

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

CALIFORNIA COMMERCE
CASINO, INC., et al.,

Plaintiffs and Appellants,

v.

ARNOLD SCHWARZENEGGER,
as Governor, etc., et al.,

Defendants and Respondents.

B188220

(Los Angeles County
Super. Ct. No. BS097163)

ORDER MODIFYING OPINION
AND DENYING REHEARING
[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on January 23, 2007, be modified as follows:

1. On page 8, line 1, after the word state add the word budget.
2. On page 26, line 15, replace the word provide with the word provides.
3. On page 26, delete the final sentence in the last paragraph and replace it with

the following sentence:

Further, section 3.2(e) of the amended compacts provides: "In the event the bonds securitized in part by the Tribe's annual payments referenced in Section 4.3.3, subdivision (a) are not issued or following the conclusion of the Tribe's annual payments securitizing the issued bonds, the Tribe shall be relieved of its obligation to make the payments specified in [various sections], if and only if any person or entity other than an

Indian tribe with a federally authorized compact engages in any Gaming Activities specified in subdivision (a) of Section 4.1 of this Amended Compact within the Tribe's core geographic market, until such time that such gaming ceases.”

4. On page 27, after the first paragraph, add the following paragraph:

As defendants point out, the application of the validation statutes is not contingent on whether the bonds are ultimately issued at the end of the process. The applicability of the validation statutes is determined at the beginning of the financing process when the contracts – in this case the amended compacts – required to implement that process are approved.

5. On page 29, revise the sentence which begins on line 7 so that it reads:

As indicated, the amended compacts express, inter alia, “the State's intention to assign [the] . . . tribes' revenue contributions totaling at least \$100 million annually to a third party for purposes of securitizing the 18-year revenue stream in the form of bonds that can be issued to investors.”

6. On page 29, delete the final sentence in the first full paragraph.

7. On page 29, footnote 17, line 3, replace the word provide with the word specify.

[There is no change in the judgment.]

Appellants' petition for rehearing is denied.