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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ALTURAS INDIAN RANCHERIA,
a federally recognized
Indian tribe,

Plaintiff,

v.

CALIFORNIA GAMBLING
CONTROL COMMISSION, an
agency of the State of
California,

Defendant.

NO. CIV. S-11-2070 LKK/EFB

O R D E R

_____ /
Plaintiff in this case is the Del Rosa faction of the Alturas Indian Rancheria, a federally recognized Indian Tribe. Plaintiff sought a preliminary injunction to prohibit defendant California Gambling Control Commission from releasing funds held in trust for the Tribe to the Internal Revenue Service. The IRS is attempting to collect the funds pursuant to two Notices of Levy it issued to the defendant on June 27, 2011 and July 8, 2011 respectively.

On August 1, 2011, Plaintiff, the Del Rosa Faction of the

1 Alturas Indian Rancheria filed suit against the California Gambling
2 Control Commission ("CGCC") in Sacramento County Superior Court.
3 See Notice of Removal, ECF No. 1. The complaint, which seeks
4 declaratory and injunctive relief, alleges that plaintiff is
5 entitled to monetary distributions from California's Revenue
6 Sharing Trust Fund ("RSTF"). Pursuant to state law, those funds are
7 distributed quarterly to participating tribes through the CGCC, as
8 trustee. According to plaintiff, "at the beginning of 2010, the
9 CGCC determined that a leadership dispute within the Tribe required
10 the Commission to withhold RSTF distributions pending resolution
11 of the dispute.¹

12 On or about July 20, 2011, plaintiff became aware that the IRS
13 had contacted the CGCC seeking levies against the Tribe's RSTF
14 funds.² At a meeting held on July 28, 2011, the CGCC voted to
15 recognize the levies and to allow the IRS to execute the levies.
16 Plaintiff claims that the Tribe has no knowledge of what the levies
17 correspond to, and requested time from the CGCC for the Tribe
18 investigate the matter directly with the IRS. Plaintiff alleges
19 that the CGCC's conduct constitutes breach of a tribal-state
20 compact, and breach of the covenant of good faith and fair dealing.
21 Plaintiff filed a motion for a temporary restraining order ("TRO")
22

23 ¹ That leadership dispute is also at the center of a related
24 action filed in this court, Alturas v. Salazar, 10-1997.

25 ² In a letter from the CGCC to the IRS, CGCC indicated that
26 it believed that the levies were related to unpaid employment
taxes. See July 19, 2011 Letter from Tina Littleton to Fara Mills,
ECF No. 9-2 at 99.

1 and preliminary injunction. The court granted the TRO without
2 hearing or briefing by the defendants. The court held a hearing on
3 plaintiff's preliminary injunction motion on August 29, 2011.
4 Defendants have indicated that payment on the levies has not been
5 made to the IRS.

6 Shortly before the hearing, the other faction of the Alturas
7 Indian Rancheria (the "Rose faction") filed a Motion to Intervene
8 as plaintiffs in this case. The motion is accompanied by a proposed
9 motion for voluntary dismissal of the case. The motion to intervene
10 is set for hearing on September 26, 2011.

11 At the hearing, defendant moved in open court to interplead
12 the funds to the Clerk of Court, and the court granted the motion.

13 Upon granting of defendant's motion to interplead the funds,
14 the motion for a preliminary injunction is DENIED as MOOT. It also
15 appears, upon granting the motion, that for all purposes, the CGCC
16 should be dismissed as a defendant in this case. However, the court
17 hereby STAYS dismissal of CGCC from the case until the court rules
18 on the pending motion to intervene by the Rose Faction.

19 Accordingly, the court ORDERS as follows:

20 [1] Defendant's motion, made in open court, for
21 interpleader of the funds subject to the IRS levies
22 issued on June 27, 2011 and July 8, 2011, is GRANTED.
23 Defendant is hereby granted leave to deposit the funds
24 with the Clerk of Court, pursuant to the procedures set
25 forth in Local Rules 150. Upon making such deposit,
26 CGCC, pursuant to 28 U.S.C. § 2361, shall be and is

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hereby discharged from any further liability to the United States with regard to the IRS levies.

[2] Dismissal of defendant CGCC from the case is STAYED until further order of this court.

[3] Plaintiff's Motion for a Preliminary Injunction, ECF No. 9, is DENIED as MOOT.

IT IS SO ORDERED.

DATED: September 1, 2011.



LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT