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DEPARTMENT OF JUSTICE



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December 5, 2007

John K. Baldwin, Esq.
Legion Counsel
402 West Broadway, Suite 400
San Diego, California 92101

Re: *Candace Cates v. Steve Westly, et al.*,
San Diego County Superior Court, No. GIC 821775

Dear Mr. Baldwin:

Thank you for your October 25, 2007, and November 29, 2007, letters inviting discussion regarding possible settlement of this case. Please allow me to introduce myself as newly assigned counsel for all defendants in this matter. We agree with your suggestion that following the appellate court's opinion this may be an appropriate time for the parties to reevaluate this litigation; however, we generally disagree with all factual assertions which you claim have been "established" to date, and dispute as questionable, if not presumptuous, each conclusion advanced in your letters.

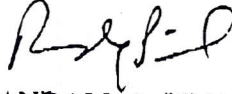
We also differ on the implications of the appellate court's opinion, and whether your client will ultimately prevail in this matter. Indeed, we are confident that with clarification of the procedures the Gambling Control Commission implemented prior to this lawsuit to ensure that Indian tribes with Special Distribution Fund contribution obligations under the 1999 tribal-State Gaming Compact make all necessary contributions, the trial court will again find the Commission has discharged its duties under the Compact and enter judgment for all defendants on remand.

Additionally, as noted in your letter, Commission staff are currently auditing several tribes with contribution obligations, even though not required to do so by the Compact. The Compact specifies that any and all documents and information the State receives from the tribes to determine Compact compliance is confidential; this includes financial information collected by the State during the compliance review process. The appellate court recognized such information is also exempt from disclosure under the Public Records Act, the Gambling Control Act, and is privileged trade secret information under Evidence Code section 1060. Because this

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information is unavailable to your client, and the Commission is, and has been, in compliance with its procedures for determining tribal contributions, we agree with your questioning what purpose is served by continuing with this action. Therefore, we are willing to consider any reasonable suggestions you may have for resolving this case. As none were included with your correspondence, we look forward to your proposal.

Sincerely,



RANDALL A. PINAL
Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General

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