

**Exhibit Number: 7**

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**The following exhibit is several assorted documents that exceeds the 10-page limit therefore it cannot be scanned. A small portion has been scanned to aid in your research for information. The exhibit is on file at the Montana Historical Society and can be viewed there.**

### Sol Kerzner

The controversial South African developer stands to reap \$400 million from Mohegan Sun

gaming—and then guaranteed that it could do neither. With a budget capped at \$8 million, the agency has 63 employees to monitor the \$12.7 billion all-cash business in more than 300 casinos and small gaming establishments nationwide. The New Jersey Casino Control Commission, by contrast, has a \$59 million budget and a staff of 720 to monitor 12 casinos in Atlantic City that produce one-third the revenue. The NJCC has yet to discover a single major case of corruption—despite numerous complaints from tribe members.

**THE WHITE MAN WINS AGAIN.** While most Indians continue to live in poverty, many non-Indian investors are extracting hundreds of millions of dollars—sometimes in violation of legal limits—from casinos they helped establish, either by taking advantage of regulatory loopholes or cutting backroom deals. More than 90% of the contracts between tribes and outside gaming-management companies operate with no oversight. That means investors' identities are often secret, as are their financial arrangements and their share of the revenue. Whatever else Congress had in mind when it passed the regulatory act, presumably the idea was not to line the pockets of a Malaysian gambling magnate, a South African millionaire or a Minnesota leather-apparel king.

**FRAUD, CORRUPTION, INTIMIDATION.** The tribes' secrecy about financial affairs—and the complicity of government oversight agencies—has guaranteed that abuses in Indian country growing out of the surge in gaming riches go undetected, unreported and unprosecuted. Tribal leaders sometimes rule with an iron fist. Dissent is crushed. Cronyism flourishes. Those who question how much the casinos really make, where the money goes or even tribal operations in general may be banished. Indians who challenge the system are often intimidated, harassed and threatened with reprisals or physical harm. They risk the loss of their jobs, homes and income. Margarite Faras, a member of the San Carlos Apache tribe, which owns the Apache Gold Casino in San Carlos, Ariz., was ousted from the tribal council after exposing corruption that led to the imprisonment of a former tribal leader. For three years, Faras says, those in control mounted nighttime demonstrations at her home, complete with loudspeakers. They initiated a boycott of her taco business, telling everyone she used cat meat. They telephoned her with death threats. Says Faras: "I don't know what else to say, other than it's been a nightmare." ■

ERIC MILLER/JAFRIKA-GALBE.COM

JAY-HBL NETWORK

# WHO GETS THE MONEY?

Needy Native Americans, you'd think. But Indian casinos are making millions for their investors and providing little to the poor

### Lim Goh Tong

The Malaysian hit the jackpot in financing Foxwoods, America's biggest gaming venue.



## Lyle Berman

The champion poker player has backed four Indian casinos, and he's got five more in the cards

**A**NITA HOLLOW HORN, A BRIGHT, attractive member of the Oglala Sioux tribe, is a fairly typical beneficiary of Indian gaming. She lives in Pine Ridge, S.D., on her tribe's reservation, with its overcrowded dwellings, 88% unemployment and a school-dropout rate of almost 50%. Hollow Horn, 37, and her four children share a three-bedroom home, opposite a landfill, with her mother and stepfather—and seven other relatives. Fourteen people live in the one-story house with a single bathroom. Hollow Horn and her daughter, 9, sleep on a bed in a corner of the basement; her other children sleep on the floor upstairs. Her brother Reginald, 35, who has cancer, sleeps in another corner with his two sons, 10 and 15. It's toughest when the basement floods. "Sometimes the sewer backs up," says Hollow Horn, "and it just gets all over down there." Black mold has already consumed one wall underneath the staircase and is eating its way up the other.

So how, exactly, is Hollow Horn prospering from the \$12.7 billion Indian gaming industry? Like most Native Americans, not at all. Last year the Oglala's Prairie Wind Casino, housed in a temporary, white, circus-tent-like structure smaller than a basketball court, turned a profit of \$2.4 million on total revenue of \$9.5 million. Most of the money went to fund general programs, such as services for the elderly and young people, as well as education and economic development. But even if there had been profit sharing instead, the payout would have worked out to a daily stipend of just 16¢ for each of the 41,000 tribe members.

That's not to say that members of a few small tribes near big cities aren't doing very well from gaming. In Minnesota, 300 members of the Shakopee Mdewakanton Sioux community reportedly take home more than \$1 million a year. But bands like that are the exception. Only 25% of gaming tribes distribute cash to their members, usually no more than a few thousand dollars each.

So if the overwhelming majority of Native Americans like Hollow Horn aren't benefiting from the Indian casino boom, who is? In many cases, the big winners are non-Indian investors, some of whom pocket more than 40% of an Indian casino's profits. Actually, calling these people investors understates their role. They often serve as master strategists who draw up the plans and then underwrite the total cost of bringing a casino online: ferreting out an

ROBBIE MCCLANAN

amenable tribe, paying a signing bonus, picking up tribal expenses and paying the salaries of the tribe's officials, all of this before a spade of dirt is turned. If an Indian band isn't federally recognized as a tribe and is thus ineligible for a gaming venture, these full-service backers will bankroll genealogists to construct a family tree, then hire lawyers and lobbyists in Washington to help change the band's status. And if a reservation isn't prime real estate for a casino, the investors sometimes purchase a more suitable patch and instruct their lawyers and lobbyists to persuade the government to designate the land as a trust, as reservation property is called. Building the casino is the easiest step.

## ■ THE MONEYMEN

THERE IS ALMOST NO OVERSIGHT OF THE backers. The National Indian Gaming Commission (NIGC), the understaffed, underfunded, underperforming and under-supervised agency that is supposed to police gambling on Indian reservations, knows little about most of the investors. Under its regulations, the agency must approve the management contracts between outside companies and tribes. But a billion-dollar loophole allows tribes to retain companies under consulting agreements without the NIGC's approval. Neither the companies, their investors nor the consulting terms are subject to the commission's review. A Department of the Interior investigation in June 2001 showed that there were 332 Indian gaming operations, from firehouse bingo games to full-scale casinos, but that only 31 were operating under management contracts approved by the NIGC. As the department's Office of the Inspector General later concluded, "Almost all tribes are utilizing consulting agreements to circumvent the regulatory and enforcement authority vested in the National Indian Gaming Commission."

As a result, tribes are pretty much free to cut financing deals as they like. Sometimes investors' names surface; sometimes they don't. Tribal leaders don't have to disclose executives' pay or management arrangements, report their profits, issue audited financial statements or divulge self-dealing contracts to the public or their tribe's members. Not all these deals work out for the moneymen, but the ones that do yield spectacular returns. A few of the outside investors have distinctive—some would say controversial—pasts. Here are profiles of three:

**THE POKER PLAYER.** Say what you will about Lyle Berman—and people have called him a lot of things: a pit bull, an intimidator, a fearsome competitor—but no one has ever accused him of modesty. Of his casino-development company, Lakes Entertainment Inc., Berman once told reporters, "We're the most successful company in Indian gaming." Because of the secrecy surrounding gambling on Indian reservations, it's impossible to know whether that's true. But Berman has clearly done quite nicely since he began developing and managing Indian casinos more than a decade ago. Among his real estate holdings: a ranch in tony Telluride, Colo.; a house in Palm Springs, Calif.; an estate called Casa Berman Palmillia on the Mexican Riviera; a condo in Las Vegas; and a \$5 million estate in Wayzata, Minn. By his account, as of September 2001, he was worth almost \$69 million.

A born entrepreneur, Berman first revealed his flair when he turned the family wholesale-leather business into the nation's largest retailer of leather apparel, now known as Wilsons the Leather Experts Inc. But Berman's true passion is gambling: he has won three national poker titles, and is a member of the Poker Hall of Fame at Binion's Horseshoe in Las Vegas. At a poker table, *Gaming* magazine once wrote, Berman plays "with the insight of a psychiatrist and the determination of a club fighter."

Of all the bets Berman has placed, the smartest was to gamble on Indian gaming with his 1990 decision to join forces with a Minnesota tribe, the Mille Lacs Band of Ojibwe Indians, and build a casino on its reservation 70 miles north of Minneapolis. In return for managing the place, Berman and his partners got 40% of the profits for seven years, after which the tribe took over. Eager to duplicate the model, Berman backed three more Indian ventures: the Grand Casino Hinckley, also in Minnesota, and two casinos in Louisiana. In 1999 a predecessor company, Lakes Gaming Inc., which was publicly owned, earned \$54.7 million in management-fee income and had a net profit of \$28.8 million. Berman has done so well that in 1997 executive-compensation guru Graef Crystal called his compensation package for the previous year—which totaled \$18 million in salary and stock options—the "third most outrageous" in the U.S.

But not everyone has fared well from Berman's business ventures. In the mid-'90s, his firm, then called Grand Casinos Inc., invested heavily in a hyped Las Vegas casino and resort, Stratosphere, that ended

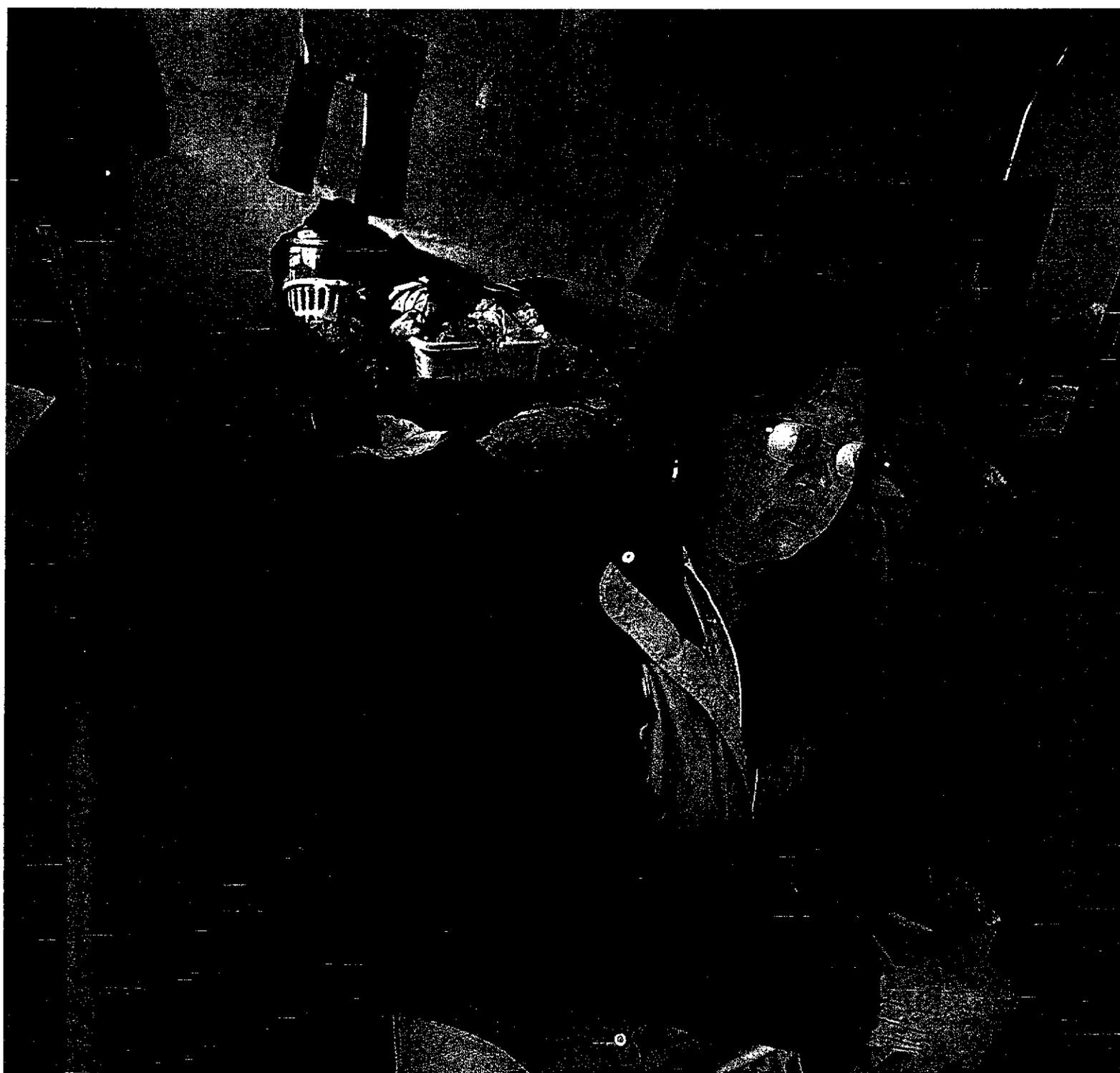
JAY DICKMAN FOR TIME

## Anita Hollow Horn

A typical beneficiary of Indian gaming, she lives in a three-bedroom house with 13 relatives. Her tribe's casino also is typical: too little money for too many people

up in bankruptcy court nine months after a ballyhooed opening. Stockholders lost millions. As for Berman, he unloaded a block of stock before it plummeted. Disgruntled shareholders sued, claiming they had been misled over potential profits. The suit was settled for \$9 million, but in the agreement Berman denied the charges.

Today Berman has deals to develop five more Indian casinos: three in California, one in Massachusetts and one in Michigan at a prime spot just 70 miles east of Chicago.



**THE AFRICAN CONNECTION.** They don't make them more controversial than Solomon Kerzner. There's the over-the-top casino he built on a South African homeland, taking advantage of apartheid; the money scandal that linked him to a Prime Minister who had to resign; the succession of wives, including a former Miss World; and these days the Mohegan Sun, a billion-dollar Indian casino in Connecticut that he made happen.

Kerzner, 67, was ideally placed to make a killing as a financier in Indian gaming. He has succeeded in gaming systems with loose

rules before. His native South Africa once banned gambling but allowed it in tribal areas carved out by the apartheid-era white government for blacks to inhabit. Kerzner, who began his career as an accountant, opened the first hotel-casino in 1977 in Mmabatho, the capital of the homeland of Bophuthatswana, about 150 miles from Johannesburg. That year he began planning what would become the opulent Sun City resort-casino-entertainment-theme-park complex. When it opened in 1979, Sun City—with four hotels, a 6,000-seat arena

and a 46-acre manmade lake for water sports—became a favored destination for whites in Johannesburg and Pretoria who wanted to escape their nation's moral restrictions and gamble, view soft-porn movies and watch topless showgirls, white and black. Dubbed the richest man in South Africa, Kerzner got into trouble in 1986 when he won permission for a hotel and casino in another homeland, Transkei. To acquire an exclusive gaming license, he had paid more than \$900,000 to Transkeian Prime Minister George Matanzima, who



## Two Casinos That Rake It In

	Foxwoods	Mohegan Sun
<b>Tribal owner</b>	Mashantucket Pequot	Mohegans of Connecticut
<b>Members</b>	677	1,532
<b>Est. 2002 revenue</b>	\$1.1 billion	\$1 billion
<b>Claim to fame</b>	World's largest bingo hall; 6,400 slot machines	Home to a giant planetarium; 6,200 slot machines

lion a year. Assuming no downturn in the casino's fortunes, TIME estimates, Lim and his family will walk away with \$1 billion over the life of the agreement. The U.S. tax bite? As a foreign investor, Lim will pay at a steeply discounted rate—below that levied on an American family earning less than \$20,000 a year.

## THE GREAT LAND RUSH

WHEN GAMBLING WAS first proposed as a tool for Indian economic development, it was expected that casinos would be confined largely to rural reservations where impoverished tribes had lived for generations. But as with any transaction involving real estate, it's all about location, location, location. Casinos on reservations near urban areas, with a ready supply of would-be gamblers, have tended to do well. The more remote ones, not surprisingly, have foundered. The result: a mad scramble by tribes and their non-Indian financial partners to find prime real estate that they can claim as "reservation" land—and then build on it a gleaming new casino. The choicest spots are near big cities and along major highways. It doesn't matter if the tribes have ever lived there.

With the blessing of the BIA, these instant reservations are cropping up all over the country. The United Auburn Indian community's new reservation is in an industrial park in Roseville, Calif., just minutes from I-80, one of California's busiest highways. The heretofore landless Match-e-be-nash-she-wish Band—otherwise known as the Gun Lake Band of Potawatomi Indians—now has a reservation of 50 acres along busy U.S. 131 south of Grand Rapids, Mich. Further west, in Washington State, the BIA has set aside 56 acres along I-90

limited to 40% of revenue for seven years, but many find ways around that

**The National Indian Gaming Commission** approves licenses and management contracts and monitors operations

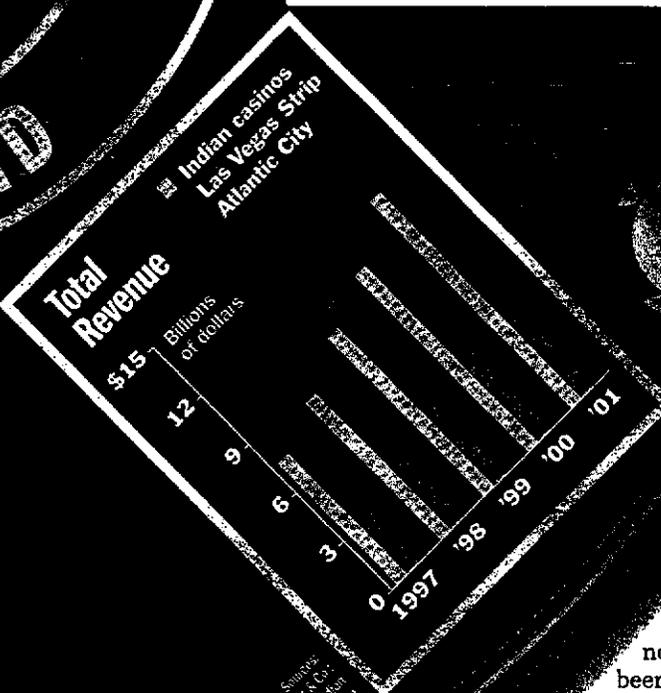
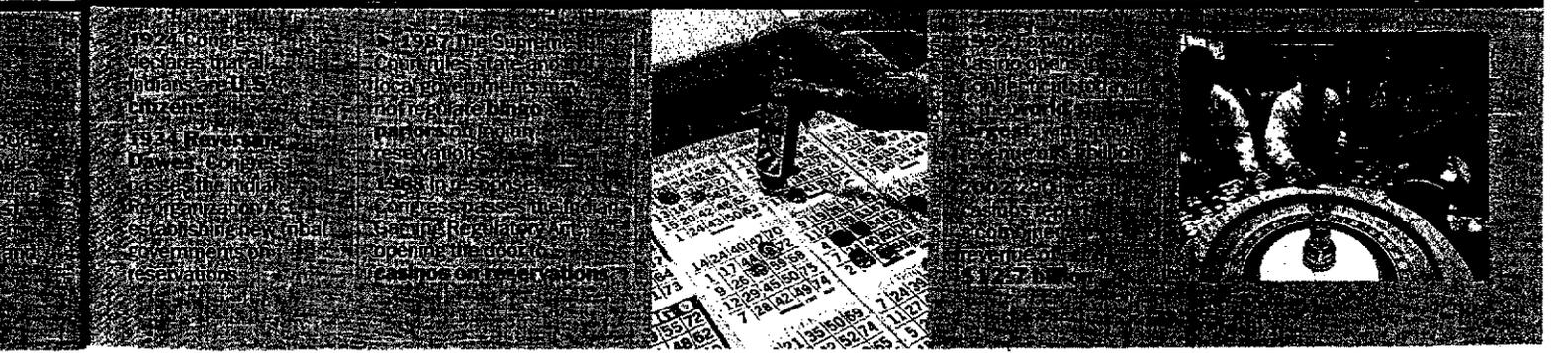
The panel is supposed to regulate all 290 Indian casinos with just a three-person board, a staff of 63 and an \$8 million budget

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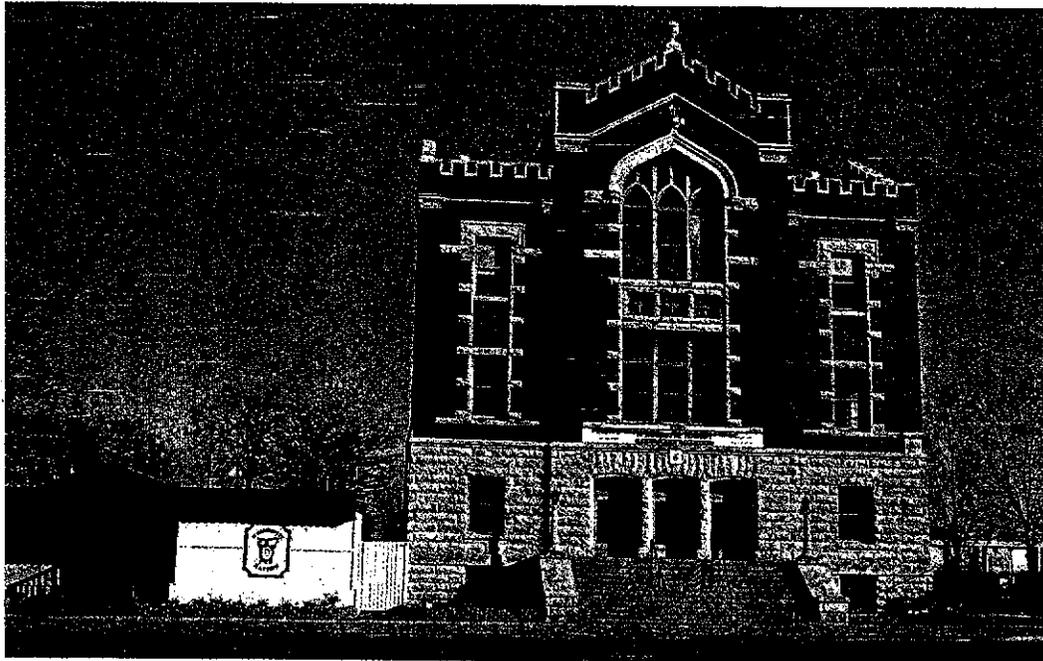
...which is easily  
...to Kuala Lumpur, the capital.  
Even though Malaysia is a predominantly Muslim country and Islam forbids Muslims to gamble, he secured the government's approval in less than a day. In the more than three decades since, his exclusive agreement for what is still Malaysia's only

casino has been a license to print money.

His deal in 1991 to underwrite the development of Foxwoods for the Mashantucket Pequots, a tribe of fewer than 200 members at the time, has proved similarly lucrative. While financial details have not been made public, one can estimate the tycoon's windfall. Lim provided two loans, one for \$60 million, the other for \$175 million. His company, Kien Huat Realty Ltd., will receive interest on the loans for years to come. But Lim really hit the jackpot with a clause that reportedly gives him 10% of Foxwoods' net income until 2018. Foxwoods' gross revenue is more than \$1 bil-



TIME Graphic by Ed Cabell; text by Mitch Frank



KEITH PHILPOTT FOR TIME

agreement to collect 40% of the casinos' total net revenue for running the operations. Then it recommended that the tribe lease slot machines from Interstate Gaming Services Inc., a company that Palmer and his associate happened to own. The fee: 30% of the gross take from each machine. Since slots account for most of the gaming revenue in Indian casinos, Buffalo Brothers was poised to take 70% of the profits—far in excess of the 40% maximum permitted by law. In one year alone, 1992, the two companies collected \$14 million.

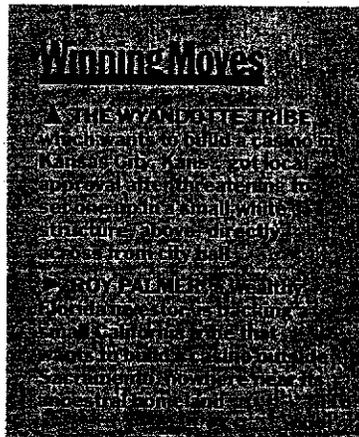
Although the BIA had approved the St. Croix arrangements, some tribe members felt they were being gouged. Following an investigation, Michael Liethen, the director of the Office of Indian Gaming for the Wisconsin Gaming Commission, recommended in 1993 that

the state revoke Buffalo Brothers' license. Instead, the state fired the director. (Some years later, the state paid him \$290,000 to settle a lawsuit over the dismissal.) The disgruntled tribe members sued Buffalo Brothers, and by 1994, amid the rancor, the St. Croix Band bought out its contract, reportedly for more than \$30 million. Palmer and his partner exited the state very wealthy men. "I was in the right place at the right time," he later told *Sarasota* magazine.

Palmer disputes the notion that he took advantage of the tribe and says he was the victim of tribal politics: "We did not do one thing wrong. They lost the case at every level, in every jurisdiction. It was just a smear job." As for the 30% his company received for supplying the slots, he says, "We used all that to pay for the slot machines."

Even in California, where tribes don't hesitate to make claims to land that was never theirs, the West Sacramento casino proposal is in a class by itself. Not only is a citizens' group in West Sacramento fighting it, but eight other tribes in Northern California are also opposed. In a joint letter written in April of this year, the tribes said that if Upper Lake were allowed to "move its land base to any area it wanted, [it] would make a mockery of our own California Indian history and demographics and damage the credibility and legitimacy of tribes across the state."

**IN YOUR FACE.** For sheer audacity, it's hard to beat the shared vision of a Florida developer and an Oklahoma Indian tribe to build a casino in Kansas. The developer is



REBECCA WILD BAKER—SILVER IMAGE

east of Seattle for the Snoqualmie tribe to develop a casino.

**IN TRUST WE TRUST.** To appreciate how frenetic investor activity has become, take a look at the action swirling around an otherwise unremarkable tract of land across the Sacramento River from the California state capital. The Upper Lake Band of Pomo Indians, a 150-member tribe, says in court papers that its ancestral homeland, two hours' drive from Sacramento, has "little economic value." So it wants to develop a casino on the river site, even though it neither owns the land nor has the money to buy it.

But the tribe does have friends with clout and deep pockets. A group of wealthy investors headed by Roy Palmer, a feisty onetime Chicago lawyer, has optioned the 67-acre tract in West Sacramento on behalf of the tribe and is footing the bill for trying to secure government approval for a reservation and casino. Palmer and two fellow

Floridians, Robert Roskamp and Philip Kaltenbacher, onetime chairman of the New Jersey State Republican Party, formed a company called SRQ Inc. to develop and manage the casino. They envision it as a glitzy Las Vegas-style resort complex designed to replicate the state capitol building. If the BIA approves the plan and takes the land into trust, Palmer's group would convey the property to the Upper Lake Band. In return, SRQ would manage the casino for seven years and take 30% of its annual net profits.

For Palmer, who favors bow ties and loud sport coats, it could mean a replay of one of the most profitable chapters in his career. In the early 1990s, when Indian gaming was in its infancy, Palmer and a partner formed Buffalo Brothers Management Inc. to develop and manage two casinos for the St. Croix Chippewa Indians in Wisconsin. The company negotiated an

Alan Ginsburg, who heads North American Sports Management (Noram), which has already cut casino development deals with tribes in five states. The tribe is the 3,900-member Wyandotte tribe of Oklahoma, which has a reservation in the state's north-east corner. Oklahoma prohibits Las Vegas-style casinos, and that is why the Wyandottes want a satellite reservation in Kansas, which does permit big-time gaming.

Because the tribe's ancestors lived in Kansas in the 19th century, it had little trouble persuading the BIA to place in trust an abandoned Masonic temple next to an

Indian cemetery in downtown Kansas City, Kans., just across the street from city hall. That makes the old lodge and the small parcel around it eligible for Indian gaming.

Not that the Wyandottes and Ginsburg wanted to build a casino there. But they certainly got the authorities' attention. What they really wanted was a large tract somewhere in the metropolitan area. When negotiations stalled, the tribe moved temporary buildings onto the downtown property and threatened to open a mini-casino. They also filed a lawsuit against

1,300 property owners in a nearby industrial district, charging that they are occupying land improperly taken from the tribe 200 years ago.

The Wyandottes' not-so-subtle pressure apparently worked. Local officials agreed to let the tribe build a casino and hotel on a 52-acre parcel on Wyandotte County's western edge. U.S. Representative Dennis Moore, the area's Democratic Congressman, has introduced legislation to bless the deal in Congress, thus bypassing the BIA. If approved, the tribe would then have three reservations—in two states.

## Whose Tribe Is It, Anyway?

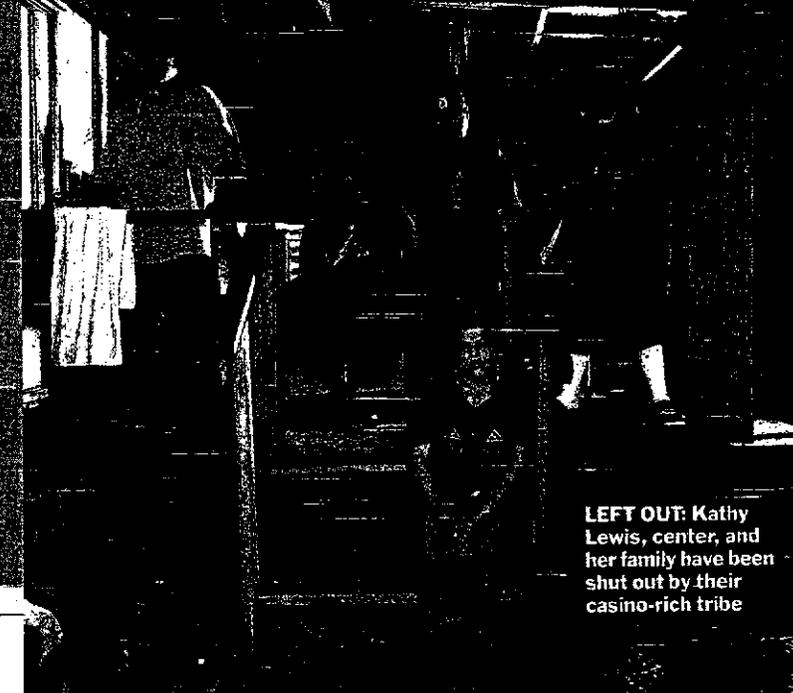
**O**klahoma's new Indian gaming law is a hotly debated issue. It has already caused a rift between the state and the federal government. The law, which took effect in 1988, allows tribes to operate casinos on their own land. It also allows tribes to operate casinos on land owned by the state or the federal government. The law is controversial because it gives tribes the right to operate casinos on land that is not their own. This has led to a number of lawsuits, including one filed by the Wyandotte tribe in Kansas City.

The Wyandotte tribe is a small tribe with a reservation in Oklahoma. They have been fighting for the right to operate a casino in Kansas City. The tribe has a long history of being excluded from the gaming industry. They have been told that they are not "Indian enough" to be allowed to operate a casino. The tribe has been fighting this exclusion for many years. They have been told that they are not "Indian enough" to be allowed to operate a casino. The tribe has been fighting this exclusion for many years.

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**LEFT OUT:** Kathy Lewis, center, and her family have been shut out by their casino-rich tribe

# This Tribe Plays for Keeps

**L**ess than a decade ago, the Lytton Band of Pomo Indians Reservation in the rolling hills of Northern California suffered from unemployment, poverty, and a general sense of despair. In 1961, the tribe secured federal recognition, and the reservation was established. The tribe's first major success came in 1966 when it won a lawsuit that allowed it to purchase a 10-acre parcel of land near San Pablo, which has become the site of the tribe's first and most profitable casino. The tribe's revenue has grown to more than \$100 million a year.

The Lytton Band of Pomo Indians Reservation has been a model of economic development for Native Americans. Today, the tribe has a state-of-the-art fire station, a health center, and a school. The tribe's success is a testament to the hard work of its members, and the support of the federal government.



**HEROES:** The casino has helped the tribe finance a state-of-the-art fire station

## NO TRIBE, NO PROBLEM.

The casino envisioned by the Lytton Band of Pomo Indians is poised to become one of the most profitable in the country. Not bad for a clan of Indians that not long ago had neither a tribe nor a reservation.

In the early '50s the Lyttons consisted of two extended families, the Steeles and the Myerses, who were the sole occupants of a 50-acre reservation for homeless Indians north of Healdsburg, Calif. The families sometimes feuded, but they ultimately shared a common dream: they wanted to be landowners, not tenants on a reservation. In 1952 John and Dolores Myers wrote the BIA asking "to secure a patent fee or a deed to this property." The Steeles sent a similar letter: they, too, wanted the reservation land deeded to them personally.

For the next several years, the families wrote more letters to the bureau—and to members of Congress—pleading their case. Finally, in 1961, after a congressional act paved the way for reservation land to be divided among individual members of tribes, they got their wish and the BIA signed the property over to them. Within two years the families had sold off every parcel.

Two decades later, when high-stakes bingo halls were sprouting up across the state, the Lytton descendants decided to re-form and secure federal recognition, which is needed to own a casino. They by-

passed the traditional regulatory process and piggybacked on a lawsuit filed by a group of Northern California Indians who claimed the Federal Government had improperly terminated their tribes in the 1960s. When a judge ruled in the group's favor in 1991, the Lyttons were also formally recognized.

Obtaining reservation land on which to build the casino was even easier. Sam Katz, a Philadelphia financier who has arranged multimillion-dollar financing packages for sports stadiums from Denver to Miami, has become the Lyttons' guardian angel. Katz and his partners found and bought a 10-acre parcel of land for a casino amid the graying stores and modest homes of San Pablo on the East Bay, a 25-minute drive from San Francisco. You might call it a "gaming reservation" because the Lyttons do not intend to live there. Katz has acquired a second piece of property—near Windsor, 60 miles away—for the tribe's "residential" reservation. As Katz told TIME, "We've paid all the

expenses of applying for and putting their applications into the Bureau of Indian Affairs for both pieces of property, which involved extensive environmental surveys and traffic surveys and archaeological surveys and historical surveys and you name it." Katz has done much more: he has also paid for tribal government staff, for the

tribe's leases on property and equipment, and for its public affairs activities. He has paid its legal expenses and hired lobbyists, consultants and advisers.

So when it became clear that the petitions might languish at the BIA, the Lyttons and their backers had everything in place to take a new tack. They approached George Miller, longtime Congressman from the East Bay, whose district includes San Pablo. The ranking Democrat on the House Resources Committee, Miller did what only a senior member of Congress could: he plugged a three-sentence amendment into an unrelated bill that gave the Lyttons their reservation. Later, there would be outrage over the amendment. Frank Wolf, a Republican Congressman from Virginia, called it a disgrace. But for 200 Lyttons and their backers, it's an American success story. —With reporting by Laura Karmatz/New York and research by Joan Levinstein, Mitch Frank and Nadia Mustafa

This is the first of a two-part series. Next installment: Money & Politics

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