCAMBIA COUNTY)

I, the undersigned authority, a Notary Public in and for said State and
said County hereby certify that Eddie L. Tullis and Lavera Pohnoszny, whose
names are signed to the foregoing conveyance, and who are known to me,
acknowledged before me on this day, that, being informed of the contents of
the conveyance, they executed the same voluntarily on the day the same bears
date.

GIVEN under my hand and seal this the 23rd day of MARCH, 1995.

David L. Kelly
NOTARY PUBLIC
My Commission Expires: October 17, 1997

RPY 1555 PAGE 0700

AFFIDAVIT

Regarding the parcel of land named as Parcel 17:

Pursuant to the authority delegated in 209 DM 8, Secretary Order Nos. 3150 and 3177, Amendment 1, dated December 28, 1994, and 10 BIAW, Bulletin 9409, dated December 29, 1994, and Memorandum from Assistant Secretary - Indian Affairs to All Area Directors, dated May 26, 1994, delegating authority to take off-reservation lands into trust I hereby accept the lands conveyed by this deed on behalf of the United States of America in Trust for the Poarch Band of Creek Indians of Alabama pursuant to Section 5 of the Indian Reorganization Act (Act of June 18, 1934, C. 576, 48 Stat. 986, 25 USC 465) and Section 203 of the Indian Land Consolidation Act.

The land which I have been authorized to accept, and do hereby accept on behalf of the United States, is:

Commence at the SW corner of Section 27, T-17-N, R-19-E, Montgomery County, Alabama and run EAST, 4340.49 feet; thence NORTH, 1806.29 feet to a point on existing fence line and being the Point of Beginning; Thence continue along said fence line S89°13'03"E, 136.34 feet; Thence continue along said fence line S23°49'20" E, 62.92 feet; Thence continue along said fence line N69°23'34"E, 219.92 feet to an existing iron pin; Thence continue along said fence line N17°23'26"W, 968.84 feet to an existing iron pin; Thence leaving said fence line N18°23'18"W, 503.62 feet to a point on the southeast edge of the Tallapoosa River; Thence along said edge S43°24'16"W, 618.01 feet; Thence leaving said edge S39°49'22"E, 150.00 feet to a point on an existing fence line; Thence along said fence line S26°17'56"E, 374.03 feet; Thence continue along said fence line S39°39'24"E, 198.60 feet; Thence continue along said fence line S17°38'01"E, 386.15 feet to the Point of Beginning. All lying in the E 1/2 Section 27, T-17-N, R-19-E, Montgomery County, Alabama, and containing 12.86 acres more or less.

FURTHER, the Affiant Sayeth NOT.

Date 3-25-95 Franklin Keel
Franklin Keel
Acting Area Director
Eastern Area Office

Bureau of Indian Affairs

STATE: ALABAMA
COUNTY: ESCAMBIA

On this 23rd day of MARCH, 1995, before me, the undersigned Notary Public, personally appeared Franklin Keel, known to me to be the Acting Eastern Area Director, Eastern Area Office, Bureau of Indian Affairs, whose name is subscribed to the within instrument and who acknowledged to me that he executed and signed the same.

Ernest T. Pollock
Notary Public

My Commission Expires October 17, 1997

100
100
500
650
13.50

STATE OF ALA.
MONTGOMERY CO.
CERTIFY THIS INSTRUMENT
WAS FILED ON

1995 APR -7 AM 11:41

Ernest T. Pollock
JUDGE OF PROBATE

INDEX	1.00
REC FEE	1.00
REC FEE	5.00
DEED TAX	6.50
CASH	13.50
ITEM 4	
04-07-95 FRI 80	1 CLEAR PAGE 20MIN

CERTIFIED COPY
I hereby certify this document was filed in
Montgomery County, Alabama on 4/7/95
Book RPY 1555
Page 0699-0700
Ernest T. Pollock
JUDGE OF PROBATE

EXHIBIT B



March 14, 2013

Luther Strange, Attorney General
State of Alabama Office of the Attorney General
Office of the Attorney General
P.O. Box 300152
Montgomery, AL 36130-0152

Re: Indian Gaming in Alabama

Dear Mr. Attorney General:

On March 11, 2011, National Indian Gaming Commission Chairwoman Tracie Stevens copied you on a letter to Alabama Governor Robert Bentley clarifying the mandates of the Indian Gaming Regulatory Act and the NIGC's authority to ensure that all Indian gaming facilities are operating within the requirements of the Act. The letter was sent primarily to respond to concerns that former Governor Bob Riley had expressed, but also to indirectly respond to comments you had made as part of the NIGC's review of its regulations. Though I believe that letter thoroughly articulated the NIGC's authority over Indian gaming on Indian lands, the recent action taken by your office against the Poarch Band of Creek Indians, as well as subsequent statements in press releases and newspaper editorials, gives me cause to reiterate that federal, not state, law applies to gaming within the Poarch Band's Indian lands and the NIGC, not the State, has jurisdiction over that gaming.

For a complete discussion of IGRA and its provisions regarding bingo, I refer you to Chairwoman Stevens' March 11, 2011 letter. I have enclosed a copy for your convenience. Briefly, though, that letter makes clear that Indian tribes are not bound by state definitions of the game of bingo when operating on Indian lands. So long as a state permits the game of bingo, regardless of its definition of the game, a tribe in that state may operate the game as defined by IGRA. Furthermore, Congress vested NIGC, and not states, with the authority to regulate bingo conducted on Indian lands.

Since it was passed in 1988, courts have repeatedly confirmed that IGRA preempts state gaming laws. In *Florida v. Seminole Tribe of Florida*,¹ the 11th Circuit Court of Appeals held that "[t]he legislative history of IGRA indicates that Congress...

¹181 F.3d 1237, (11th Cir. 1999)

struck a careful balance among federal, state, and tribal interests.”² According to the court, “[a] central feature of this balance is IGRA’s thoroughgoing limits on the application of state laws and the extension of state jurisdiction to tribal lands.”³ In *Casino Resource Corporation v. Harrah’s Entertainment, Inc.*,⁴ the 8th Circuit Court of Appeals likewise held that “[e]xamination of the text and structure of IGRA, its legislative history, and its jurisdictional framework likewise indicates that Congress intended it completely preempt state law.”⁵ The court went on to say that “Congress, by enacting IGRA, has established the preemptive balance between tribal, federal, and state interests in the governance of gaming operations on Indian lands.”⁶ The court also noted past rulings that “[a]ny claim which would directly affect or interfere with a tribe’s ability to conduct its own [gaming] licensing process should fall within the scope of [IGRA’s] complete preemption.”⁷

If a tribe operates gaming pursuant to IGRA, then, state laws regarding bingo and class II games are preempted by the Act and, as explained in Chairwoman Stevens’ March 11 letter, a tribe may operate bingo as defined by IGRA, not state law. The Poarch Band meets IGRA’s basic requirements for gaming under IGRA. The Poarch Band is a federally recognized Indian tribe,⁸ it operates its gaming on “Indian lands” as defined by the Act,⁹ and Alabama permits the play of bingo. Since IGRA preempts Alabama’s laws regarding gaming, the Poarch Band may operate bingo, as defined by IGRA, on its Indian lands and that gaming falls under the regulatory purview of the NIGC, not the State of Alabama.

I hope this letter resolves any misunderstanding about the Poarch Band’s authority to operate bingo on its Indian lands. If you have additional questions, though, or wish to discuss the matter further, please do not hesitate to contact me.

Sincerely,



Eric Shepard
Acting General Counsel

² *Id.* at 1247, citing, S. Rep. No. 100-446, at 5-6 (1988).

³ *Id.*

⁴ 243 F.3d 435 (8th Cir. 2001)

⁵ *Id.*, citing *Gaming Corp. of Am. v. Dorsey & Whitney*, 88 F.3d 536, 544 (8th Cir. 1996).

⁶ *Id.* at 437, citing *Gaming Corp. of America v. Dorsey & Whitney*, 88 F.3d at 548-49 and 25 U.S.C. § 2710(d)(3)(C); 1988 U.S.C.C.A.N. 3076 (IGRA “expressly preempt[s] the field in the governance of gaming activities on Indian lands”).

⁷ *Id.* citing *Gaming Corp. of America v. Dorsey & Whitney*, 88 F.3d at 549.

⁸ See, *Indian Entities Recognized and Eligible To Receive Services From the Bureau of Indian Affairs*, 77 FR 47868-01 (August 10, 2012).

⁹ See, Letter from Laverdure to Stokes of 6/4/12; letter from Hogen to Rolin of 5/19/08.

EXHIBIT C



STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

LUTHER STRANGE
ATTORNEY GENERAL

801 WASHINGTON AVENUE
P.O. BOX 300152
MONTGOMERY, AL 36130-0152
(334) 243-7300
WWW.AGG.STATE.AL.US

March 15, 2013

Via Facsimile and U.S. Mail

Mr. Eric Shepard
Acting General Counsel
National Indian Gaming Commission
1441 L. Street NW
Suite 9100
Washington, D.C. 20005

Re: Response on Indian Gaming in Alabama

Dear Mr. Shepard:

I am in receipt of your letter dated March 14, 2013. Rest assured, I have no "misunderstanding" about the National Indian Gaming Commission's legal position. I know that the NIGC intends to allow the Poarch Tribe to profit from so-called "electronic bingo," even though "electronic bingo" is illegal under Alabama law. I know that, even "[i]f a state permits paper bingo only," it is your position that "a tribe within that state may play electronic bingo." I just believe that you are wrong.


Your letter is contrary to clearly established law when it asserts that state law does not apply to slot-machine gambling on Indian Lands. The Indian Gaming Regulatory Act expressly distinguishes between "technological aids" that may be used with Class II games like bingo, which can be operated without the State's permission, and Class III games such as "slot machines," which cannot be operated without the State's permission. *See, e.g.*, Disapproval Letter from Commissioner Philip Hogen to Mayor Karl S. Cook at 7 (June 4, 2008). The Indian Gaming Regulatory Act specifically provides that Indian tribes cannot use "electronic or electromechanical facsimiles of any game of chance or slot machines *of any kind*." 25 U.S.C. § 2703(7)(b)(2) (emphasis added). The Poarch Tribe's gambling devices are a "kind" of "slot machine," not "technological aids" to help people play bingo.

Mr. Eric Shepard
Acting General Counsel
National Indian Gaming Commission
March 15, 2013
Page Two

Moreover, your letter does not address one of the biggest hurdles that the Poarch Tribe faces-- *Carcieri v. Salazar*, 555 U.S. 379 (2009). In *Carcieri*, the U.S. Supreme Court held that the Secretary of Interior did not have the power to set aside land for Indian tribes to use for gambling if those tribes were not recognized and under federal jurisdiction in 1934. The Poarch Tribe was first recognized in the 1980s, raising a substantial question about whether the Poarch Tribe has an obligation to comply with Alabama law regardless of the Indian Gaming Regulatory Act.

Ultimately, it is my intent to resolve these issues in court. I believe that my pending lawsuit against the Poarch Tribe will help to provide some clarity on what kinds of gambling the Poarch Tribe can offer.

Sincerely,

A handwritten signature in black ink that reads "Luther Strange" with a horizontal flourish at the end.

Luther Strange
Attorney General

LS:AB:smm

EXHIBIT D



STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

LUTHER STRANGE
ATTORNEY GENERAL

October 19, 2012

501 WASHINGTON AVENUE
P.O. BOX 300182
MONTGOMERY, AL 36130-0182
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WWW.AGO.STATE.AL.US

VIA HAND DELIVERY:

Mr. Joseph C. Espy, III
Melton, Espy & Williams
Attorneys at Law
255 Dexter Avenue
Montgomery, Alabama 36104

Dear Joe:

Thank you for meeting with us to discuss the interests of your clients, Milton McGregor and Victoryland, in opening a casino in Macon County and offering a game that is sometimes referred to as "electronic bingo." As of now, I do not know precisely what sorts of gambling devices your clients hope to operate in Macon County, and I do not know the precise business model under which your clients plan to operate. But assuming that they are the same sorts of machines and business models we have seen in the past two years at Greenetrack and other locations in Greene County and at Center Stage in Houston County, I want to make my position clear and let you know of the options I believe your clients have going forward. For these purposes, the Macon County Bingo Amendment is not meaningfully different from the Greene County and Houston County Bingo Amendments. Thus, my position on the legality of your clients' machines and operations, and on what options your clients have, is the same as it has been in those two other counties.

The operations we have seen over the past two years have been illegal for at least three reasons.

First, the machines they have used have been slot machines, as defined in Ala. Code §13A-12-20 (1975). These machines have accepted cash value and then awarded prizes based on a game of chance. The slot-machine statute makes it illegal to possess a slot machine, even when the possessor does not have the "intention that it be used in the advancement of unlawful gambling activity." Ala. Code §13A-12-27 (1975). The Legislature and people of Alabama enacted the "bingo" amendments against the backdrop of this strict-liability slot-machine statute, and they cannot be deemed to have impliedly repealed this code provision as to slot

Mr. Joseph C. Espy, III
October 19, 2012
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machines that purport to play "bingo." Therefore, regardless of what game is purportedly being played on these machines, they are illegal under the Alabama Code.

Second and at any rate, even if these machines had not been slot machines, they have not played the game of "bingo" that is made legal by any of the bingo amendments, as explained in *Barber v. Cornerstone Community Outreach, Inc.*, 42 So. 3d 65 (Ala. 2009). During the games, there have not been numbers announced one by one, and the players have not been required to individually daub matching bingo numbers on a card, one by one. This requirement is critical. Because these machines have not met the definition of "bingo," they have been unlawful gambling devices under Ala. Code §13A-12-20.

Third, the operations in these locations have been illegal because the bingo amendments do not authorize for-profit "bingo" operations. I realize that the Macon County Amendment does have one difference from the other amendments: it says the "nonprofit organization may enter into a contract with any individual, firm, association, or corporation to have the individual or entity operate bingo games or concessions on behalf of the nonprofit organization." But as is the case with the other amendments, the operation of the bingo games itself must be for charitable, educational, or other similar purposes. Making profits for slot-machine companies is not one of those purposes. Accordingly, any purported "bingo" arrangement that is designed to make profits for your clients or others is not authorized under the amendment.

Despite our efforts to enforce the law, some of these operations have sought to reopen, in outright defiance of the law, even after law enforcement has seized their machines and while proceedings to forfeit their machines have been pending in the courts. I want to assure you that we will continue to enforce the law throughout Alabama.

You also are likely aware of the situation with Class II gaming on Indian land. Federal law governs those facilities, and I do not have jurisdiction to enforce either federal or Alabama law against them. That said, I believe that those facilities are in violation of federal law, and have taken every measure at my disposal to encourage the Obama Administration to enforce the law against those facilities. But the Administration has refused to enforce the law in this area. I attach, for your information, three letters I sent the Administration on this issue during the last two years, as well as the Administration's hostile response. I would note that the

Mr. Joseph C. Espy, III
October 19, 2012
Page Three

Administration does not take the position that "electronic bingo" is legal under Alabama law; its position is that "electronic bingo" is legal on Indian land under federal law regardless of whether it is legal under Alabama law. In any event, your clients should be fully aware that they cannot justify opening operations within state jurisdiction that are illegal under state law, based on the fact that Indian casinos are operating on land over which the State does not have jurisdiction, and where federal law governs.

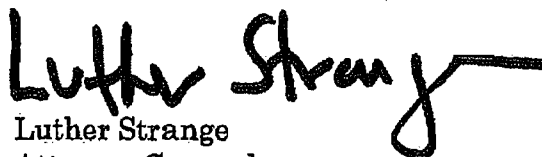
If your clients' plans are legally problematic in light of what I have stated above, the most prudent course for them, and the best course for Alabama, would be for them to remain closed and to instead use their substantial capital and business acumen to pursue other endeavors that are better for Alabama and its people, including those in Macon County. Build a manufacturing facility. Build a hospital. Those operations are clearly legal and would provide good jobs to Alabama residents. But if your clients are intent upon operating an "electronic bingo" casino no matter what I say, it seems to me that they have two other options, which are very similar to the options we have given operations in other locations in the State.

First, your clients could amicably allow state law enforcement agents to seize some or all of the machines that your clients intend to operate and evidence about how they would be operated. Your clients could then argue their case in court through a forfeiture action, which we would be willing to expedite. To be clear, the State could not agree to allow your clients to open until after the court had issued a final judgment finding the operation to be legal.

Second, your clients could reopen and assume the risk that they are violating the law. Law enforcement action would then follow as appropriate.

For various reasons, the first option is far superior for all parties involved. It is unclear to me why your clients would not readily welcome the possibility of obtaining an up-or-down ruling from a neutral judge, possibly before the end of this year, on the legality of their proposed operations. If you would like to discuss this option further, please contact John Neiman at (334)-353-2187 as soon as possible.

Sincerely,

A handwritten signature in black ink that reads "Luther Strange". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Luther Strange
Attorney General

LS:JN:smm
Enclosure



STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

February 11, 2011

LUTHER STRANGE
ATTORNEY GENERAL

501 WASHINGTON AVENUE
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The National Indian Gaming Commission
1441 L Street, NW Suite 9100
Washington, D.C. 20005

Dear Commission Members:

Thank you for the opportunity to provide comment to the National Indian Gaming Commission as the Commission conducts a comprehensive review of all regulations promulgated to implement the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2701 *et seq.* Any changes made to the rules that regulate Native American Indian tribal gaming could have a definite impact on the State of Alabama and its citizens. I urge you to make clear that Native American Indian tribes located in Alabama cannot engage in gambling activities that are patently illegal under Alabama law. It is out of this concern that I write this letter so that you will know, without any doubt, what the law is in Alabama.

The Alabama Constitution of 1901 imposes a strict prohibition against gambling in the State. Article IV, § 65 of the Alabama Constitution of 1901, provides:

The legislature shall have no power to authorize lotteries or gift enterprises for any purposes, and shall pass laws to prohibit the sale in this state of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery; and all acts, or parts of acts heretofore passed by the legislature of this state, authorizing a lottery or lotteries, and all acts amendatory thereof, or supplemental thereto, are hereby avoided.

ALA. CONST., art IV, § 65.

Slot machines and other gambling devices, as defined in Ala. Code § 13A-12-20 (1975), are also patently illegal in all 67 Alabama counties under § 13A-12-27 of the Code of Alabama and § 65 of the Alabama Constitution.¹ While several local constitutional amendments have authorized "charity bingo" in certain Alabama counties, absolutely no amendment to the Alabama Constitution has authorized slot machines or other illegal gambling devices in any county. Machines that accept cash or credit and then dispense cash value prizes based upon chance are slot machines under Alabama law

¹ See *State ex rel. Tyson v. Ted's Game Enterprises*, 893 So. 2d 376, 380 (Ala. 2004) ("[W]e hold that Article IV, § 65, means what it says, and prohibits the Legislature from authorizing 'lotteries or gift enterprises' that involve games or devices in which chance predominates the outcome of the game, even if 'some skill' is involved" (emphasis added)).

The National Indian Gaming Commission
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and are not made legal by any bingo amendment. Likewise, no local bingo rule, regulation or ordinance can legally authorize slot machines. Two trial judges in Alabama have issued rulings holding as much in the last two years.² For reasons of their own, the gambling interests consciously chose not to appeal the rulings in either case.

Moreover, even putting aside the question of the slot-machine statute, the Alabama courts have repeatedly held, in no uncertain terms, that the term “bingo” in these local constitutional amendments references only the game commonly or traditionally known as bingo. The Court’s ruling in the recent *Barber v. Cornerstone*³ case considered the application of that principle to the “electronic bingo” issue. The Court laid out six factors that, at a minimum, a game must possess to be considered legal “bingo” for purposes of these amendments. These factors include the following:

1. Each player uses one or more cards with spaces arranged in five columns and five rows, with an alphanumeric or similar designation assigned to each space.
2. Alphanumeric or similar designations are randomly drawn and announced *one by one*.
3. In order to play, each player *must pay attention* to the values announced; if one of the values matches a value on one or more of the player’s cards, the player *must physically act by marking his or her card accordingly*.
4. A player can fail to pay proper attention or to properly mark his or her card, and thereby miss an opportunity to be declared a winner.
5. A player must recognize that his or her card has a “bingo,” i.e., a predetermined pattern of matching values, and in turn *announce to the other players* and the announcer that this is the case before any other player does so.
6. The game of bingo contemplates a group activity in which multiple players compete against each other to be the first to properly mark a card with the predetermined winning pattern and announce that fact.⁴

² See *State v. American Gaming Sys.*, No. CV 08-1837 (Jefferson Cnty. Cir. Ct. Oct. 26, 2009) (Vowell, P.J.) (slip op. at 9-12); *Dep’t of Tax. Veterans v. Dorning*, No. 07-S-2144-NE (N.D. Ala. Sept. 28, 2009) (Smith, J.) (slip op. at 29-52). Copies of these opinions can be provided if necessary.

³ See *Barber v. Cornerstone Community Outreach, Inc.*, 42 So. 3d 65 (Ala. 2009).

⁴ *Id.* at 86.

The National Indian Gaming Commission
February 11, 2011
Page 3

The Supreme Court also held that “the bingo amendments are exceptions to the lottery prohibition, and the exception should be narrowly construed.”⁵ These factors cannot be changed, diluted, waived, redefined or reinterpreted by local rule, local regulation, or local definitions. As the emphasized portions of those factors indicate, it appears to be impossible that the fully automated game called “electronic bingo” can be legal “bingo” for these purposes of these amendments. Indeed, in *Cornerstone* itself, the Alabama Supreme Court found that gambling interests had not even established a reasonable probability of showing that “electronic bingo” was in fact the game of bingo that is authorized in certain localities under Alabama law.

Because these machines are illegal under Alabama law, they are illegal under IGRA. Section 2701 of the IGRA provides “The Congress finds that...(5) Indian tribes have the exclusive right to regulate gaming activity on Indian lands *if* the gaming activity ... is conducted within a State which does not, as a matter of criminal law and public policy, prohibit such gaming activity.” (Emphasis added.) The Commission should make clear that Native American Indian tribes located in Alabama cannot operate so-called “electronic bingo machines” and other gambling devices which look like, sound like, and attract the same class of customers as conventional slot machines, but play a six second game of “bingo” in cyberspace using software that allows card-minders and auto daub features that are specifically designed to recreate a slot machine experience for the player with little to no human interaction.⁶

I would also ask that any regulations make clear that the mere fact that traditional bingo is allowed in certain parts of this State does not mean that “electronic bingo” is legal on Indian lands in this State. As the Alabama Supreme Court made clear in the *Cornerstone* case, the traditional game of bingo, with all its qualities of human interaction and skill, is qualitatively different from the game that has come to be called “electronic bingo.” The most obvious difference between the two games is in the costs they impose on society. In light of the speed at which “electronic bingo” is played, it is much more likely to lead to addiction, severe economic losses, and the other societal harms traditionally associated with gambling. In contrast, the traditional game of bingo cannot be played so swiftly as to cause serious debts and gambling addiction. Indeed, it

⁵ *Id.* at 78.

⁶ In *Barber v. Jefferson County Racing Association*, 960 So. 2d 599 (Ala. 2006), the Supreme Court addressed a system of terminals linked by a server that, instead of purporting to play “bingo,” purported to run a “sweepstakes.” The court nonetheless held that the game was illegal under a common-sense application of the term “slot machine.” See *Id.* at 614. The court looked to “the substance and not the semblance of things, so as to prevent evasions of the law.” *Id.* at 611 (internal quotation marks omitted). The court focused on whether the machines “are slot machines as to those who pay to play them.” *Id.* at 615. Employing this realistic approach, the court found illegal “a system composed of what were formerly slot machines, which look like, sound like, and attract the same class of customers as conventional slot machines, and, when integrated with the servers, serve essentially the same function as did the slot machines.” *Id.* at 616.

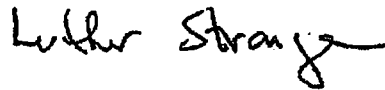
The National Indian Gaming Commission
February 11, 2011
Page 4

is precisely for that reason that gambling interests prefer to offer so-called "electronic bingo" to their customers: "electronic bingo" is much more profitable to casinos than bona fide traditional game of bingo. It would make no sense for federal law to provide that the fundamentally different game of "electronic bingo" is legal on Indian land simply because Alabama law allows the traditional game of bingo to be played for certain charitable purposes on certain non-Indian lands.

With the gambling interests constantly looking for loopholes and ambiguities to exploit, it is essential that this Commission maintain a consistent and cohesive posture in enforcing and clarifying Native American Indian gambling laws in a way that clearly demarcates legal and illegal gambling activities. These laws must be strictly written and enforced without exception. Any other alternative is simply unacceptable.

If this Commission needs any further comment or information related to this matter, do not hesitate to contact my office.

Sincerely,



Luther Strange
Attorney General

LS/htr



Sonny
Reagan

March 11, 2011

Via First Class mail & Facsimile

The Honorable Robert Bentley, Governor
State of Alabama
State Capitol
Montgomery, Alabama 36130
Fax: (334) 242-0937

Re: Indian gaming in Alabama

Dear Governor Bentley:

On January 11, 2011, the National Indian Gaming Commission (NIGC) received a letter from former Governor Bob Riley. In the letter, Governor Riley clarified his administration's position on gaming being conducted by the Poarch Band of Creek Indians and asked the NIGC to investigate and shut down the Poarch Band's facilities. More recently, Attorney General Luther Strange submitted comments to the NIGC in response to a Notice of Inquiry regarding agency regulations. Unlike Governor Riley's letter, Mr. Strange's comments were not specific to the Poarch Band, but spoke to the status of electronic bingo machines under Alabama law in general. In light of these letters, I want to take this opportunity to set forth NIGC's authority under the Indian Gaming Regulatory Act (IGRA) for ensuring that all tribal gaming facilities, including those in Alabama, are operating within the strictures of IGRA.

The Indian Gaming Regulatory Act was passed by Congress in 1988 to create a federal statutory framework for Tribal gaming. 25 U.S.C. § 2701, et seq. The purposes of the Act include "the establishment of independent Federal regulatory authority for gaming on Indian lands" and "the establishment of Federal standards for gaming on Indian lands." 25 U.S.C. § 2702(3). Further, Congress established the National Indian Gaming Commission to meet its concerns regarding gaming and the protection of it as a means of generating tribal revenues. *Id.*

Subject to the Act's provisions, qualifying tribes conduct Class II and III gaming on their lands. Unlike Class III gaming, which accords a discrete role for states, Class II gaming is within the jurisdiction of the Indian tribes, subject to regulation by the Federal government as set forth in IGRA. 25 U.S.C. § 2710(a)(2). A tribe may engage in Class II gaming on Indian lands within its jurisdiction if the gaming is located within a state that permits such gaming for any purpose, by any person, organization or entity, and the tribe adopts a gaming ordinance approved by the NIGC Chairwoman. *Id.* at § 2710(b)(1).

At the time IGRA was passed, the United States Senate understood that most states permitted bingo pursuant to varying restrictions and regulations. Rather than bind tribes to the various state laws, and thereby create different standards for different tribes, Congress defined the game of bingo in IGRA. See 25 U.S.C. § 2703(7). In the Senate Report accompanying an earlier version of IGRA, the Senate Committee on Indian Affairs stated, "In...forty-five states, some form of bingo is permitted and where Indian tribes and Indian lands exist in those states, such tribes would be permitted to operate bingos as otherwise regulated by this Act." S. Rep. No. 99-493 at p. 14. That is to say, tribes are permitted to play bingo pursuant to and as defined by IGRA, not state law.

IGRA defines bingo through its definition of Class II gaming. "Class II gaming" includes:

- (i) the game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith) -
- (I) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,
- (II) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and
- (III) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo.

25 U.S.C. § 2703(7).

In enacting this definition, Congress clearly intended that tribes should have every opportunity to take advantage of technology in the play of bingo. IGRA specifically includes bingo played with an "electronic, computer, or other technological aid." *Id.* Further, in its report accompanying IGRA, the Senate Committee on Indian Affairs stated that it "specifically rejects any inference that tribes should restrict class II games to existing games sizes, levels of participation, or current technology." S. Rep. No. 100-446 at p. 9. As an example, the Committee noted that:

tribes may wish to join with other tribes to coordinate their class II operations and thereby enhance the potential of increasing revenues. For example, linking participant players at various reservations whether in the same or different States, by means of telephone, cable, television or satellite may be a reasonable approach for tribes to take.

Id.

The Committee further stated that “[s]imultaneous game participation between and among reservations can be made practical by use of computers and telecommunications technology as long as the use of such technology does not change the fundamental characteristics of the bingo or lotto games and as long as such games are otherwise operated in accordance with applicable Federal communications law.” *Id.*

Thus, so long as a state permits the game of bingo, regardless of the state’s definition of the game, an Indian tribe within that state may also play bingo as defined in IGRA. Accordingly, tribes are not bound to state definitions of the game of bingo. If a state permits paper bingo only, as Mr. Strange represents Alabama does, a tribe within that state may play electronic bingo so long as it otherwise meets IGRA’s Class II gaming definition.

Although IGRA’s definition of bingo may be more expansive than that of a particular state, tribes may operate class II bingo as set forth in IGRA’s definition. In IGRA, Congress vested NIGC, and not states, with the authority to monitor Class II gaming conducted on Indian lands.

I hope this letter answers any questions you may have about Indian gaming in Alabama generally, as well as any specific concerns raised by Governor Riley’s January letter. Additionally, Attorney General Strange’s recent comments on electronic gaming are being considered as part of the NIGC’s comprehensive review of all comments received in response to the Notice of Inquiry. If you or your staff has further questions or concerns, please do not hesitate to contact me.

Sincerely,



Tracie L. Stevens
NIGC Chairwoman

cc: Luther Strange, Attorney General, State of Alabama



STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

LUTHER STRANGE
ATTORNEY GENERAL

501 WASHINGTON AVENUE
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April 25, 2012

The National Indian Gaming Commission
1441 L Street, NW Suite 9100
Washington, DC 20005

Dear Commission Members:

Thank you for the opportunity to provide comment to the National Indian Gaming Commission concerning the Commission's proposed revisions to 25 CFR Part 543 Minimum Internal Control Standards for Class II Games and Part 547 Minimum Technical Standards for Gaming Equipment Used in the Play of Class II Games. On February 11, 2011, I urged you to use your comprehensive review of existing regulations to "make clear that Native American Indian tribes located in Alabama cannot engage in gambling activities that are patently illegal under Alabama law." After reviewing the discussion drafts for Part 543 and Part 547, I fear that the Commission may miss an important opportunity to do just that.

Slot machines cannot be operated by a Native American Indian tribe on land located in a State like Alabama that has not agreed to a compact with that tribe. As you know, when Congress enacted the Indian Gaming Regulatory Act ("IGRA"), it envisioned two distinct types of gaming – the traditional game of bingo on the one hand and casino halls filled with slot machines on the other. *See, e.g.*, Disapproval Letter from Commissioner Philip Hogen to Mayor Karl S. Cook at 7 (June 4, 2008). That is why IGRA distinguishes between "technological aids" that may be used with Class II games like bingo, which can be operated without a compact, and Class III games such as "slot machines," which cannot be operated without a compact. In fact, IGRA expressly provides in no uncertain terms that "'class II gaming' does not include . . . electronic or electromechanical facsimiles of any game of chance or slot machines of any kind." 25 U.S.C. § 2703(7)(b)(2) (emphasis added).

After IGRA was enacted, slot machine manufacturers and tribes went to great lengths to conflate Class III slot machines with *bona fide* "technological aids" used to play the traditional game of Class II bingo. By 2006, this Commission was rightly "concerned that the industry is dangerously close to obscuring the line between Class II and III" altogether. *See Proposed Rule, 25 CFR Part 502 and 546, Classification Standards, Class II Gaming, Bingo, Lotto, et al., 71 Fed. Reg. 30238 (May 25, 2006).* For that reason, the Commission proposed the regulations that eventually became Part 543 and Part 547 as part of a package of reforms designed to enforce the

The National Indian Gaming Commission
April 25, 2012
Page 2

statutory distinction between Class II and Class III games. *Id.* Although I do not agree with each and every element of those proposed reforms, I do agree with the Commission's original goal of enforcing IGRA's clear line between Class II and Class III games.

Unfortunately, the Commission gutted those reforms. It abandoned any effort to enforce the statutory line between "technological aids" and "facsimiles" of games of chance through a meaningful regulation. Instead, the Part 543 and Part 547 that were ultimately enacted "do not attempt to draw such a line" between Class II and Class III gambling devices, but simply "assume that such a line already exists." 73 Fed. Reg. 60523 (Oct. 10, 2008). When it failed to adopt the proposed regulation, the Commission promised to "address . . . classification issues through a combination of training, technical assistance, and enforcement actions." See *Withdrawal of Classification Standards for Bingo, Lotto, Other Games Similar to Bingo, Pull Tabs and Instant Bingo as Class II Gaming When Played Through an Electronic Medium Using "Electronic, Computer, or Other Technologic Aids,"* 73 Fed. Reg. 60490, 60491 (Oct. 10 2008).

Given this background, I have four specific comments on the Commission's current discussion drafts of Part 543 and Part 547.

First, the Commission's minor edits to Part 543 and Part 547 do nothing to give teeth to the important distinction between Class II "technological aids" and Class III slot machines. The main problem when these regulations were first proposed was the proliferation of Class III slot machines under the guise of Class II "technological aids," but Part 543 and Part 547 as they presently exist have done little to solve it. In Alabama, the Poarch Band of Creek Indians operate three Indian casinos that offer ostensibly Class II gambling that approximates the same kind of slot machine gambling that one might find in Las Vegas or Atlantic City.¹ The Tribe's ability to "obscure[] the line between Class II and III" makes it harder for my office to enforce Alabama law outside of Indian land. Alabama citizens are understandably confused when Indian tribes are allowed to call their Class III slot machines "bingo," but gambling promoters within the State's jurisdiction cannot use the same gimmick. The solution to this problem is *not* for my office to relax or disregard the State of Alabama's gambling laws; the solution is for the Commission to strictly enforce federal law on Indian lands.

Instead of the minor changes that the Commission has proposed, I believe that the Commission should consider returning to the Class II classification standards that were originally proposed as a complement to Part 543 and Part 547. When the Commission withdrew the classification standards from its 2006 rulemaking proposal, the Commission believed that it could compel compliance with IGRA through enforcement actions instead. But, after reviewing the Commission's enforcement actions since 2006 on the Commission's website, my office has not uncovered a single action related to the difference between Class II and Class III games or

¹ The State concedes neither that the Poarch Band of Creek Indians is a proper-recognized tribe nor that the Department of the Interior had authority to take land into trust for the Tribe. See *Carcleri v. Salazar*, 555 U.S. 379, 387-388 (2009). But those issues are outside the scope of this comment.

The National Indian Gaming Commission
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Page 3

the use of “technological aids.” The Commission’s lax enforcement is particularly troubling because, in 2008, the Commission warned that the problems arising from tribes’ “exploitation of technology [that] erases, or is perceived to erase” the Class II/Class III distinction could be serious enough to compel action by the Department of Justice or Congress or both. *See* 73 Fed. Reg. at 60491. Were the Commission strictly enforcing the already-existing statutory distinction between “technological aids” and “electronic or electromechanical facsimiles,” I would agree that regulatory classification standards would be unnecessary. But the Commission is not strictly enforcing IGRA.

Second, the Commission’s reasons for withdrawing its classification standards from the original reform package were based on inaccurate information about Alabama. In withdrawing the previously proposed classification standards, the Commission cited the “terrific economic costs” that its reform would have on Indian gaming, “as set out in its two economic impact reports.” 73 Fed. Reg. at 60491. But the Commission’s economic impact report wrongly concluded that requiring the Poarch Band of Creek Indians to comply with IGRA would make the Tribe’s gambling devices “inferior” to other gambling devices that, the Commission believed, were legal in Alabama, such as “electronic bingo machines at greyhound racetracks and sweepstakes machines.” Alan Meister, *The Potential Economic Impact of the October 2007 Proposed Class II Gaming Regulations* 27 (Feb. 1, 2008) at <http://www.nigc.gov/Portals/0/NIGC%20Uploads/lawsregulations/proposedamendments/MeisterReport2FINAL2108.pdf>. *See also* 73 Fed. Reg. at 60491 (erroneously stating that the State of Alabama has “expand[ed] legalized gaming within [its] own borders”). In fact, the Alabama Supreme Court has held that so-called sweepstakes machines and electronic bingo machines are *illegal*. *See Barber v. Jefferson County Racing Ass’n, Inc.*, 960 So. 2d 599 (Ala. 2006) (so-called sweepstakes machines); *Barber v. Cornerstone Community Outreach, Inc.*, 42 So. 3d 65 (Ala. 2009) (so-called electronic bingo machines). So enforcing the distinction between Class II and Class III gambling would not disadvantage the Poarch Band of Creek Indians in comparison with other Alabama residents.

Third, the discussion draft of Part 547 continues to state that “[n]othing in this part shall be construed to grant to a state jurisdiction over Class II gaming.” But IGRA intended to grant the States considerable influence over Class II gaming. In fact, IGRA expressly conditions the legality of Class II gaming on whether that gaming is allowed under state law. As I made clear in my February 11th letter, “[i]t would make no sense for federal law to provide that the fundamentally different game of ‘electronic bingo’ is legal on Indian land simply because Alabama law allows the traditional game of bingo to be played for certain charitable purposes on certain non-Indian lands.” The Commission should consider incorporating State standards and enforcement mechanisms into Part 543 and Part 547. If the Commission gave the States authority to enforce IGRA on Indian lands, I would put a stop to Class III slot machines masquerading as Class II “technological aids.”

Fourth, at the very least, the Commission’s regulations should not actively engender confusion between slot machines and Class II “technological aids.” Unfortunately, that is what the discussion draft of Part 547 does when it contemplates that Class II “technological aids” will

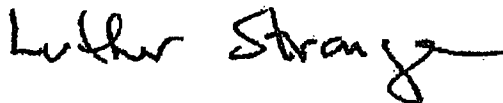
The National Indian Gaming Commission
April 25, 2012
Page 4

be materially indistinguishable from slot machines. The Commission's "Minimum Technical Standards for Gaming Equipment Used in the Play of Class II Games" apply to a Class III slot machine just as naturally as they apply to a Class II bingo ball blower. For example, Part 547 allows Class II gambling devices to accept and dispense bills and coins into the face of the gambling device, *see* 547.7(g) & (k), defines "player interface" to include a "terminal" through which a player interacts with the automated game, *see* 547.2, and contemplates that the player may be notified of the results of the game through an "entertaining display," 547.9(d)(1). These are elements of slot machine gambling. *See, e.g.,* Ala. Code 13A-12-20(10)(defining slot machine as "[a] gambling device that, as a result of the insertion of a coin or other object, operates, either completely automatically or with the aid of some physical act by the player, in such a manner that, depending upon elements of chance, it may eject something of value."); *MDS Investments, L.L.C. v. State*, 65 P.3d 197, 203 (Idaho 2003) ("Considering the technological changes, a slot machine is a gambling device which, upon payment by a player of required consideration in any form, may be played or operated, and which, upon being played or operated, may, solely by chance, deliver or entitle the player to receive something of value, with the outcome being shown by spinning reels or by a video or other representation of reels."). To the extent Part 547 authorizes or has been interpreted by the Commission to authorize the play of slot machines "of any kind" under the guise of Class II bingo, it exceeds the Commission's authority under IGRA.

In short, the status quo is unacceptable. Because the Commission has previously told me that I do not have authority over gambling conducted on Indian lands, I am requesting that the Commission act to enforce the bright line between Class II and Class III gambling that already exists in federal law. The Commission's regulations should either give me the authority to enforce the law or make clear that gambling devices that look and operate like slot machines are "facsimiles" of games of chance under IGRA, regardless of whether they purport to aid in playing the game of "bingo."

If the Commission needs any further comment or information related to this matter, do not hesitate to contact my office.

Sincerely,



LUTHER STRANGE
ATTORNEY GENERAL

LS/mrh



STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

LUTHER STRANGE
ATTORNEY GENERAL

501 WASHINGTON AVENUE
P.O. BOX 900182
MONTGOMERY, AL 36130-0182
(334) 243-7200
WWW.AG.STATE.AL.US

April 27, 2012

The National Indian Gaming Commission
1441 L Street, NW Suite 9100
Washington, DC 20005

Dear Commission Members:

Please accept this letter as a supplement to my April 25, 2012 letter concerning the Commission's proposed revisions to 25 CFR Part 543 Minimum Internal Control Standards for Class II Games and Part 547 Minimum Technical Standards for Gaming Equipment Used in the Play of Class II Games. In previous letters dated February 11, 2011, and then again on April 25, 2012, I expressed a concern that the Poarch Band of Creek Indians were operating so-called "electronic bingo" machines that were illegal under Alabama law and therefore in violation of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2701 *et seq.* The attached news article removes all doubt that the Tribe is indeed being allowed by this Commission to operate so-called "electronic bingo" machines that are illegal under Alabama law by the clear admission made by Poarch Creek Tribal Treasure Robert McGhee. Once again, I request that you use the opportunity provide by your comprehensive regulatory review to make it clear that the Indian Gaming Regulatory Act does not allow Indian tribes to use gambling devices that are illegal under state law.

If the Commission needs any further comment or information related to this matter, do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink that reads "Luther Strange". The signature is written in a cursive, flowing style.

LUTHER STRANGE
ATTORNEY GENERAL

LS/mrh
Enclosure

4/27/12

Escambia County, Poarch Creeks in battle over property taxes | al.com



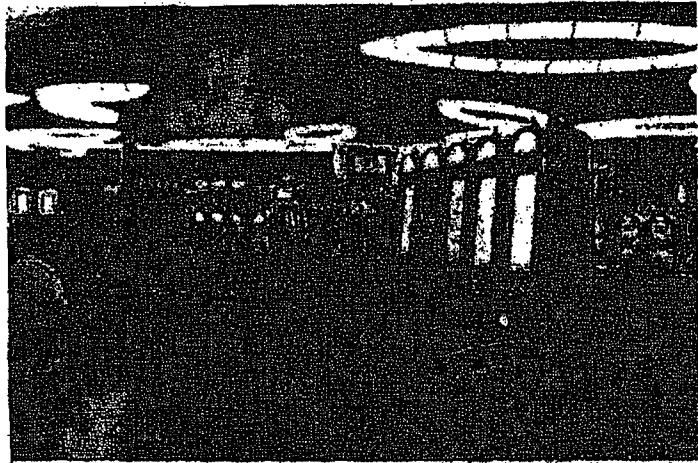
Everything Alabama

Escambia County, Poarch Creeks in battle over property taxes

Published: Wednesday, April 25, 2012, 3:20 PM Updated: Wednesday, April 25, 2012, 5:45 PM



By **Dave Helms, Press-Register**



(Press-Register file/Mary Hattler)

The interior of Wind Creek Casino on Jan. 14, 2009. As other state casinos have shut down under the threat of raids, Indian-managed facilities are seeing business booming.

It's "non-negotiable" that casinos operated by the Poarch Band of Creek Indians will begin to pay property taxes, according to Escambia County Commission Chairman David Stokes.

But a spokesman for the Poarch Creeks said if that happens — and they think it unlikely — the casinos could no longer operate and thousands of jobs would be lost.

Stokes said Wednesday that the commission began a push for the Poarch Creeks to pay property taxes earlier this month, basing its position on the U.S. Supreme Court case *Carderl v. Salazar*.

"That case, in a nutshell, says that tribal land of even a federally recognized tribe cannot be taken and held in trust by the federal government so as to preclude state and county taxation if you didn't fall under federal jurisdiction prior to 1934," Stokes said.

Poarch Creek officials have differed, saying the court case doesn't apply to their situation.

Casinos operated by the tribe have flourished, operating under federal, and not state, jurisdiction. Two operations, in Atmore and Wetumpka, grew 61 percent in 2010, according to the annual Indian Gaming Industry Report. The Poarch Creeks were federally recognized in 1984.

The Poarch tribe has three gambling venues in Alabama: Creek Casino Montgomery, Creek Casino Wetumpka and Wind Creek Casino & Hotel in Atmore.

Poarch Creek Tribal Treasurer Robert McGhee said Wednesday that the County Commission hadn't gone through proper channels to hold the discussion about taxes. If the commission is successful in its quest,

4/27/12

Escambia County, Poarch Creeks in battle over property taxes | al.com

though, the casinos would have to close since the type of gambling machines they use are illegal under state law, he said.

McGhee noted that several new restaurants and hotels not owned by the tribe have cropped up near the Wind Creek Casino and they are all contributing to the tax base.

The tribe also pays millions in wages plus excise and sales taxes, he said.

Additionally, the Poarch Creeks invest millions annually in Escambia County. The tribe's fire and police departments extend their coverage to neighbors off the reservation in the county. In the last three years, McGhee said, the Poarch Tribal Fire Department has answered more than 2,400 calls, 95 percent of which were from county residents.

Commission Chairman Stokes said millions of dollars in property taxes are at stake, particularly if the county looks to collect the tax retroactively.

"An agreement can be worked out, but they're going to pay the same taxes everyone else pays, that's non-negotiable," Stokes said. "It's the Poarch Creeks who are putting jobs at risk by their opposition to paying taxes like everybody else."

Property taxes are used to pay for a variety of services in Escambia County, including public schools and police and fire protection.

The tribe currently pays the Escambia County Commission \$100,000 a year to spend as they see fit, based on a previous agreement.

"That was something that was done in 2007 when the situation was different," Stokes said.

State Rep. Jim Barton, R-Mobile, said the eventual answer might be to ask the governor to enter into a compact agreement with the tribe.

"We don't receive any tax revenue off that bingo. With a compact we could spell out what gaming would be allowed, tax and regulate it and move forward," Barton said.

"They do a lot for the community, provide thousands of jobs, and we should do what we can to work with them and expand what they're doing."

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EXHIBIT E

86-00327

OFFICE OF THE ATTORNEY GENERAL



This opinion is based on the assumption that the land is validly proclaimed trust land. Before relying on this opinion, see the decision in *Carciari v. Salazar*, 555 U.S. 379 (2009).

CHARLES A. GRADDICK
ATTORNEY GENERAL
STATE OF ALABAMA

AUG 18 1986

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CHARLES E. CANNON
MARIE D. GORTON
ADOLPH J. BEAR, JR.
J. BARRI MOFF
ASSISTANT ATTORNEYS GENERAL
REVENUE DEPARTMENT

Honorable James Hildreth, Jr.
Tax Assessor, Escambia County
P. O. Box 556
Brewton, AL 36427

Ad Valorem Taxes -- Exemptions --
Indian reservation property exempt from
State taxation.

Dear Mr. Hildreth:

In your request for an opinion you state that in 1984 the Poarch Band of Creek Indians acquired approximately 175 acres of land in Escambia County, Alabama. Pursuant to Section 5 of the Indian Reorganization Act (48 Stat. 984, 25 U.S.C. 465), the land was taken into trust by execution of warranty deeds on October 24, 1984 and November 21, 1984, with the grantee being the United States of America in trust for the Poarch Band of Creek Indians. The Poarch Band has by tribal resolution requested that the Secretary of the Interior issue a proclamation whereby certain tribally owned trust land within the county limits of Escambia County, Alabama will officially be proclaimed an Indian reservation. The Interior Department has issued a letter that serves as a thirty day notice of the impending proclamation. Tribal jurisdiction over these lands will essentially be identical to that which exists on tribal trust land lying within other Indian reservations. You ask whether the Indian reservation property will be exempt from taxation in the future.

Your question is answered in the affirmative. Absent cession of jurisdiction or other federal statutes permitting it, there is no authority for state taxation of Indian reservation lands or Indian income from activities carried on

- 2 -

within the boundaries of the reservation. 25 U.S.C.A. Section 465; Mescalero Apache Tribe v. Jones, 411 U.S. 145, 93 S.Ct. 1267, 36 L.Ed.2d 115 (1973).

Sincerely yours,

CHARLES A. GRADDICK
Attorney General

By-



RON BOWDEN
Assistant Attorney General

RB:jlt - 0897w

EXHIBIT F

ALABAMA SJIS CASE DETAIL

PREPARED FOR: ANDREA PERKINS



County: **29** Case Number: **CV-2013-900057.00** Court Action:
 Style: **STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL**

Real Time

Case		
Case Information		
County: 29-ELMORE	Case Number: CV-2013-900057.00	Judge: BAF:BEN A FULLER
Style: STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL	Case Status: ACTIVE	Case Type: EQUITY NON-DAMAGE
Filed: 02/19/2013	Track:	Appellate Case: 0
Trial Type: BENCH	No of Defendants: 14	
No of Plaintiffs: 1		
Damages		
Damage Amt: 0.00	Punitive Damages: 0.00	General Damages: 0.00
No Damages:	Compensatory Damages: 0.00	Cost Paid By:
Pay To:	Payment Frequency:	
Court Action		
Court Action Code:	Court Action Desc:	Court Action Date:
Num of Trial days: 0	Num of Liens: 0	Judgment For:
Disposition Date of Appeal:	Disposition Judge: :	Disposition Type:
Revised Judgement Date:	Minstral:	Appeal Date:
Date Trial Began but No Verdict (TBNV1):		
Date Trial Began but No Verdict (TBNV2):		
Comments		
Comment 1:		
Comment 2:		
Appeal Information		
Appeal Date:	Appeal Case Number:	Appeal Court:
Appeal Status:	Origin Of Appeal:	
Appeal To:	Appeal To Desc:	LowerCourt Appeal Date:
Disposition Date Of Appeal:	Disposition Type Of Appeal:	
Administrative Information		
Transfer to Admin Doc Date:	Transfer Reason:	Transfer Desc:
Number of Subponeas:	Last Update: 02/19/2013	Updated By: AJA

Parties		
Party 1 - Plaintiff GOVERNMENT - STATE OF ALABAMA		
Party Information		
Party: C001-Plaintiff	Name: STATE OF ALABAMA	Type: G-GOVERNMENT
Index: D PCI GAMING A	Alt Name:	Hardship: No JID: BAF
Address 1: 501 WASHINGTON AVENUE	Phone: (334) 000-0000	

Address 2:
 City: MONTGOMERY State: AL Zip: 36130-0000 Country: US
 SSN: XXX-XX-X999 DOB: Sex: Race:

Court Action

Court Action:
 Amount of Judgement: \$0.00 Court Action For: Exemptions:
 Cost Against Party: \$0.00 Other Cost: \$0.00 Date Satisfied:
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Service Information

Issued: Issued Type: Reissue: Reissue Type:
 Return: Return Type: Return: Return Type:
 Served: Service Type: Service On: Served By:
 Answer: Answer Type: Notice of No Service: Notice of No Answer:

Attorneys

Number	Attorney Code	Type of Counsel	Name	Email	Phone
Attorney 1	BRA143		BRASHER ANDREW LYNN	ABRASHER@AGO.STATE.AL.US	(334) 353-2609
Attorney 2	REA021		REAGAN HENRY THEODORE II	SREAGAN@AGO.STATE.AL.US	(334) 242-7300

Party 2 - Defendant BUSINESS - PCI GAMING AUTHORITY

Party Information

Party: D001-Defendant Name: PCI GAMING AUTHORITY Type: B-BUSINESS
 Index: C STATE OF ALA Alt Name: Hardship: No JID: BAF
 Address 1: 100 BROOKWOOD ROAD Phone: (334) 000-0000
 Address 2:
 City: ATMORE State: AL Zip: 36502-0000 Country: US
 SSN: XXX-XX-X999 DOB: Sex: Race:

Court Action

Court Action:
 Amount of Judgement: \$0.00 Court Action For: Exemptions:
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 Answer: Answer Type: Notice of No Service: Notice of No Answer:

Attorneys

Number	Attorney Code	Type of Counsel	Name	Email	Phone
Attorney 1	000000		PRO SE		

Party 3 - Defendant INDIVIDUAL - ROLIN BUFORD

Party Information

Party: D002-Defendant Name: ROLIN BUFORD Type: I-INDIVIDUAL
 Index: C STATE OF ALA Alt Name: Hardship: No JID: BAF
 Address 1: C/O KELLY PATE Phone: (334) 000-0000
 Address 2: BALCH & BINGHAM - MGM
 City: MONTGOMERY State: AL Zip: 36104-0000 Country: US
 SSN: XXX-XX-X999 DOB: Sex: M Race:

Court Action

Court Action: Court Action Date:
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 Answer: Answer Type: Notice of No Service: Notice of No Answer:

Attorneys

Number	Attorney Code	Type of Counsel	Name	Email	Phone
Attorney 1	000000		PRO SE		

Party 4 - Defendant INDIVIDUAL - BRYAN STEPHANIE

Party Information

Party: D003-Defendant Name: BRYAN STEPHANIE Type: I-INDIVIDUAL
 Index: C STATE OF ALA Alt Name: Hardship: No JID: BAF
 Address 1: C/O KELLY PATE Phone: (334) 000-0000
 Address 2: BALCH & BINGHAM - MGM
 City: MONTGOMERY State: AL Zip: 36104-0000 Country: US
 SSN: XXX-XX-X999 DOB: Sex: F Race:

Court Action

Court Action:		Court Action For:		Court Action Date:	
Amount of Judgement: \$0.00		Other Cost: \$0.00		Exemptions:	
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Service Information

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Answer:	Answer Type:	Notice of No Service:	Notice of No Answer:

Attorneys

Number	Attorney Code	Type of Counsel	Name	Email	Phone
Attorney 1	000000		PRO SE		

Party 5 - Defendant: INDIVIDUAL - MCGHEE ROBERT

Party Information

Party: D004-Defendant	Name: MCGHEE ROBERT	Type: I-INDIVIDUAL
Index: C STATE OF ALA	Alt Name:	Hardship: No JID: BAF
Address 1: C/O KELLY PATE		Phone: (334) 000-0000
Address 2: BALCH & BINGHAM - MGM		
City: MONTGOMERY	State: AL	Zip: 36104-0000 Country: US
SSN: XXX-XX-X999	DOB:	Sex: M Race:

Court Action

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Service Information

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Answer:	Answer Type:	Notice of No Service:	Notice of No Answer:

Attorneys

Number	Attorney Code	Type of Counsel	Name	Email	Phone
Attorney 1	000000		PRO SE		

Party 6 - Defendant INDIVIDUAL - GEHMAN DAVID

Party Information

Party: D005-Defendant Name: GEHMAN DAVID Type: I-INDIVIDUAL
 Index: C STATE OF ALA Alt Name: Hardship: No JID: BAF
 Address 1: 308 BEACON LANE Phone: (334) 000-0000
 Address 2:
 City: ATMORE State: AL Zip: 36502-0000 Country: US
 SSN: XXX-XX-X999 DOB: Sex: M Race:

Court Action

Court Action: Court Action Date:
 Amount of Judgement: \$0.00 Court Action For: Exemptions:
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Attorneys

Number	Attorney Code	Type of Counsel	Name	Email	Phone
Attorney 1	000000		PRO SE		

Party 7 - Defendant INDIVIDUAL - MOTHERSHED ARTHUR

Party Information

Party: D006-Defendant Name: MOTHERSHED ARTHUR Type: I-INDIVIDUAL
 Index: C STATE OF ALA Alt Name: Hardship: No JID: BAF
 Address 1: C/O KELLY PATE Phone: (334) 000-0000
 Address 2: BALCH & BINGHAM - MGM
 City: MONTGOMERY State: AL Zip: 36104-0000 Country: US
 SSN: XXX-XX-X999 DOB: Sex: M Race:

Court Action		
Court Action:		Court Action Date:
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Warrant Action Date:	Warrant Action Status:	Status Description:

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Answer:	Answer Type:	Notice of No Service:	Notice of No Answer:

Attorneys				
Number	Attorney Code	Type of Counsel	Name	Phone
Attorney 1	000000		PRO SE	

Party 8 - Defendant INDIVIDUAL - MARTIN KEITH

Party Information			
Party: D007-Defendant	Name: MARTIN KEITH	Type: I-INDIVIDUAL	
Index: C STATE OF ALA	Alt Name:	Hardship: No	JID: BAF
Address 1: C/O KELLY PATE		Phone: (334) 000-0000	
Address 2: BALCH & BINGHAM - MGM			
City: MONTGOMERY	State: AL	Zip: 36104-0000	Country: US
SSN: XXX-XX-X999	DOB:	Sex: M	Race:

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Answer:	Answer Type:	Notice of No Service:	Notice of No Answer:

Attorneys

Number	Attorney Code	Type of Counsel	Name	Email	Phone
Attorney 1	000000		PRO SE		

Party 9 - Defendant INDIVIDUAL - HOLLINGER SANDY

Party Information

Party: D008-Defendant Name: HOLLINGER SANDY Type: I-INDIVIDUAL
 Index: C STATE OF ALA Alt Name: Hardship: No JID: BAF
 Address 1: C/O KELLY PATE Phone: (334) 000-0000
 Address 2: BALCH & BINGHAM - MGM
 City: MONTGOMERY State: AL Zip: 36104-0000 Country: US
 SSN: XXX-XX-X999 DOB: Sex: F Race:

Court Action

Court Action: Court Action Date:
 Amount of Judgement: \$0.00 Court Action For: Exemptions:
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Service Information

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 Answer: Answer Type: Notice of No Service: Notice of No Answer:

Attorneys

Number	Attorney Code	Type of Counsel	Name	Email	Phone
Attorney 1	000000		PRO SE		

Party 10 - Defendant INDIVIDUAL - SELLS GARVIS EUGENE

Party Information

Party: D009-Defendant Name: SELLS GARVIS EUGENE Type: I-INDIVIDUAL
 Index: C STATE OF ALA Alt Name: Hardship: No JID: BAF
 Address 1: C/O KELLY PATE Phone: (334) 000-0000
 Address 2: BALCH & BINGHAM - MGM
 City: MONTGOMERY State: AL Zip: 36104-0000 Country: US
 SSN: XXX-XX-X999 DOB: Sex: M Race:

Court Action		
Court Action:		Court Action Date:
Amount of Judgement: \$0.00	Court Action For:	Exemptions:
Cost Against Party: \$0.00	Other Cost: \$0.00	Date Satisfied:
Comment:		Arrest Date:
Warrant Action Date:	Warrant Action Status:	Status Description:

Service Information			
Issued: 02/19/2013	Issued Type: A-PROCESS SERVER	Reissue: 02/27/2013	Reissue Type: A-PROCESS SERVER
Return:	Return Type:	Return:	Return Type:
Served: 03/07/2013	Service Type: C-CERTIFIED MAIL	Service On:	Served By:
Answer:	Answer Type:	Notice of No Service:	Notice of No Answer:

Attorneys					
Number	Attorney Code	Type of Counsel	Name	Email	Phone
Attorney 1	000000		PRO SE		

Party 11 - Defendant INDIVIDUAL - TULLIS EDDIE

Party Information					
Party:	D010-Defendant	Name:	TULLIS EDDIE	Type:	I-INDIVIDUAL
Index:	C STATE OF ALA	Alt Name:		Hardship:	No JID: BAF
Address 1:	188 LYNN MCGHEE DRIVE	Phone:	(334) 000-0000		
Address 2:					
City:	ATMORE	State:	AL	Zip:	36502-0000 Country: US
SSN:	XXX-XX-X999	DOB:		Sex:	M Race:

Court Action		
Court Action:		Court Action Date:
Amount of Judgement: \$0.00	Court Action For:	Exemptions:
Cost Against Party: \$0.00	Other Cost: \$0.00	Date Satisfied:
Comment:		Arrest Date:
Warrant Action Date:	Warrant Action Status:	Status Description:

Service Information			
Issued: 02/19/2013	Issued Type: A-PROCESS SERVER	Reissue:	Reissue Type:
Return:	Return Type:	Return:	Return Type:
Served: 02/22/2013	Service Type: C-CERTIFIED MAIL	Service On:	Served By:
Answer:	Answer Type:	Notice of No Service:	Notice of No Answer:

Attorneys

Number	Attorney Code	Type of Counsel	Name	Email	Phone
Attorney 1	000000		PRO SE		

Party 12 - Defendant INDIVIDUAL - WASDIN BRIDGET

Party Information

Party: D011-Defendant Name: WASDIN BRIDGET Type: INDIVIDUAL
 Index: C STATE OF ALA Alt Name: Hardship: No JID: BAF
 Address 1: C/O KELLY PATE Phone: (334) 000-0000
 Address 2: BALCH & BINGHAM - MGM
 City: MONTGOMERY State: AL Zip: 36104-0000 Country: US
 SSN: XXX-XX-X999 DOB: Sex: F Race:

Court Action

Court Action: Court Action Date:
 Amount of Judgement: \$0.00 Court Action For: Exemptions:
 Cost Against Party: \$0.00 Other Cost: \$0.00 Date Satisfied:
 Comment: Arrest Date:
 Warrant Action Date: Warrant Action Status: Status Description:

Service Information

Issued: 02/19/2013 Issued Type: A-PROCESS SERVER Reissue: 02/27/2013 Reissue Type: A-PROCESS SERVER
 Return: Return Type: Return: Return Type:
 Served: 03/11/2013 Service Type: V-PROCESS SERVER Service On: Served By:
 Answer: Answer Type: Notice of No Service: Notice of No Answer:

Attorneys

Number	Attorney Code	Type of Counsel	Name	Email	Phone
Attorney 1	000000		PRO SE		

Party 13 - Defendant INDIVIDUAL - MARTIN MATTHEW

Party Information

Party: D012-Defendant Name: MARTIN MATTHEW Type: INDIVIDUAL
 Index: C STATE OF ALA Alt Name: Hardship: No JID: BAF
 Address 1: C/O KELLY PATE Phone: (334) 000-0000
 Address 2: BALCH & BINGHAM - MGM
 City: MONTGOMERY State: AL Zip: 36104-0000 Country: US
 SSN: XXX-XX-X999 DOB: Sex: M Race:

Court Action

Court Action:		Court Action For:		Court Action Date:	
Amount of Judgement: \$0.00		Other Cost: \$0.00		Exemptions:	
Cost Against Party: \$0.00				Date Satisfied:	
Comment:				Arrest Date:	
Warrant Action Date:		Warrant Action Status:		Status Description:	

Service Information

Issued: 02/19/2013	Issued Type: A-PROCESS SERVER	Reissue: 02/27/2013	Reissue Type: A-PROCESS SERVER
Return:	Return Type:	Return:	Return Type:
Served: 03/01/2013	Service Type V-PROCESS SERVER	Service On:	Served By:
Answer:	Answer Type:	Notice of No Service:	Notice of No Answer:

Attorneys

Number	Attorney Code	Type of Counsel	Name	Email	Phone
Attorney 1	000000		PRO SE		

Party 14 - Defendant INDIVIDUAL - SMITH BILLY

Party Information

Party: D013-Defendant	Name: SMITH BILLY	Type: I-INDIVIDUAL
Index: C STATE OF ALA	Alt Name:	Hardship: No JID: BAF
Address 1: 24 BIG CREEK ROAD		Phone: (334) 000-0000
Address 2:		
City: ATMORE	State: AL	Zip: 36502-0000 Country: US
SSN: XXX-XX-X999	DOB:	Sex: M Race:

Court Action

Court Action:		Court Action For:		Court Action Date:	
Amount of Judgement: \$0.00		Other Cost: \$0.00		Exemptions:	
Cost Against Party: \$0.00				Date Satisfied:	
Comment:				Arrest Date:	
Warrant Action Date:		Warrant Action Status:		Status Description:	

Service Information

Issued: 02/19/2013	Issued Type: A-PROCESS SERVER	Reissue:	Reissue Type:
Return:	Return Type:	Return:	Return Type:
Served: 02/22/2013	Service Type C-CERTIFIED MAIL	Service On:	Served By:
Answer:	Answer Type:	Notice of No Service:	Notice of No Answer:

Attorneys

Number	Attorney Code	Type of Counsel	Name	Email	Phone
Attorney 1	000000		PRO SE		

Party 15 - Defendant INDIVIDUAL - MANNING TIM

Party Information

Party: D014-Defendant Name: MANNING TIM Type: I-INDIVIDUAL
 Index: C STATE OF ALA Alt Name: Hardship: No JID: BAF
 Address 1: C/O KELLY PATE Phone: (334) 000-0000
 Address 2: BALCH & BINGHAM - MGM
 City: MONTGOMERY State: AL Zip: 36104-0000 Country: US
 SSN: XXX-XX-X999 DOB: Sex: M Race:

Court Action

Court Action: Court Action Date:
 Amount of Judgement: \$0.00 Court Action For: Exemptions:
 Cost Against Party: \$0.00 Other Cost: \$0.00 Date Satisfied:
 Comment: Arrest Date:
 Warrant Action Date: Warrant Action Status: Status Description:

Service Information

Issued: 02/19/2013 Issued Type: A-PROCESS SERVER Reissue: 02/27/2013 Reissue Type: A-PROCESS SERVER
 Return: Return Type: Return Type:
 Served: Service Type: Service On: Served By:
 Answer: Answer Type: Notice of No Service: Notice of No Answer:

Attorneys

Number	Attorney Code	Type of Counsel	Name	Email	Phone
Attorney 1	000000		PRO SE		

Financial

Case Action Summary

Date	Time	Code	Comments	Operator
2/19/2013	7:48 AM	ECOMP	COMPLAINT E-FILED.	BRA143
2/19/2013	7:49 AM	FILE	FILED THIS DATE: 02/19/2013 (AV01)	AJA
2/19/2013	7:49 AM	EORD	E-ORDER FLAG SET TO "N" (AV01)	AJA
2/19/2013	7:49 AM	ASSJ	ASSIGNED TO JUDGE: BEN A FULLER (AV01)	AJA
2/19/2013	7:49 AM	SCAN	CASE SCANNED STATUS SET TO: N (AV01)	AJA
2/19/2013	7:49 AM	TDMN	BENCH/NON-JURY TRIAL REQUESTED (AV01)	AJA

2/19/2013	7:49 AM	STAT	CASE ASSIGNED STATUS OF: ACTIVE (AV01)	AJA
2/19/2013	7:49 AM	ORIG	ORIGIN: INITIAL FILING (AV01)	AJA
2/19/2013	7:49 AM	C001	C001 PARTY ADDED: STATE OF ALABAMA (AV02)	AJA
2/19/2013	7:49 AM	C001	INDIGENT FLAG SET TO: N (AV02)	AJA
2/19/2013	7:49 AM	C001	LISTED AS ATTORNEY FOR C001: BRASHER ANDREW LYNN	AJA
2/19/2013	7:49 AM	C001	LISTED AS ATTORNEY FOR C001: REAGAN HENRY THEODOR	AJA
2/19/2013	7:49 AM	C001	C001 E-ORDER FLAG SET TO "N" (AV02)	AJA
2/19/2013	7:49 AM	D001	D001 PARTY ADDED: PCI GAMING AUTHORITY (AV02)	AJA
2/19/2013	7:49 AM	D001	INDIGENT FLAG SET TO: N (AV02)	AJA
2/19/2013	7:49 AM	D001	LISTED AS ATTORNEY FOR D001: PRO SE (AV02)	AJA
2/19/2013	7:49 AM	D001	PROCESS SERVE ISSUED: 02/19/2013 TO D001 (AV02)	AJA
2/19/2013	7:49 AM	D001	D001 E-ORDER FLAG SET TO "N" (AV02)	AJA
2/19/2013	7:49 AM	D002	D002 PARTY ADDED: ROLIN BUFORD (AV02)	AJA
2/19/2013	7:49 AM	D002	INDIGENT FLAG SET TO: N (AV02)	AJA
2/19/2013	7:49 AM	D002	LISTED AS ATTORNEY FOR D002: PRO SE (AV02)	AJA
2/19/2013	7:49 AM	D002	PROCESS SERVE ISSUED: 02/19/2013 TO D002 (AV02)	AJA
2/19/2013	7:49 AM	D002	D002 E-ORDER FLAG SET TO "N" (AV02)	AJA
2/19/2013	7:49 AM	D003	D003 PARTY ADDED: BRYAN STEPHANIE (AV02)	AJA
2/19/2013	7:49 AM	D003	INDIGENT FLAG SET TO: N (AV02)	AJA
2/19/2013	7:49 AM	D003	LISTED AS ATTORNEY FOR D003: PRO SE (AV02)	AJA
2/19/2013	7:49 AM	D003	PROCESS SERVE ISSUED: 02/19/2013 TO D003 (AV02)	AJA
2/19/2013	7:49 AM	D003	D003 E-ORDER FLAG SET TO "N" (AV02)	AJA
2/19/2013	7:49 AM	D004	D004 PARTY ADDED: MCGHEE ROBERT (AV02)	AJA
2/19/2013	7:49 AM	D004	INDIGENT FLAG SET TO: N (AV02)	AJA
2/19/2013	7:49 AM	D004	LISTED AS ATTORNEY FOR D004: PRO SE (AV02)	AJA
2/19/2013	7:49 AM	D004	PROCESS SERVE ISSUED: 02/19/2013 TO D004 (AV02)	AJA
2/19/2013	7:49 AM	D004	D004 E-ORDER FLAG SET TO "N" (AV02)	AJA
2/19/2013	7:49 AM	D005	D005 PARTY ADDED: GEHMAN DAVID (AV02)	AJA
2/19/2013	7:49 AM	D005	INDIGENT FLAG SET TO: N (AV02)	AJA
2/19/2013	7:49 AM	D005	LISTED AS ATTORNEY FOR D005: PRO SE (AV02)	AJA
2/19/2013	7:49 AM	D005	PROCESS SERVE ISSUED: 02/19/2013 TO D005 (AV02)	AJA
2/19/2013	7:49 AM	D005	D005 E-ORDER FLAG SET TO "N" (AV02)	AJA
2/19/2013	7:49 AM	D006	D006 PARTY ADDED: MOTHERSHED ARTHUR (AV02)	AJA
2/19/2013	7:49 AM	D006	INDIGENT FLAG SET TO: N (AV02)	AJA
2/19/2013	7:49 AM	D006	LISTED AS ATTORNEY FOR D006: PRO SE (AV02)	AJA
2/19/2013	7:49 AM	D006	PROCESS SERVE ISSUED: 02/19/2013 TO D006 (AV02)	AJA
2/19/2013	7:49 AM	D006	D006 E-ORDER FLAG SET TO "N" (AV02)	AJA
2/19/2013	7:49 AM	D007	D007 PARTY ADDED: MARTIN KEITH (AV02)	AJA
2/19/2013	7:49 AM	D007	INDIGENT FLAG SET TO: N (AV02)	AJA
2/19/2013	7:49 AM	D007	LISTED AS ATTORNEY FOR D007: PRO SE (AV02)	AJA
2/19/2013	7:49 AM	D007	PROCESS SERVE ISSUED: 02/19/2013 TO D007 (AV02)	AJA
2/19/2013	7:49 AM	D007	D007 E-ORDER FLAG SET TO "N" (AV02)	AJA
2/19/2013	7:49 AM	D008	D008 PARTY ADDED: HOLLINGER SANDY (AV02)	AJA
2/19/2013	7:49 AM	D008	LISTED AS ATTORNEY FOR D008: PRO SE (AV02)	AJA
2/19/2013	7:49 AM	D008	D008 E-ORDER FLAG SET TO "N" (AV02)	AJA
2/19/2013	7:49 AM	D008	PROCESS SERVE ISSUED: 02/19/2013 TO D008 (AV02)	AJA
2/19/2013	7:50 AM	D008	INDIGENT FLAG SET TO: N (AV02)	AJA
2/19/2013	7:50 AM	D009	D009 PARTY ADDED: SELLS GARVIS EUGENE (AV02)	AJA
2/19/2013	7:50 AM	D009	INDIGENT FLAG SET TO: N (AV02)	AJA
2/19/2013	7:50 AM	D009	LISTED AS ATTORNEY FOR D009: PRO SE (AV02)	AJA
2/19/2013	7:50 AM	D009	PROCESS SERVE ISSUED: 02/19/2013 TO D009 (AV02)	AJA
2/19/2013	7:50 AM	D009	D009 E-ORDER FLAG SET TO "N" (AV02)	AJA
2/19/2013	7:50 AM	D010	D010 PARTY ADDED: TULLIS EDDIE (AV02)	AJA

2/19/2013	7:50 AM	D010	INDIGENT FLAG SET TO: N (AV02)	AJA
2/19/2013	7:50 AM	D010	LISTED AS ATTORNEY FOR D010: PRO SE (AV02)	AJA
2/19/2013	7:50 AM	D010	PROCESS SERVE ISSUED: 02/19/2013 TO D010 (AV02)	AJA
2/19/2013	7:50 AM	D010	D010 E-ORDER FLAG SET TO "N" (AV02)	AJA
2/19/2013	7:50 AM	D011	D011 PARTY ADDED: WASDIN BRIDGET (AV02)	AJA
2/19/2013	7:50 AM	D011	INDIGENT FLAG SET TO: N (AV02)	AJA
2/19/2013	7:50 AM	D011	PROCESS SERVE ISSUED: 02/19/2013 TO D011 (AV02)	AJA
2/19/2013	7:50 AM	D011	LISTED AS ATTORNEY FOR D011: PRO SE (AV02)	AJA
2/19/2013	7:50 AM	D011	D011 E-ORDER FLAG SET TO "N" (AV02)	AJA
2/19/2013	7:50 AM	D012	D012 PARTY ADDED: MARTIN MATTHEW (AV02)	AJA
2/19/2013	7:50 AM	D012	INDIGENT FLAG SET TO: N (AV02)	AJA
2/19/2013	7:50 AM	D012	LISTED AS ATTORNEY FOR D012: PRO SE (AV02)	AJA
2/19/2013	7:50 AM	D012	PROCESS SERVE ISSUED: 02/19/2013 TO D012 (AV02)	AJA
2/19/2013	7:50 AM	D012	D012 E-ORDER FLAG SET TO "N" (AV02)	AJA
2/19/2013	7:50 AM	D013	D013 PARTY ADDED: SMITH BILLY (AV02)	AJA
2/19/2013	7:50 AM	D013	INDIGENT FLAG SET TO: N (AV02)	AJA
2/19/2013	7:50 AM	D013	LISTED AS ATTORNEY FOR D013: PRO SE (AV02)	AJA
2/19/2013	7:50 AM	D013	PROCESS SERVE ISSUED: 02/19/2013 TO D013 (AV02)	AJA
2/19/2013	7:50 AM	D013	D013 E-ORDER FLAG SET TO "N" (AV02)	AJA
2/19/2013	7:50 AM	D014	INDIGENT FLAG SET TO: N (AV02)	AJA
2/19/2013	7:50 AM	D014	D014 PARTY ADDED: MANNING TIM (AV02)	AJA
2/19/2013	7:50 AM	D014	LISTED AS ATTORNEY FOR D014: PRO SE (AV02)	AJA
2/19/2013	7:50 AM	D014	PROCESS SERVE ISSUED: 02/19/2013 TO D014 (AV02)	AJA
2/19/2013	7:50 AM	D014	D014 E-ORDER FLAG SET TO "N" (AV02)	AJA
2/19/2013	7:50 AM	EFILE	COMPLAINT - SUMMONS	
2/22/2013	2:37 PM	SERC	D008 SERVED CERTIFIED MAIL ON 02/21/2013	MEL
2/25/2013	3:27 PM	SERC	D001 SERVED CERTIFIED MAIL ON 02/21/2013	MEL
2/25/2013	3:27 PM	SERC	D005 SERVED CERTIFIED MAIL ON 02/21/2013	MEL
2/25/2013	3:27 PM	SERC	D013 SERVED CERTIFIED MAIL ON 02/22/2013	MEL
2/25/2013	3:28 PM	---	SCANNED - RETURN OF SERVICE	melissa.taylor
2/25/2013	3:28 PM	---	SCANNED - RETURN OF SERVICE	melissa.taylor
2/25/2013	3:28 PM	SERC	D010 SERVED CERTIFIED MAIL ON 02/22/2013	MEL
2/25/2013	3:29 PM	---	SCANNED - RETURN OF SERVICE	melissa.taylor
2/25/2013	3:29 PM	---	SCANNED - RETURN OF SERVICE	melissa.taylor
2/27/2013	11:55 AM	EALIA	ALIAS SUMMONS E-FILED	BRA143
2/27/2013	11:55 AM	EALIA	ALIAS SUMMONS - SUMMONS	
2/27/2013	11:56 AM	D009	D009 ADDR1 CHANGED FROM: 367 MARTIN ROAD (AV02)	AJA
2/27/2013	11:56 AM	D009	D009 ADDR CITY CHANGED FROM: ATMORE (AV02)	AJA
2/27/2013	11:56 AM	D009	REISSUE OF PROCESS SERV ON 02/27/2013 FOR D009	AJA
2/27/2013	11:56 AM	D002	D002 ADDR1 CHANGED FROM: 308 FOREST AVENUE (AV02)	AJA
2/27/2013	11:56 AM	D002	D002 ADDR CITY CHANGED FROM: ATMORE (AV02)	AJA
2/27/2013	11:56 AM	D002	REISSUE OF PROCESS SERV ON 02/27/2013 FOR D002	AJA
2/27/2013	11:56 AM	D012	D012 ADDR1 CHANGED FROM: 24 BIG CREEK ROAD (AV02)	AJA
2/27/2013	11:56 AM	D012	D012 ADDR CITY CHANGED FROM: ATMORE (AV02)	AJA
2/27/2013	11:56 AM	D012	REISSUE OF PROCESS SERV ON 02/27/2013 FOR D012	AJA
2/27/2013	11:56 AM	D003	D003 ADDR1 CHANGED FROM: 2159 BELL FORK ROAD(AV02)	AJA
2/27/2013	11:56 AM	D003	D003 ADDR CITY CHANGED FROM: ATMORE (AV02)	AJA
2/27/2013	11:56 AM	D003	REISSUE OF PROCESS SERV ON 02/27/2013 FOR D003	AJA
2/27/2013	11:56 AM	D006	D006 ADDR1 CHANGED FROM: 1690 WOODRIDGE DRIVE	AJA
2/27/2013	11:56 AM	D006	D006 ADDR CITY CHANGED FROM: ATMORE (AV02)	AJA
2/27/2013	11:56 AM	D006	REISSUE OF PROCESS SERV ON 02/27/2013 FOR D006	AJA
2/27/2013	11:56 AM	D011	D011 ADDR1 CHANGED FROM: 38211 V. R. BYRD ROAD	AJA
2/27/2013	11:56 AM	D011	D011 ADDR CITY CHANGED FROM: BAY MINETTE (AV02)	AJA

2/27/2013	11:56 AM	D011	REISSUE OF PROCESS SERV ON 02/27/2013 FOR D011	AJA
2/27/2013	11:56 AM	D014	D014 ADDR1 CHANGED FROM: 24 BIG CREEK ROAD (AV02)	AJA
2/27/2013	11:56 AM	D014	D014 ADDR CITY CHANGED FROM: ATMORE (AV02)	AJA
2/27/2013	11:56 AM	D014	REISSUE OF PROCESS SERV ON 02/27/2013 FOR D014	AJA
2/27/2013	11:56 AM	D007	D007 ADDR1 CHANGED FROM: 359 ORA LANE (AV02)	AJA
2/27/2013	11:56 AM	D007	D007 ADDR CITY CHANGED FROM: ATMORE (AV02)	AJA
2/27/2013	11:56 AM	D007	REISSUE OF PROCESS SERV ON 02/27/2013 FOR D007	AJA
2/27/2013	11:56 AM	D004	D004 ADDR1 CHANGED FROM: 92 STOKELY COURT (AV02)	AJA
2/27/2013	11:56 AM	D004	D004 ADDR CITY CHANGED FROM: ATMORE (AV02)	AJA
2/27/2013	11:56 AM	D004	REISSUE OF PROCESS SERV ON 02/27/2013 FOR D004	AJA
3/5/2013	8:21 AM	SERC	D004 SERVED CERTIFIED MAIL ON 03/01/2013	MEL
3/5/2013	8:26 AM	---	SCANNED - RETURN OF SERVICE	melissa.taylor
3/5/2013	9:15 AM	SERC	D002 SERVED PROCESS SERVER ON 03/01/2013	MEL
3/5/2013	9:15 AM	SERC	D003 SERVED PROCESS SERVER ON 03/01/2013	MEL
3/5/2013	9:16 AM	---	SCANNED - RETURN OF SERVICE	melissa.taylor
3/5/2013	9:16 AM	SERC	D004 SERVED PROCESS SERVER ON 03/01/2013	MEL
3/5/2013	9:16 AM	SERC	D008 SERVED PROCESS SERVER ON 03/01/2013	MEL
3/5/2013	9:16 AM	---	SCANNED - RETURN OF SERVICE	melissa.taylor
3/5/2013	9:16 AM	---	SCANNED - RETURN OF SERVICE	melissa.taylor
3/5/2013	9:17 AM	---	SCANNED - RETURN OF SERVICE	melissa.taylor
3/5/2013	9:17 AM	SERC	D007 SERVED PROCESS SERVER ON 03/01/2013	MEL
3/5/2013	9:18 AM	---	SCANNED - RETURN OF SERVICE	melissa.taylor
3/5/2013	9:18 AM	SERC	D009 SERVED PROCESS SERVER ON 03/01/2013	MEL
3/5/2013	9:18 AM	---	SCANNED - RETURN OF SERVICE	melissa.taylor
3/5/2013	9:19 AM	SERC	D011 SERVED PROCESS SERVER ON 03/11/2013	MEL
3/5/2013	9:19 AM	SERC	D012 SERVED PROCESS SERVER ON 03/01/2013	MEL
3/5/2013	9:19 AM	---	SCANNED - RETURN OF SERVICE	melissa.taylor
3/5/2013	9:19 AM	SERC	D001 SERVED PROCESS SERVER ON 03/01/2013	MEL
3/5/2013	9:19 AM	---	SCANNED - RETURN OF SERVICE	melissa.taylor
3/5/2013	9:20 AM	---	SCANNED - RETURN OF SERVICE	melissa.taylor
3/12/2013	9:36 AM	SERC	D009 SERVED CERTIFIED MAIL ON 03/07/2013	MEL
3/12/2013	10:08 AM	ESCAN	SCANNED - RETURN OF SERVICE	melissa.taylor
3/21/2013	9:16 AM	EALIA	ALIAS SUMMONS E-FILED	BRA143
3/21/2013	9:16 AM	EALIA	ALIAS SUMMONS - SUMMONS	
3/21/2013	9:17 AM	D008	D008 ADDR1 CHANGED FROM: 124 DARRELLS ROAD (AV02)	AJA
3/21/2013	9:17 AM	D008	REISSUE OF PROCESS SERV ON 03/21/2013 FOR D008	AJA
3/21/2013	9:17 AM	D008	D008 ADDR CITY CHANGED FROM: URIAH (AV02)	AJA



END OF THE REPORT

ELECTRONICALLY FILED
 2/19/2013 7:48 AM
 CV-2013-900057.00
 CIRCUIT COURT OF
 ELMORE COUNTY, ALABAMA
 BRIAN JUSTISS, CLERK

State of Alabama
 Unified Judicial System
 Form AR Civ-93 Rev. 5/99

COVER SHEET
CIRCUIT COURT - CIVIL CASE
 (Not For Domestic Relations Cases)

Case Number:
29-CV-201
 Date of Filing:
 02/19/2013

GENERAL INFORMATION

IN THE CIRCUIT OF ELMORE COUNTY, ALABAMA
STATE OF ALABAMA v. PCI GAMING AUTHORITY ET AL

First Plaintiff: Business Individual Government Other
First Defendant: Business Individual Government Other

NATURE OF SUIT:

TORTS: PERSONAL INJURY

- WDEA - Wrongful Death
- TONG - Negligence: General
- TOMV - Negligence: Motor Vehicle
- TOWA - Wantonnes
- TOPL - Product Liability/AEMLD
- TOMM - Malpractice-Medical
- TOLM - Malpractice-Legal
- TOOM - Malpractice-Other
- TBFM - Fraud/Bad Faith/Misrepresentation
- TOXX - Other: _____

OTHER CIVIL FILINGS (cont'd)

- MSXX - Birth/Death Certificate Modification/Bond Forfeiture Appeal/Enforcement of Agency Subpoena/Petition to Preserve
- CVRT - Civil Rights
- COND - Condemnation/Eminent Domain/Right-of-Way
- CTMP - Contempt of Court
- CONT - Contract/Ejectment/Writ of Seizure
- TOCN - Conversion
- EQND - Equity Non-Damages Actions/Declaratory Judgment/Injunction Election Contest/Quiet Title/Sale For Division
- CVUD - Eviction Appeal/Unlawful Detainer
- FORJ - Foreign Judgment
- FORF - Fruits of Crime Forfeiture
- MSHC - Habeas Corpus/Extraordinary Writ/Mandamus/Prohibition
- PFAB - Protection From Abuse
- FELA - Railroad/Seaman (FELA)
- RPRO - Real Property
- WTEG - Will/Trust/Estate/Guardianship/Conservatorship
- COMP - Workers' Compensation
- CVXX - Miscellaneous Circuit Civil Case

TORTS: PERSONAL INJURY

- TOPE - Personal Property
- TORE - Real Property

OTHER CIVIL FILINGS

- ABAN - Abandoned Automobile
- ACCT - Account & Nonmortgage
- APAA - Administrative Agency Appeal
- ADPA - Administrative Procedure Act
- ANPS - Adults in Need of Protective Services

ORIGIN: F INITIAL FILING A APPEAL FROM DISTRICT COURT O OTHER
 R REMANDED T TRANSFERRED FROM OTHER CIRCUIT COURT

HAS JURY TRIAL BEEN DEMANDED? Yes No

RELIEF REQUESTED: MONETARY AWARD REQUESTED NO MONETARY AWARD REQUESTED

ATTORNEY CODE: BRA143 2/19/2013 7:47:52 AM /s/ ANDREW LYNN BRASHER

MEDIATION REQUESTED: Yes No Undecided



ELECTRONICALLY FILED
2/19/2013 7:48 AM
CV-2013-900057.00
CIRCUIT COURT OF
ELMORE COUNTY, ALABAMA
BRIAN JUSTISS, CLERK

IN THE CIRCUIT COURT OF ELMORE COUNTY, ALABAMA

STATE OF ALABAMA)
)
 Plaintiff,)
)
 v.)
)
)
 PCI GAMING AUTHORITY,)
 BUFORD ROLIN, STEPHANIE BRYAN,)
 ROBERT MCGHEE, DAVID GEHMAN,)
 ARTHUR MOTHERSHED,)
 SANDY HOLLINGER, GARVIS SELLS,)
 EDDIE TULLIS, KEITH MARTIN,)
 BRIDGET WASDIN,)
 MATTHEW MARTIN, BILLY SMITH,)
 TIM MANNING,)
)
 Defendants.)

Civil Action No. _____

COMPLAINT

COMES NOW, the State of Alabama, by and through Attorney General Luther Strange via the undersigned counsel, and respectfully moves this Honorable Court for declaratory and injunctive relief to abate a public nuisance of unlawful gambling, pursuant to Ala. Code § 6-5-120 based on the following :

JURISDICTION

1. The Court has subject matter jurisdiction of this action pursuant to Ala. Code § 6-5-121.
2. This Court has jurisdiction over the parties.

3. Defendants have no tribal or sovereign immunity that would bar the declaratory and injunctive relief requested in this Complaint.

PARTIES

4. Plaintiff is the State of Alabama by and through Attorney General Luther Strange. *See Ala. Code § 36-15-12.*

5. Defendant PCI Gaming Authority is a commercial enterprise owned and operated by the Poarch Band of Creek Indians (“PBCI”).

6. Defendants Buford Rolin, Stephanie Bryan, Robert McGhee, David Gehman, Arthur Mothershed, Keith Martin, Sandy Hollinger, Garvin Sells, and Eddie Tullis are members of the PBCI Tribal Council and officials of PBCI sued in their official capacity.

7. Defendants Keith Martin, Bridget Wasdin, Matthew Martin, Billy Smith and Tim Manning are members of the PCI Gaming Authority and tribal officials sued in their official capacity.

VENUE

8. Venue is appropriate in this Court pursuant to Alabama Code §§ 6-3-2, 6-3-6, 6-3-7 and Rule 82 of the Alabama Rules of Civil Procedure.

GENERAL ALLEGATIONS

9. On information and belief, the Defendants are operating, advancing, and profiting from unlawful gambling activity at the Creek Casino in Wetumpka, the Wind Creek Casino in Atmore, and the Creek Casino in Montgomery in violation of Article IV, Section 65 of the Alabama Constitution (1901) and Ala. Code § 13A-12-20 *et seq.*

10. Lotteries and games of chance are strictly prohibited in Alabama except where a county has ratified an amendment to Article IV, Section 65 of the Alabama Constitution. Article IV, Section 65 of the Alabama Constitution (1901) states the following:

“The Legislature shall have no power to authorize lotteries or gift enterprises for any purposes, and shall pass laws to prohibit the sale in this State of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery...”

11. Slot machines and other gambling devices, as defined in Ala. Code § 13A-12-20 (1975), are illegal under Section 13A-12-27 of the Code of Alabama and Section 65 of the Alabama Constitution. *See State ex rel. Tyson v. Ted's Game Enterprises*, 893 So. 2d 376, 380 (Ala. 2004).

12. On information and belief, devices being used at the Defendants' casinos are prohibited gambling devices, as defined in Alabama Code § 13A-12-20(5). They are machines or equipment used in the playing phases of gambling activity between persons or machines. *Id.*

13. On information and belief, devices being used at the Defendants' casinos are slot machines or readily convertible to slot machines, as defined in Alabama Code § 13A-12-20(10). As a result of the insertion of an object, Defendants' devices operate with the aid of a physical act by the player to eject something of value based on the element of chance. They also “look like, sound like, and attract the same class of customers as conventional slot machines.” *Barber v. Jefferson County Racing Ass'n*, 960 So. 2d 599, 616 (Ala. 2006).

14. It is unlawful to possess or use Defendants' devices. *See* Ala. Code §§ 13A-12-20(12) & - 27.

COUNT I – PUBLIC NUISANCE

15. The State incorporates paragraphs 1 through 14 as if fully stated in Count I.

16. The Defendants do not have legal authority to operate, advance, or profit from unlawful gambling activity in violation of Article IV, Section 65 of the Alabama Constitution (1901) and Ala. Code § 13A-12-20 *et seq.*

17. The continued operation of slot machines and unlawful gambling devices by Defendants is a public nuisance. *See* Ala. Code § 6-5-120 *et seq.*; Restatement (Second) of Torts § 821B; *Try-Me Bottling Company, et al v. State of Alabama*, 178 So. 231 (Ala. 1938).

18. The continued operation of slot machines and unlawful gambling devices by Defendants works hurt, inconvenience, or damage to the public interest.

19. The public policy of Alabama is emphatically against lotteries or any scheme in the nature of a lottery.

20. The State has an interest in the welfare of the people within her domain and, of consequence, in enforcement of the State's declared public policy against lotteries or gift schemes.

21. The Defendants' operation of lotteries and their use of slot machines and unlawful gambling devices are enjoined in suit by the State by virtue of this Court's equity jurisdiction to abate a public nuisance. *See Try-Me Bottling Company, et al v. State of Alabama*, 178 So. 231 (Ala. 1938).

REQUEST FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, the State of Alabama respectfully requests this Honorable Court enter an Order

- 1) declaring that the gambling activities being conducted by or through the Defendants is a public nuisance;
- 2) permanently enjoining such unlawful gambling activities; and
- 3) ordering such other and further relief as this Court deems appropriate.

Respectfully submitted,
LUTHER STRANGE (STR003)
ATTORNEY GENERAL

/s/ Andrew L. Brasher
Andrew L. Brasher (BRA143)
Deputy Solicitor General

OF COUNSEL:

Andrew L. Brasher (BRA143)
Deputy Solicitor General
Henry S. Reagan III (REA021)
Deputy Attorney General
Office of the Attorney General
501 Washington Avenue
Post Office Box 300152
Montgomery, AL 36130-0152
(334) 242-7300
(334) 242-4890 – FAX
abrasher@ago.state.al.us

DEFENDANTS' ADDRESSES (Plaintiff will serve):

PCI Gaming Authority
100 Brookwood Road
Atmore, AL 36502

Buford Rolin
308 Forest Avenue
Atmore, AL 36502

Stephanie Bryan
2159 Bell Fork Road
Atmore, AL 36502

Robert McGhee
92 Stokely Court
Atmore, AL 36502

David Gehman
380 Beacon Lane
Atmore, AL 36502

Arthur Mothershed
1690 Woodridge Drive
Atmore, AL 36502

Keith Martin
359 Ora Lane
Atmore, AL 36502

Sandy Hollinger
124 Darrells Road
Uriah, AL 36480

Garvis Eugene Sells
376 Martin Road
Atmore, AL 36502

Eddie Tullis
188 Lynn McGhee Drive
Atmore, AL 36502

Bridget Wasdin
38211 V. R. Byrd Road
Bay Minette, AL 36507

Matthew Martin
24 Big Creek Road
Atmore, AL 36502

Billy Smith
24 Big Creek Road
Atmore, AL 36502

Tim Manning
24 Big Creek Road
Atmore, AL 36502

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IN THE CIVIL COURT OF ELMORE, ALABAMA
 STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

PCI GAMING AUTHORITY, 100 BROOKWOOD ROAD, ATMORE, AL 36502

NOTICE TO _____

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WHOSE ADDRESS IS 501 Washington Avenue, Montgomery, AL 36130

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2/19/2013 7:48:38 AM

/s BRIAN JUSTISS

Date

Clerk/Register

By _____

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IN THE CIVIL COURT OF ELMORE, ALABAMA
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BUFORD ROLIN, 308 FOREST AVENUE, ATMORE, AL 36502

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STEPHANIE BRYAN, 2159 BELL FORK ROAD, ATMORE, AL 36502

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ROBERT MCGHEE, 92 STOKELY COURT, ATMORE, AL 36502

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DAVID GEHMAN, 308 BEACON LANE, ATMORE, AL 36502

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ARTHUR MOTHERSHED, 1690 WOODRIDGE DRIVE, ATMORE, AL 36502

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IN THE CIVIL COURT OF ELMORE, ALABAMA
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KEITH MARTIN, 359 ORA LANE, ATMORE, AL 36502

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SANDY HOLLINGER, 124 DARRELLS ROAD, URIAH, AL 36480

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GARVIS EUGENE SELLS, 367 MARTIN ROAD, ATMORE, AL 36502

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State of Alabama
Unified Judicial System
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**SUMMONS
- CIVIL -**

Case Number:
29-CV-2013-900057.00

IN THE CIVIL COURT OF ELMORE, ALABAMA
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EDDIE TULLIS, 188 LYNN MCGHEE DRIVE, ATMORE, AL 36502

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IN THE CIVIL COURT OF ELMORE, ALABAMA
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BRIDGET WASDIN, 38211 V. R. BYRD ROAD, BAY MINETTE, AL 36507

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MATTHEW MARTIN, 24 BIG CREEK ROAD, ATMORE, AL 36502

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IN THE CIVIL COURT OF ELMORE, ALABAMA
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BILLY SMITH, 24 BIG CREEK ROAD, ATMORE, AL 36502

NOTICE TO _____

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WHOSE ADDRESS IS 501 Washington Avenue, Montgomery, AL 36130

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2/19/2013 7:48:38 AM
 Date

/s BRIAN JUSTISS
 Clerk/Register

 By

Certified mail is hereby requested _____
 Plaintiffs/Attorney's Signature

RETURN ON SERVICE:

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I certify that I personally delivered a copy of the Summons and Complaint to _____

_____ in _____ County, Alabama on _____

 Date

 Server's Signature

State of Alabama Unified Judicial System Form C-34 Rev 6/88	SUMMONS - CIVIL -	Case Number: 29-CV-2013-900057.00
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IN THE CIVIL COURT OF ELMORE, ALABAMA
 STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

TIM MANNING, 24 BIG CREEK ROAD, ATMORE, AL 36502

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SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

PCI Gaming Authority
100 Brookwood Road
Atmore, AL 36502

D-001

CV-13-900057

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery
Sandy Gibbs 2-21-13

C. Signature Agent
Sandy Gibbs Addressee

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

91 7108 2133 3937 0564 9500

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

David Gehman
380 Beacon Lane
Atmore, AL 36502

D-005

CV-13-900057

2. 91 7108 2133 3937 0564 9463

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

David Gehman

C. Signature



- Agent
- Addressee

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Billy Smith
24 Big Creek Road
Atmore, AL 36502

D013

CV-13-900057

2. Article Number (✓)

91 7108 2133 3937 0564 9388

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) **Billy Smith** B. Date of Delivery **2/22/13**

C. Signature **Billy Smith** Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

SENDER: COMPLETE THIS SECTION

COMPLETE THIS SECTION ON DELIVERY

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

A. Received by (Please Print Clearly) **EDDIE TULLIS** B. Date of Delivery **2-22**

C. Signature **Eddie Tullis** Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

1. Article Addressed to:

Eddie Tullis
188 Lynn McGhee Drive
Atmore, AL 36502

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

DD10

CV-13-900057

4. Restricted Delivery? (Extra Fee) Yes

2. Arti

91 7108 2133 3937 0564 9418

3. Defendants have no tribal or sovereign immunity that would bar the declaratory and injunctive relief requested in this Complaint.

PARTIES

4. Plaintiff is the State of Alabama by and through Attorney General Luther Strange. *See Ala. Code § 36-15-12.*

5. Defendant PCI Gaming Authority is a commercial enterprise owned and operated by the Poarch Band of Creek Indians ("PBCI").

6. Defendants Buford Rolin, Stephanie Bryan, Robert McGhee, David Gehman, Arthur Mothershed, Keith Martin, Sandy Hollinger, Garvin Sells, and Eddie Tullis are members of the PBCI Tribal Council and officials of PBCI sued in their official capacity.

7. Defendants Keith Martin, Bridget Wasdin, Matthew Martin, Billy Smith and Tim Manning are members of the PCI Gaming Authority and tribal officials sued in their official capacity.

VENUE

8. Venue is appropriate in this Court pursuant to Alabama Code §§ 6-3-2, 6-3-6, 6-3-7 and Rule 82 of the Alabama Rules of Civil Procedure.

GENERAL ALLEGATIONS

9. On information and belief, the Defendants are operating, advancing, and profiting from unlawful gambling activity at the Creek Casino in Wetumpka, the Wind Creek Casino in Atmore, and the Creek Casino in Montgomery in violation of Article IV, Section 65 of the Alabama Constitution (1901) and Ala. Code § 13A-12-20 *et seq.*

10. Lotteries and games of chance are strictly prohibited in Alabama except where a county has ratified an amendment to Article IV, Section 65 of the Alabama Constitution. Article IV, Section 65 of the Alabama Constitution (1901) states the following:

“The Legislature shall have no power to authorize lotteries or gift enterprises for any purposes, and shall pass laws to prohibit the sale in this State of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery...”

11. Slot machines and other gambling devices, as defined in Ala. Code § 13A-12-20 (1975), are illegal under Section 13A-12-27 of the Code of Alabama and Section 65 of the Alabama Constitution. *See State ex rel. Tyson v. Ted's Game Enterprises*, 893 So. 2d 376, 380 (Ala. 2004).

12. On information and belief, devices being used at the Defendants' casinos are prohibited gambling devices, as defined in Alabama Code § 13A-12-20(5). They are machines or equipment used in the playing phases of gambling activity between persons or machines. *Id.*

13. On information and belief, devices being used at the Defendants' casinos are slot machines or readily convertible to slot machines, as defined in Alabama Code § 13A-12-20(10). As a result of the insertion of an object, Defendants' devices operate with the aid of a physical act by the player to eject something of value based on the element of chance. They also “look like, sound like, and attract the same class of customers as conventional slot machines.” *Barber v. Jefferson County Racing Ass'n*, 960 So. 2d 599, 616 (Ala. 2006).

14. It is unlawful to possess or use Defendants' devices. *See* Ala. Code §§ 13A-12-20(12) & - 27.

COUNT I – PUBLIC NUISANCE

15. The State incorporates paragraphs 1 through 14 as if fully stated in Count I.

16. The Defendants do not have legal authority to operate, advance, or profit from unlawful gambling activity in violation of Article IV, Section 65 of the Alabama Constitution (1901) and Ala. Code § 13A-12-20 *et seq.*

17. The continued operation of slot machines and unlawful gambling devices by Defendants is a public nuisance. *See* Ala. Code § 6-5-120 *et seq.*; Restatement (Second) of Torts § 821B; *Try-Me Bottling Company, et al v. State of Alabama*, 178 So. 231 (Ala. 1938).

18. The continued operation of slot machines and unlawful gambling devices by Defendants works hurt, inconvenience, or damage to the public interest.

19. The public policy of Alabama is emphatically against lotteries or any scheme in the nature of a lottery.

20. The State has an interest in the welfare of the people within her domain and, of consequence, in enforcement of the State's declared public policy against lotteries or gift schemes.

21. The Defendants' operation of lotteries and their use of slot machines and unlawful gambling devices are enjoined in suit by the State by virtue of this Court's equity jurisdiction to abate a public nuisance. *See Try-Me Bottling Company, et al v. State of Alabama*, 178 So. 231 (Ala. 1938).

REQUEST FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, the State of Alabama respectfully requests this Honorable Court enter an Order

- 1) declaring that the gambling activities being conducted by or through the Defendants is a public nuisance;
- 2) permanently enjoining such unlawful gambling activities; and
- 3) ordering such other and further relief as this Court deems appropriate.

Respectfully submitted,
LUTHER STRANGE (STR003)
ATTORNEY GENERAL

/s/ Andrew L. Brasher
Andrew L. Brasher (BRA143)
Deputy Solicitor General

OF COUNSEL:

Andrew L. Brasher (BRA143)
Deputy Solicitor General
Henry S. Reagan III (REA021)
Deputy Attorney General
Office of the Attorney General
501 Washington Avenue
Post Office Box 300152
Montgomery, AL 36130-0152
(334) 242-7300
(334) 242-4890 – FAX
abrasher@ago.state.al.us

DEFENDANTS' ADDRESSES (Plaintiff will serve):

PCI Gaming Authority
100 Brookwood Road
Atmore, AL 36502

Buford Rolin
308 Forest Avenue
Atmore, AL 36502

Stephanie Bryan
2159 Bell Fork Road
Atmore, AL 36502

Robert McGhee
92 Stokely Court
Atmore, AL 36502

David Gehman
380 Beacon Lane
Atmore, AL 36502

Arthur Mothershed
1690 Woodridge Drive
Atmore, AL 36502

Keith Martin
359 Ora Lane
Atmore, AL 36502

Sandy Hollinger
124 Darrells Road
Uriah, AL 36480

Garvis Eugene Sells
376 Martin Road
Atmore, AL 36502

Eddie Tullis
188 Lynn McGhee Drive
Atmore, AL 36502

Bridget Wasdin
38211 V. R. Byrd Road
Bay Minette, AL 36507

Matthew Martin
24 Big Creek Road
Atmore, AL 36502

Billy Smith
24 Big Creek Road
Atmore, AL 36502

Tim Manning
24 Big Creek Road
Atmore, AL 36502

State of Alabama Unified Judicial System Form C-34 Rev 6/88	SUMMONS - CIVIL -	Case Number: 29-CV-2013-900057.00
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IN THE CIVIL COURT OF ELMORE, ALABAMA
 STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

GARVIS EUGENE SELLS, C/O KELLY PATE BALCH & BINGHAM - MGM, MONTGOMERY, AL 36104

NOTICE TO _____

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WHOSE ADDRESS IS 501 Washington Avenue, Montgomery, AL 36130

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Clerk/Register

By

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IN THE CIVIL COURT OF ELMORE, ALABAMA
 STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

BUFORD ROLIN, C/O KELLY PATE BALCH & BINGHAM - MGM, MONTGOMERY, AL 36104

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IN THE CIVIL COURT OF ELMORE, ALABAMA
 STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

MATTHEW MARTIN, C/O KELLY PATE BALCH & BINGHAM - MGM, MONTGOMERY, AL 36104

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IN THE CIVIL COURT OF ELMORE, ALABAMA
 STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

STEPHANIE BRYAN, C/O KELLY PATE BALCH & BINGHAM - MGM, MONTGOMERY, AL 36104

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IN THE CIVIL COURT OF ELMORE, ALABAMA
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ARTHUR MOTHERSHED, C/O KELLY PATE BALCH & BINGHAM - MGM, MONTGOMERY, AL 36104

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State of Alabama
Unified Judicial System
Form C-34 Rev 6/88

**SUMMONS
- CIVIL -**

Case Number:
29-CV-2013-900057.00

**IN THE CIVIL COURT OF ELMORE, ALABAMA
STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL**

BRIDGET WASDIN, C/O KELLY PATE BALCH & BINGHAM - MGM, MONTGOMERY, AL 36104

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IN THE CIVIL COURT OF ELMORE, ALABAMA
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TIM MANNING, C/O KELLY PATE BALCH & BINGHAM - MGM, MONTGOMERY, AL 36104

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IN THE CIVIL COURT OF ELMORE, ALABAMA
 STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

KEITH MARTIN, C/O KELLY PATE BALCH & BINGHAM - MGM, MONTGOMERY, AL 36104

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IN THE CIVIL COURT OF ELMORE, ALABAMA
 STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

ROBERT MCGHEE, C/O KELLY PATE BALCH & BINGHAM - MGM, MONTGOMERY, AL 36104

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WHOSE ADDRESS IS 501 Washington Avenue, Montgomery, AL 36130

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

TO ANY SHERIFF OR ANY PERSONNEL AUTHORIZED by the Alabama Rules of the Civil Procedure:

You are hereby commanded to serve this summons and a copy of the complaint in this action upon the defendant

Service by certified mail of this summons is initiated upon the written request of _____ pursuant to the Alabama Rules of the Civil Procedure

2/27/2013 11:55:14 AM

/s BRIAN JUSTISS

Date

Clerk/Register

By

Certified mail is hereby requested _____
 Plaintiff's/Attorney's Signature

RETURN ON SERVICE:

Return receipt of certified mail received in this office on _____

I certify that I personally delivered a copy of the Summons and Complaint to _____

_____ in _____ County, Alabama on _____

_____ Date

_____ Server's Signature

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Robert McGhee
92 Stokely Court
Atmore, AL 36502

D-004

CV-13-900057

2. Article

91 7108 2133 3937 0564 9470

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

3/1/13

C. Signature

- Agent
- Addressee

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

State of Alabama Unified Judicial System Form C-34 Rev 6/88	SUMMONS - CIVIL -	Case Number: 29-CV-2013-900057.00
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IN THE CIVIL COURT OF ELMORE, ALABAMA
 STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

BUFORD ROLIN, C/O KELLY PATE BALCH & BINGHAM - MGM, MONTGOMERY, AL 36104

NOTICE TO

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2/27/2013 11:55:14 AM

/s/ BRIAN JUSTISS

Date

Clerk/Register

By

Certified mail is hereby requested

 Plaintiffs/Attorney's Signature

RETURN ON SERVICE:

Return receipt of certified mail received in this office on _____

I certify that I personally delivered a copy of the Summons and Complaint to Kelly Pate

_____ in Montgomery County, Alabama on 3/1/13

3/1/13
 Date

Karen Guthrie
 Server's Signature

29-CV-2013-900057.00

STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

C001 - STATE OF ALABAMA

v. D002 - BUFORD ROLIN

Plaintiff

Defendant



29-CV-2013-900057.00 D002

SERVICE RETURN

State of Alabama Unified Judicial System Form C-34 Rev 6/88	SUMMONS - CIVIL -	Case Number: 29-CV-2013-900057.00
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IN THE CIVIL COURT OF ELMORE, ALABAMA
 STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

STEPHANIE BRYAN, C/O KELLY PATE BALCH & BINGHAM - MGM, MONTGOMERY, AL 36104

NOTICE TO

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY ANDREW LYNN BRASHER

WHOSE ADDRESS IS 501 Washington Avenue, Montgomery, AL 36130

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2/27/2013 11:55:14 AM /s/ BRIAN JUSTISS
 Date Clerk/Register By

Certified mail is hereby requested _____
 Plaintiff's/Attorney's Signature

RETURN ON SERVICE:

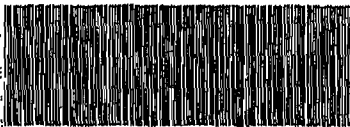
Return receipt of certified mail received in this office on _____

I certify that I personally delivered a copy of the Summons and Complaint to Kelly Pate
 _____ in Montgomery County, Alabama on 3/1/13

3/1/13 Karen Mulholic
 Date Server's Signature

29-CV-2013-900057.00
 STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

C001 - STATE OF ALABAMA v. D003 - STEPHANIE BRYAN
 Plaintiff Defendant



SERVICE RETURN

State of Alabama Unified Judicial System Form C-34 Rev 6/88	SUMMONS - CIVIL -	Case Number: 29-CV-2013-900057.00
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IN THE CIVIL COURT OF ELMORE, ALABAMA
STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

ARTHUR MOTHERSHED, C/O KELLY PATE BALCH & BINGHAM - MGM, MONTGOMERY, AL 36104

NOTICE TO _____

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY ANDREW LYNN BRASHER

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2/27/2013 11:55:14 AM /s/ BRIAN JUSTISS
 Date Clerk/Register By

Certified mail is hereby requested _____
 Plaintiff's/Attorney's Signature

RETURN ON SERVICE:

Return receipt of certified mail received in this office on _____

I certify that I personally delivered a copy of the Summons and Complaint to Kelly Pate
 _____ in Montgomery County, Alabama on 3/1/13
3/1/13 Karen Justice
 Date Server's Signature

29-CV-2013-900057.00
STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

C001 - STATE OF ALABAMA v. **D006 - ARTHUR MOTHERSHED**
 Plaintiff Defendant



SERVICE RETURN

State of Alabama Unified Judicial System Form C-34 Rev 6/88	SUMMONS - CIVIL -	Case Number: 29-CV-2013-900057.00
---	------------------------------	---

IN THE CIVIL COURT OF ELMORE, ALABAMA
STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

KEITH MARTIN, C/O KELLY PATE BALCH & BINGHAM - MGM, MONTGOMERY, AL 36104

NOTICE TO _____

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY ANDREW LYNN BRASHER

WHOSE ADDRESS IS 501 Washington Avenue, Montgomery, AL 36130

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2/27/2013 11:55:14 AM /s/ BRIAN JUSTISS
Date Clerk/Register By

Certified mail is hereby requested _____
Plaintiff's/Attorney's Signature

RETURN ON SERVICE:

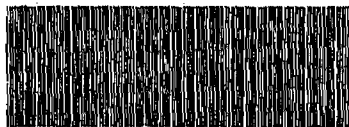
Return receipt of certified mail received in this office on _____

I certify that I personally delivered a copy of the Summons and Complaint to Kelly Pate
_____ in Montgomery County, Alabama on 3/1/13

3/1/13 _____
Date Server's Signature

29-CV-2013-900057.00
STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

C001 - STATE OF ALABAMA v. D007 - KEITH MARTIN
Plaintiff Defendant



29-CV-2013-900057.00 D007

SERVICE RETURN

State of Alabama Unified Judicial System Form C-34 Rev 6/88	SUMMONS - CIVIL -	Case Number: 29-CV-2013-900057.00
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IN THE CIVIL COURT OF ELMORE, ALABAMA
 STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

MATTHEW MARTIN, C/O KELLY PATE BALCH & BINGHAM - MGM, MONTGOMERY, AL 36104

NOTICE TO _____

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY ANDREW LYNN BRASHER

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2/27/2013 11:55:14 AM /s/ BRIAN JUSTISS
 Date Clerk/Register By

Certified mail is hereby requested _____
 Plaintiff's/Attorney's Signature

RETURN ON SERVICE:

- Return receipt of certified mail received in this office on _____
- I certify that I personally delivered a copy of the Summons and Complaint to Kelly Pate
 _____ in Montgomery County, Alabama on 3/1/13
3/1/13 Date Karen Mullins Server's Signature

29-CV-2013-900057.00
 STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

C001 - STATE OF ALABAMA Plaintiff v. D012 - MATTHEW MARTIN Defendant



SERVICE RETURN

State of Alabama Unified Judicial System Form C-34 Rev 6/88	SUMMONS - CIVIL -	Case Number: 29-CV-2013-900057.00
---	------------------------------------	---

IN THE CIVIL COURT OF ELMORE, ALABAMA
 STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

TIM MANNING, C/O KELLY PATE BALCH & BINGHAM - MGM, MONTGOMERY, AL 36104

NOTICE TO _____

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY ANDREW LYNN BRASHER

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2/27/2013 11:55:14 AM

/s BRIAN JUSTISS

Date

Clerk/Register

By _____

Certified mail is hereby requested _____

Plaintiff's/Attorney's Signature

RETURN ON SERVICE:

Return receipt of certified mail received in this office on _____

I certify that I personally delivered a copy of the Summons and Complaint to Kelly Pate

in Montgomery County, Alabama on 3/1/13

3/1/13
Date

Karen M. Hovic
Server's Signature

29-CV-2013-900057.00

STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

C001 - STATE OF ALABAMA

v. D014 - TIM MANNING

Plaintiff

Defendant



29-CV-2013-900057.00 D014

SERVICE RETURN

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Garvis Eugene Sells
 376 Martin Road
 Atmore, AL 36502

D-009

CV-13-900057

2. Article

91 7108 2133 3937 0564 9425

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) *Garvis Sells* B. Date of Delivery *3-7*

C. Signature

Garvis Sells

- Agent
 Addressee

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

State of Alabama Unified Judicial System Form C-34 Rev 6/88	SUMMONS - CIVIL -	Case Number: 29-CV-2013-900057.00
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IN THE CIVIL COURT OF ELMORE, ALABAMA
 STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

SANDY HOLLINGER, C/O KELLY PATE BALCH & BINGHAM - MGM, MONTGOMERY, AL 36104

NOTICE TO _____

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WHOSE ADDRESS IS 501 Washington Avenue, Montgomery, AL 36130

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You are hereby commanded to serve this summons and a copy of the complaint in this action upon the defendant

Service by certified mail of this summons is initiated upon the written request of _____ pursuant to the Alabama Rules of the Civil Procedure

3/21/2013 9:16:44 AM

/s BRIAN JUSTISS

Date

Clerk/Register

By

Certified mail is hereby requested _____
 Plaintiff's/Attorney's Signature

RETURN ON SERVICE:

Return receipt of certified mail received in this office on _____

I certify that I personally delivered a copy of the Summons and Complaint to _____

_____ in _____ County, Alabama on _____

 Date

 Server's Signature



ELECTRONICALLY FILED
3/21/2013 9:16 AM
29-CV-2013-900057.00
CIRCUIT COURT OF
ELMORE COUNTY, ALABAMA
BRIAN JUSTISS, CLERK

IN THE CIRCUIT COURT OF ELMORE COUNTY, ALABAMA

STATE OF ALABAMA)
)
 Plaintiff,)
)
 v.)
)
)
 PCI GAMING AUTHORITY,)
 BUFORD ROLIN, STEPHANIE BRYAN,)
 ROBERT MCGHEE, DAVID GEHMAN,)
 ARTHUR MOTHERSHED,)
 SANDY HOLLINGER, GARVIS SELLS,)
 EDDIE TULLIS, KEITH MARTIN,)
 BRIDGET WASDIN,)
 MATTHEW MARTIN, BILLY SMITH,)
 TIM MANNING,)
)
)
 Defendants.)

Civil Action No. _____

COMPLAINT

COMES NOW, the State of Alabama, by and through Attorney General Luther Strange via the undersigned counsel, and respectfully moves this Honorable Court for declaratory and injunctive relief to abate a public nuisance of unlawful gambling, pursuant to Ala. Code § 6-5-120 based on the following :

JURISDICTION

1. The Court has subject matter jurisdiction of this action pursuant to Ala. Code § 6-5-121.
2. This Court has jurisdiction over the parties.

3. Defendants have no tribal or sovereign immunity that would bar the declaratory and injunctive relief requested in this Complaint.

PARTIES

4. Plaintiff is the State of Alabama by and through Attorney General Luther Strange. *See Ala. Code § 36-15-12.*

5. Defendant PCI Gaming Authority is a commercial enterprise owned and operated by the Poarch Band of Creek Indians (“PBCI”).

6. Defendants Buford Rolin, Stephanie Bryan, Robert McGhee, David Gehman, Arthur Mothershed, Keith Martin, Sandy Hollinger, Garvin Sells, and Eddie Tullis are members of the PBCI Tribal Council and officials of PBCI sued in their official capacity.

7. Defendants Keith Martin, Bridget Wasdin, Matthew Martin, Billy Smith and Tim Manning are members of the PCI Gaming Authority and tribal officials sued in their official capacity.

VENUE

8. Venue is appropriate in this Court pursuant to Alabama Code §§ 6-3-2, 6-3-6, 6-3-7 and Rule 82 of the Alabama Rules of Civil Procedure.

GENERAL ALLEGATIONS

9. On information and belief, the Defendants are operating, advancing, and profiting from unlawful gambling activity at the Creek Casino in Wetumpka, the Wind Creek Casino in Atmore, and the Creek Casino in Montgomery in violation of Article IV, Section 65 of the Alabama Constitution (1901) and Ala. Code § 13A-12-20 *et seq.*

10. Lotteries and games of chance are strictly prohibited in Alabama except where a county has ratified an amendment to Article IV, Section 65 of the Alabama Constitution. Article IV, Section 65 of the Alabama Constitution (1901) states the following:

“The Legislature shall have no power to authorize lotteries or gift enterprises for any purposes, and shall pass laws to prohibit the sale in this State of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery...”

11. Slot machines and other gambling devices, as defined in Ala. Code § 13A-12-20 (1975), are illegal under Section 13A-12-27 of the Code of Alabama and Section 65 of the Alabama Constitution. *See State ex rel. Tyson v. Ted's Game Enterprises*, 893 So. 2d 376, 380 (Ala. 2004).

12. On information and belief, devices being used at the Defendants' casinos are prohibited gambling devices, as defined in Alabama Code § 13A-12-20(5). They are machines or equipment used in the playing phases of gambling activity between persons or machines. *Id.*

13. On information and belief, devices being used at the Defendants' casinos are slot machines or readily convertible to slot machines, as defined in Alabama Code § 13A-12-20(10). As a result of the insertion of an object, Defendants' devices operate with the aid of a physical act by the player to eject something of value based on the element of chance. They also “look like, sound like, and attract the same class of customers as conventional slot machines.” *Barber v. Jefferson County Racing Ass'n*, 960 So. 2d 599, 616 (Ala. 2006).

14. It is unlawful to possess or use Defendants' devices. *See* Ala. Code §§ 13A-12-20(12) & - 27.

COUNT I – PUBLIC NUISANCE

15. The State incorporates paragraphs 1 through 14 as if fully stated in Count I.

16. The Defendants do not have legal authority to operate, advance, or profit from unlawful gambling activity in violation of Article IV, Section 65 of the Alabama Constitution (1901) and Ala. Code § 13A-12-20 *et seq.*

17. The continued operation of slot machines and unlawful gambling devices by Defendants is a public nuisance. *See* Ala. Code § 6-5-120 *et seq.*; Restatement (Second) of Torts § 821B; *Try-Me Bottling Company, et al v. State of Alabama*, 178 So. 231 (Ala. 1938).

18. The continued operation of slot machines and unlawful gambling devices by Defendants works hurt, inconvenience, or damage to the public interest.

19. The public policy of Alabama is emphatically against lotteries or any scheme in the nature of a lottery.

20. The State has an interest in the welfare of the people within her domain and, of consequence, in enforcement of the State's declared public policy against lotteries or gift schemes.

21. The Defendants' operation of lotteries and their use of slot machines and unlawful gambling devices are enjoined in suit by the State by virtue of this Court's equity jurisdiction to abate a public nuisance. *See Try-Me Bottling Company, et al v. State of Alabama*, 178 So. 231 (Ala. 1938).

REQUEST FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, the State of Alabama respectfully requests this Honorable Court enter an Order

- 1) declaring that the gambling activities being conducted by or through the Defendants is a public nuisance;
- 2) permanently enjoining such unlawful gambling activities; and
- 3) ordering such other and further relief as this Court deems appropriate.

Respectfully submitted,
LUTHER STRANGE (STR003)
ATTORNEY GENERAL

/s/ Andrew L. Brasher
Andrew L. Brasher (BRA143)
Deputy Solicitor General

OF COUNSEL:

Andrew L. Brasher (BRA143)
Deputy Solicitor General
Henry S. Reagan III (REA021)
Deputy Attorney General
Office of the Attorney General
501 Washington Avenue
Post Office Box 300152
Montgomery, AL 36130-0152
(334) 242-7300
(334) 242-4890 – FAX
abrasher@ago.state.al.us

DEFENDANTS' ADDRESSES (Plaintiff will serve):

PCI Gaming Authority
100 Brookwood Road
Atmore, AL 36502

Buford Rolin
308 Forest Avenue
Atmore, AL 36502

Stephanie Bryan
2159 Bell Fork Road
Atmore, AL 36502

Robert McGhee
92 Stokely Court
Atmore, AL 36502

David Gehman
380 Beacon Lane
Atmore, AL 36502

Arthur Mothershed
1690 Woodridge Drive
Atmore, AL 36502

Keith Martin
359 Ora Lane
Atmore, AL 36502

Sandy Hollinger
124 Darrells Road
Uriah, AL 36480

Garvis Eugene Sells
376 Martin Road
Atmore, AL 36502

Eddie Tullis
188 Lynn McGhee Drive
Atmore, AL 36502

Bridget Wasdin
38211 V. R. Byrd Road
Bay Minette, AL 36507

Matthew Martin
24 Big Creek Road
Atmore, AL 36502

Billy Smith
24 Big Creek Road
Atmore, AL 36502

Tim Manning
24 Big Creek Road
Atmore, AL 36502

State of Alabama
Unified Judicial System
Form C-34 Rev 6/88

SUMMONS
- CIVIL -

Case Number:
29-CV-2013-900057.00

IN THE CIVIL COURT OF ELMORE, ALABAMA
STATE OF ALABAMA V. PCI GAMING AUTHORITY ET AL

SANDY HOLLINGER, C/O KELLY PATE BALCH & BINGHAM - MGM, MONTGOMERY, AL 36104

NOTICE TO

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WHOSE ADDRESS IS 501 Washington Avenue, Montgomery, AL 36130

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3/21/2013 9:16:44 AM

Date

/s BRIAN JUSTISS

Clerk/Register

By

Certified mail is hereby requested

Plaintiff's/Attorney's Signature

RETURN ON SERVICE:

Return receipt of certified mail received in this office on _____

I certify that I personally delivered a copy of the Summons and Complaint to

1 Bingham in Montgomery County, Alabama on March 21, 2013

3/21/13

Date

Karen Mullis

Server's Signature



ELECTRONICALLY FILED
2/19/2013 7:48 AM
CV-2013-900057.00
CIRCUIT COURT OF
ELMORE COUNTY, ALABAMA
BRIAN JUSTISS, CLERK

IN THE CIRCUIT COURT OF ELMORE COUNTY, ALABAMA

STATE OF ALABAMA)
)
 Plaintiff,)
)
 v.)
)
)
 PCI GAMING AUTHORITY,)
 BUFORD ROLIN, STEPHANIE BRYAN,)
 ROBERT MCGHEE, DAVID GEHMAN,)
 ARTHUR MOTHERSHED,)
 SANDY HOLLINGER, GARVIS SELLS,)
 EDDIE TULLIS, KEITH MARTIN,)
 BRIDGET WASDIN,)
 MATTHEW MARTIN, BILLY SMITH,)
 TIM MANNING,)
)
 Defendants.)

Civil Action No. _____

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2. This Court has jurisdiction over the parties.

3. Defendants have no tribal or sovereign immunity that would bar the declaratory and injunctive relief requested in this Complaint.

PARTIES

4. Plaintiff is the State of Alabama by and through Attorney General Luther Strange. *See* Ala. Code § 36-15-12.

5. Defendant PCI Gaming Authority is a commercial enterprise owned and operated by the Poarch Band of Creek Indians (“PBCI”).

6. Defendants Buford Rolin, Stephanie Bryan, Robert McGhee, David Gehman, Arthur Mothershed, Keith Martin, Sandy Hollinger, Garvin Sells, and Eddie Tullis are members of the PBCI Tribal Council and officials of PBCI sued in their official capacity.

7. Defendants Keith Martin, Bridget Wasdin, Matthew Martin, Billy Smith and Tim Manning are members of the PCI Gaming Authority and tribal officials sued in their official capacity.

VENUE

8. Venue is appropriate in this Court pursuant to Alabama Code §§ 6-3-2, 6-3-6, 6-3-7 and Rule 82 of the Alabama Rules of Civil Procedure.

GENERAL ALLEGATIONS

9. On information and belief, the Defendants are operating, advancing, and profiting from unlawful gambling activity at the Creek Casino in Wetumpka, the Wind Creek Casino in Atmore, and the Creek Casino in Montgomery in violation of Article IV, Section 65 of the Alabama Constitution (1901) and Ala. Code § 13A-12-20 *et seq.*

10. Lotteries and games of chance are strictly prohibited in Alabama except where a county has ratified an amendment to Article IV, Section 65 of the Alabama Constitution. Article IV, Section 65 of the Alabama Constitution (1901) states the following:

“The Legislature shall have no power to authorize lotteries or gift enterprises for any purposes, and shall pass laws to prohibit the sale in this State of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery...”

11. Slot machines and other gambling devices, as defined in Ala. Code § 13A-12-20 (1975), are illegal under Section 13A-12-27 of the Code of Alabama and Section 65 of the Alabama Constitution. *See State ex rel. Tyson v. Ted's Game Enterprises*, 893 So. 2d 376, 380 (Ala. 2004).

12. On information and belief, devices being used at the Defendants' casinos are prohibited gambling devices, as defined in Alabama Code § 13A-12-20(5). They are machines or equipment used in the playing phases of gambling activity between persons or machines. *Id.*

13. On information and belief, devices being used at the Defendants' casinos are slot machines or readily convertible to slot machines, as defined in Alabama Code § 13A-12-20(10). As a result of the insertion of an object, Defendants' devices operate with the aid of a physical act by the player to eject something of value based on the element of chance. They also “look like, sound like, and attract the same class of customers as conventional slot machines.” *Barber v. Jefferson County Racing Ass'n*, 960 So. 2d 599, 616 (Ala. 2006).

14. It is unlawful to possess or use Defendants' devices. *See* Ala. Code §§ 13A-12-20(12) & - 27.

COUNT I – PUBLIC NUISANCE

15. The State incorporates paragraphs 1 through 14 as if fully stated in Count I.

16. The Defendants do not have legal authority to operate, advance, or profit from unlawful gambling activity in violation of Article IV, Section 65 of the Alabama Constitution (1901) and Ala. Code § 13A-12-20 *et seq.*

17. The continued operation of slot machines and unlawful gambling devices by Defendants is a public nuisance. *See* Ala. Code § 6-5-120 *et seq.*; Restatement (Second) of Torts § 821B; *Try-Me Bottling Company, et al v. State of Alabama*, 178 So. 231 (Ala. 1938).

18. The continued operation of slot machines and unlawful gambling devices by Defendants works hurt, inconvenience, or damage to the public interest.

19. The public policy of Alabama is emphatically against lotteries or any scheme in the nature of a lottery.

20. The State has an interest in the welfare of the people within her domain and, of consequence, in enforcement of the State's declared public policy against lotteries or gift schemes.

21. The Defendants' operation of lotteries and their use of slot machines and unlawful gambling devices are enjoined in suit by the State by virtue of this Court's equity jurisdiction to abate a public nuisance. *See Try-Me Bottling Company, et al v. State of Alabama*, 178 So. 231 (Ala. 1938).

REQUEST FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, the State of Alabama respectfully requests this Honorable Court enter an Order

- 1) declaring that the gambling activities being conducted by or through the Defendants is a public nuisance;
- 2) permanently enjoining such unlawful gambling activities; and
- 3) ordering such other and further relief as this Court deems appropriate.

Respectfully submitted,
LUTHER STRANGE (STR003)
ATTORNEY GENERAL

/s/ Andrew L. Brasher
Andrew L. Brasher (BRA143)
Deputy Solicitor General

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Court Name: U S DISTRICT COURT - AL/M
Division: 2
Receipt Number: 4602026492
Cashier ID: kruffin
Transaction Date: 03/22/2013
Payer Name: BALCH AND BINGHAM LLP

CIVIL FILING FEE
For: BALCH AND BINGHAM LLP
Case/Party: D-ALM-2-13-CV-000178-001
Amount: \$350.00

CHECK
Check/Money Order Num: 028051
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

2:13-cv-00178-WKW-WC

State of Alabama v. PCI Gaming
Authority et al