SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION – FIRST DEPARTMENT

MARSHALL INVESTMENTS CORPORATION, BRAIN F. LEONARD, as trustee for the estate of SRC Investment Corporation f/k/a Miller Schroeder Investments Corporation and THIRTY-ONE BANKING INSTITUTIONS	:	Index No. 102512/08
Plaintiffs-Appellants	:	**NOTICE OF ENTRY**
-against-	:	
HARRAH'S OPERATING COMPANY, INC., as successor to Ceaser's Entertainment Inc. f/k/a Park Place Entertainment Corporation, CLIVE CUMMIS, IVAN KAUFMAN, and WALTER HORN	:	
Defendants-Respondents.	:	

S I R S :

PLEASE TAKE NOTICE that attached is a true and correct copy of the decision and order in the above-captioned case that was entered in the Office of the Clerk of the Supreme Court of the State of New York, Appellate Division, First Department, on March 15, 2011.

Dated: New York, New York
March 16, 2011

Yours, etc.,

DECHERT LLP

By: _____

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Tom, J.P., Mazzarelli, Renwick, Freedman, Manzanet-Daniels, JJ.

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-against-

Harrah's Operating Company, Inc., etc., et al., Defendants-Respondents.

Maslon Edelman Borman & Brand, LLP, Minneapolis, MN (Kirk O. Kolbo, of the Minnesota Bar, admitted pro hac vice, of counsel), for appellants.

Meyer, Suozzi, English & Klein, P.C., Garden City (Kevin Schlosser of counsel), for Harrah's Operating Company, Inc., respondent.

Dechert LLP, New York (Neil A. Steiner of counsel), for Ivan Kaufman and Walter Horn, respondents.

Order, Supreme Court, New York County (Richard B. Lowe III, J.), entered August 3, 2009, which, inter alia, granted defendants' motion for summary judgment dismissing plaintiffs' first cause of action for tortious interference with contract, unanimously affirmed, with costs.

The subject pledge agreement did not constitute a management contract which required the approval of the National Indian Gaming Commission (25 CFR 502.15; *cf. Machal, Inc. v Jena Band of Choctaw Indians*, 387 F Supp 2d 659, 666-667 [2005]). However, because it changes the Tribe's obligations, requiring them to make payments into escrow, and alters their liabilities, giving

the right to sue and a veto over certain modifications of a separate management agreement to plaintiffs, the pledge agreement is a modification or assignment of rights under the management agreement. As such, it is void because it was never approved by the commission (25 CFR 533.7). Since the underlying contract is void, plaintiffs cannot recover for tortious interference with that contract (*see Lama Holding Co. v Smith Barney*, 88 NY2d 413, 424 [1996]).

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: MARCH 15, 2011

CLERK