CHAIRPERSON JAMES: Mr. Johnson

MR. JOHNSON: Thank you very much, Madam Chairwoman and members of the Committee. And thank you
for the opportunity to appear here today to testify on
the regulation of Indian gaming.

My name is Tadd Johnson, I'm Chairman of
the National Indian Gaming Commission. Before I begin
my very brief discussion on the regulation of Indian
gaming, I'd like to dispel a couple of myths -- I've
been editing here so, with each witness it's gotten
shorter and shorter -- a couple of the myths and
misconceptions about Indian gaming.

First, not all Indian tribes are involved
in gaming. In fact, fewer than half of the federally
recognized Indian tribes offer gaming on their
reservations. There are currently 558 federally
recognized Indian tribes and of those, only 183 are
gaming tribes.

A second myth is that all Indian gaming
tribes are making huge profits. In fact, the revenue
generated from all of Indian gaming represents only 11
percent of the gross revenues of legalized gambling in
the nation.
Moreover, 40 percent of the total gross revenues from Indian gaming comes from only six tribes and almost 30 percent of Indian gaming facilities have a gross revenue of less than $1.5 million.

It is my understanding that after today's panel the Commission will be visiting the Foxwoods Casino and I will be joining you on that, and I just request that you keep in mind that it is not representative of all Indian gaming. And we would like to work with you, we have some suggestions of other places you may want to visit.

To assist you in understanding the NIGC's role in regulating gaming let me very briefly describe the history of the Indian Gaming Regulatory Act. In 1987 the U.S. Supreme Court issued it's decision in California V. Cabizon a band of mission Indians. The decision made it clear that Indian tribes have the authority to conduct gaming activities on reservations unfettered by any state or county regulation.
This decision recognized the importance of tribal self governance and self determination. At the same time, the Cabizon case was being litigated there was a widespread growth in Indian bingo halls in many parts of the country. In response to state concerns that Indian gaming activities presented attractive targets for organized crime, Congress enacted the Indian Gaming Regulatory Act or IGRA. Congress carefully crafted the balance and the IGRA encourages Indian gaming as a form of economic development, but also preserves the enforcement options necessary to assure the integrity of gaming.

The Act created the National Indian Gaming Commission to establish a permanent federal regulatory presence throughout Indian country. IGRA was signed into law in 1988, and the first chairman was appointed in 1990. The majority of the NIGC regulations were enacted in 1992. And the NIGC became fully operational in early 1993.
IGRA establishes a comprehensive system for regulating gambling activities on Indian lands and divides gaming into three categories or classes. Class I consists of social gaming for minimal prizes and is regulated exclusively by the Indian tribes. Class II consists of bingo, pull tabs and bingo-like games and non-banking card games such as poker. A tribe may conduct, license and regulate class II gaming if the state in which the tribe is located permits such gaming and the tribe adapts a gaming ordinance which is approved by the NIGC.

All forms of gaming not including in class I or II, such as banking card games, casino games, slot machines and electronic facsimiles of any game of chance are designated as class III gaming under IGRA. Class III gaming may lawfully be conducted by an Indian tribe if: 1) the state in which the tribe is located permits such gaming, 2) the tribe and the state have negotiated a tribal state compact which has been approved by the Secretary of the Interior, and 3) the
tribe has adopted a gaming ordinance which has been approved by the NIGC.

Prior to 1996, the IGRA contained a provision which allowed tribes and states to go to federal court for failure to negotiate a class III compact in good faith. However, the United States Supreme Court in Seminole V. Florida found that provision unconstitutional because it violated the state's 11th Amendment right to not be sued in federal court without its consent.

Following the Seminole Decision, the number of tribal state compacts have declined with only fourteen new compacts approved in 1996 and '97 combined. However, the Secretary of Interior has approved 158 compacts with 147 tribes in 24 states over the last ten years.

Like state governments the revenue generated by tribal gaming facilities are used to fund essential services such as education, and infrastructural improvements on reservations. The IGRA
required that the net revenues for any tribal gaming operation be limited to fund tribal government operations, provide for the general welfare of tribal members and promote tribal economic development. Many tribes have used gaming revenues to build schools, fund social service programs, provide college scholarships, build roads, provide new sewer and water systems, and provide for adequate housing for tribal members.

The NIGC is only one component for the regulation of Indian gaming. Presently the NIGC monitors and regulates gaming in 276 tribal gaming facilities operated by 183 tribes in 28 states. The tribal governments share in the responsibility of day to day regulation of class II gaming, while many aspects of the regulation of class III gaming are controlled by tribal state compacts. Thus, there are three levels of regulation, federal, state and tribal.

The particular methods of federal regulation of Indian gaming are outlined in IGRA and NIGC regulations, specifically, the Commission is
responsible for monitoring gaming operations on a continuing basis, approving all contracts for the management of gaming operations by non-tribal parties, conducting background investigations.

The NIGC also reviews all gaming-related tribal ordinances. And another major responsibility is reviewing background investigations of key employees conducted by the tribes. The NIGC is also responsible for reviewing and conducting audits of the books and records of the gaming operations.

And finally, and perhaps most importantly, the NIGC is responsible for initiating enforcement actions to help ensure the integrity of Indian gaming operations.

The Commission produces a quarterly compliance report that tracks the major compliance obligations for gaming tribes. Recently the Commission has placed more emphasis on its enforcement responsibilities. In the past year the NIGC has initiated 64 enforcement cases, and since 1993 the
Commission has collected approximately one million dollars in civil client assessments.

As a final point, I would like to discuss the expansion of the NIGC. Last fall the Congress amended IGRA to allow us to assess fees from both class II and class III facilities. And we're working on an expansion plan right now and we'll be able to significantly increase our staff size.

In summary, Indian gaming is regulated on three different levels. The NIGC is only one component of that regulation. The NIGC has oversight and regulatory responsibilities over class II gaming and most aspects of class III gaming. The state exercises authority over class III gaming by negotiating gaming compacts with tribes. And finally, tribal governments themselves are exercising regulatory responsibilities over all categories of gaming on the reservations.

This concludes my prepared remarks, and I look forward to your questions.
CHAIRPERSON JAMES: Thank you, Mr. Johnson.

We really appreciate that.