

1 Little Fawn Boland (CA No. 240181)
2 Ceiba Legal, LLP
3 35 Madrone Park Circle
4 Mill Valley, CA 94941
5 Phone: (415) 684-7670 ext. 101
6 Fax: (415) 684-7273
7 littlefawn@ceibalegal.com

8 In Association With
9 *Pro Hac Vice* Application to be Filed
10 Kevin C. Quigley (MN No. 0182771)
11 Hamilton Quigley & Twait, PLC
12 W1450 First National Bank Building
13 332 Minnesota Street
14 St. Paul, MN 55101
15 Phone: (651) 602-6262
16 Fax: (651) 602-9976
17 kevinquigley@pacemn.com

18 Attorneys for Defendants

19 **UNITED STATES DISTRICT COURT**
20 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

21 State of California,

Plaintiff,

vs.

Iipay Nation of Santa Ysabel, et. al.

Defendants.

CIVIL FILE NO. 3:14-CV-02724-
AJB/NLS

**DECLARATION OF DAVID
VIALPANDO IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
STATE OF CALIFORNIA'S
APPLICATION FOR A
TEMPORARY RESTRAINING
ORDER**

Complaint Filed: November 18, 2014
Hearing Date: December 4, 2014
Time: 2:00 pm
Courtroom: 3B
Judge: Hon. Anthony J. Battaglia

1 I, David Vialpando, declare as follows:

2 1. I am the Chairman of the Santa Ysabel Gaming Commission, having served
3 in this capacity since December 2012. If called and sworn, I would testify competently to
4 the following from my personal knowledge.

5 2. Prior to serving as Chairman of the Tribal regulatory authority, my
6 professional career included numerous regulatory duties and responsibilities related to the
7 gaming industry, specifically Indian gaming. From February 2008 to November 2012 I
8 was the “Special Agent-in-Charge, Southern California” for the California Department of
9 Justice, Bureau of Gambling Control. Among my responsibilities in my capacity as
10 Special Agent-in-Charge was to ensure compliance with Tribal-State Gaming compacts
11 for Class III gaming offered in casinos located throughout southern California. I also
12 advised the Department of Justice’s executive management on proposed gaming
13 regulations and issues related to gaming compact compliance. Finally, I served as a
14 liaison between tribal gaming regulators and state law enforcement agencies. Attached
15 hereto as **Exhibit No. 1** is a true and correct copy of my LinkedIn profile describing my
16 experience in Indian gaming regulatory matters and law enforcement.

17 3. The Iipay Nation of Santa Ysabel (“Tribe”), a federally recognized Indian
18 tribe, adopted the Iipay Nation of Santa Ysabel Gaming Ordinance (“Gaming
19 Ordinance”), and, effective as of April 30, 2010, the Gaming Ordinance has been
20 approved by the Chairman of the National Indian Gaming Commission (“NIGC”)
21 pursuant to the federal Indian Gaming Regulatory Act of 1988 (“IGRA”).

1 4. The Santa Ysabel Gaming Commission (“Gaming Commission”) was
2 established under Section XI, Paragraph A of the Gaming Ordinance to exercise
3 regulatory authority over all gaming activities conducted within the jurisdiction of the
4 Tribe and, pursuant to Section XI, Paragraph G, is empowered, subject to Executive
5 Branch and Legislative Branch review and comment, to promulgate regulations to
6 implement the provisions of the Gaming Ordinance, including those necessary to the
7 interpretation and application of the Gaming Ordinance by the Gaming Commission in
8 connection with exercising its regulatory powers. Under the Gaming Ordinance, only
9 members of the Gaming Commission – not staff employed by the commission – have the
10 authority and responsibility to take action to enforce regulatory compliance with all
11 applicable federal and Tribal laws and regulations.

12 5. In order to describe the regulatory requirements for Class II bingo gaming
13 systems and equipment used in connection with bingo games conducted within the
14 boundaries of the Santa Ysabel Indian Reservation, on the Tribe’s Indian Lands, the
15 Gaming Commission exercised its regulatory powers to promulgate a regulation (SYGC
16 Regulation 14-I009, a true and correct copy of which is attached as **Exhibit No. 2**)
17 governing the procedures for approval of Class II bingo gaming systems and equipment.
18 Unlike the Gaming Commission, the National Indian Gaming Commission (“NIGC”)
19 does not have any regulations or rules of this type that expressly prescribes the
20 classification determination process and describes the classification criteria to be
21

1 considered for such a determination in connection with a bingo game played using a class
2 II gaming system.

3 6. Pursuant to SYGC Regulation 14-I009, the Gaming Commission conducted
4 a regulatory review of the “Virtual Private Network Assisted Play System (“VPNAPS”)
5 Class II Gaming System” to be used by Santa Ysabel Interactive (“SYI”) on the Tribe’s
6 sovereign Indian lands in order to determine whether the VPNAPS Class II Gaming
7 System may be used as a technologic aid to the play of a Class II game of bingo
8 consistent with Tribal gaming regulations and IGRA. As part of this process, an
9 independent compliance testing lab validated the gaming system’s compliance with,
10 among other things, the requirements of 25 CFR Part 547.

11 7. On October 24, 2014, the Gaming Commission issued its formal
12 “Classification Determination” (a true and correct copy is attached as **Exhibit No. 3**) in
13 connection with the gaming system, finding that:

14 (a) The offered games to be played using the VPNAPS Class II Gaming
15 System are Class II games of bingo pursuant to the standards
16 established under IGRA, the Gaming Ordinance and SYGC
17 Regulation 14-I009;

18 (b) The VPNAPS Class II Gaming System constitutes a “technologic
19 aid” to Class II games pursuant to the standards established under
20 IGRA, NIGC regulations, the Gaming Ordinance, and SYGC
21 Regulation 14-I009; and

1 (c) Conducting gaming activities using the VPNAPS Class II Gaming
2 System **DOES NOT** violate the Gaming Ordinance, SYGC
3 Regulation 14-I009 or IGRA.

4 8. In reaching its conclusions, the Gaming Commission stated that it agreed
5 with and adopted the legal analysis and reasoning contained in the legal opinions
6 authored by Tom Foley, former Commissioner and former acting Chairman of the NIGC,
7 which SYI submitted as part of its supporting documentation for the Classification
8 Determination (hereinafter referred to respectively as the “Foley Game Play Opinion and
9 Foley Gaming System Opinion”), including Foley Law, LLC Memorandum dated June
10 24, 2014 Re: “Class II” Classification opinion regarding the bingo games to be offered
11 for play by Santa Ysabel Interactive using the VPNAPS Class II Gaming System (a true
12 and correct copy is attached as **Exhibit No. 4**) and Memorandum dated June 26, 2014 Re:
13 Classifying the VPNAPS Class II Gaming System as a “technologic aid” to Class II
14 games pursuant to the requirements contained in IGRA (a true and correct copy is
15 attached as **Exhibit No. 5**).

16 9. In addition, before any VPN Aided Class II Gaming using the VPNAPS
17 Class II Gaming System was offered for real money play, the Tribe, in its role as the
18 primary regulator of Class II gaming under IGRA, exercised its sovereign authority by
19 developing several other legislative and regulatory measures that are applicable to the
20 VPN Aided Class II Gaming, including:

21 (a) A “tribal transaction or dealings ordinance,” that becomes binding

1 Tribal law upon completion of the legislative process required by the
2 Tribe's constitution, which will provide that it is the public policy and
3 substantive law of the Tribe that:

4 (1) Any consumer or commercial transactions or dealings involving
5 the Tribe, or its instrumentalities, political subdivisions,
6 agencies and wholly-owned tribally-chartered companies,
7 including any tribal gaming enterprise conducting Class II
8 gaming (as defined by IGRA), with any persons wherever
9 located shall be conclusively deemed to be (i) entered into,
10 formed and made on the Tribe's Indian lands, (ii) solely
11 governed by, and to be construed, interpreted and enforced in
12 accordance with, the substantive laws of the Tribe, without
13 regard to its conflict of laws rules, and (iii) subject to the
14 adjudicatory jurisdiction of the Tribe; and

15 (2) The situs and place of performance of any consumer or
16 commercial transactions or dealings, or any written or oral
17 contract or agreement, including agreements made by course of
18 dealings or by any patron's wager placement or game
19 participation with any tribal gaming enterprise conducting Class
20 II gaming, reflecting transactions or dealings described in
21 paragraph (1) above shall be conclusively deemed to be on the

1 Tribe's Indian lands, to be (i) solely governed by, and to be
2 construed, interpreted and enforced in accordance with, the
3 substantive laws of the Tribe, without regard to its conflict of
4 laws rules, and (ii) subject to the adjudicatory jurisdiction of the
5 Tribe.

6 (b) A Tribal gaming regulatory agency regulation (SYGC Regulation 14-
7 1010) which (1) requires that any VPN Aided Class II Gaming
8 operated by the Tribal gaming enterprise shall be conducted using
9 servers and computer equipment situated within the Tribe's Indian
10 lands, and (2) specifically declares that such VPN Aided Class II
11 Gaming shall be deemed to take place where the tribal gaming
12 enterprise servers are located on the Indian lands, regardless of a
13 player's physical location.

14 (c) A Tribal gaming regulatory agency regulation (SYGC Regulation 14-
15 I011) which governs the operation of VPN Aided Class II Gaming
16 and provides, among other things, that:

17 (1) "Account Holder" under the regulation means an individual at
18 least eighteen (18) years of age who by proof at the time of
19 account registration, is a California resident, who has used the
20 VPNAPS to establish an account to become a properly
21 registered account holder with the tribal gaming enterprise.

1 (2) “Account” under the regulation means an electronic ledger
2 operated and maintained by the tribal gaming enterprise
3 wherein information relative to VPN Aided Class II Gaming is
4 recorded on behalf of an Account Holder.

5 (3) An individual must register as an Account Holder using the
6 VPNAPS via its “Patron Registration Site” in order to access
7 the VPN Aided Class II Gaming either remotely or in person.

8 (4) “Patron Registration Site” under the regulation means the
9 patron-facing interface of the VPNAPS, which, by virtue of the
10 design of the VPNAPS, individuals must first access when
11 using the VPNAPS.

12 (5) An individual’s access to VPN Aided Class II Gaming via the
13 VPNAPS shall be denied or disabled when the individual is
14 physically located in a state or foreign jurisdiction from which
15 access to the Patron Registration Site or VPN Aided Class II
16 Gaming has been restricted or limited, either as required by the
17 tribal gaming regulatory agency or determined by the tribal
18 gaming enterprise.

19 (6) Before registering as an Account Holder, the individual must
20 affirm that by establishing an account with the tribal gaming
21 enterprise the individual consents to the exclusive regulatory

1 and adjudicatory jurisdiction of the Tribe, acknowledges that
2 the individual is authorizing proxy play of Class II bingo games
3 on their behalf and that the VPN Aided Class II Gaming is
4 conducted on the Tribe's sovereign Indian lands, and agrees
5 that any disputes between the individual and the tribal gaming
6 enterprise concerning VPN Aided Class II Gaming shall be
7 resolved exclusively pursuant to procedures established by the
8 tribal gaming enterprise consistent with regulations of the tribal
9 gaming regulatory agency.

10 (7) Account Holders are permitted to fund deposits into their
11 Accounts, among other means, via (i) cash deposits made
12 directly with the tribal gaming enterprise, (ii) personal checks,
13 cashier's checks, wire transfer and money order deposits made
14 directly or mailed to the tribal gaming operation; (iii) debits
15 from an Account Holder's Visa or MasterCard debit card or
16 credit card; and (iv) transfers through the automated
17 clearinghouse or from another mechanism designed to facilitate
18 electronic commerce transactions, or other means approved by
19 the tribal gaming enterprise.

20 (8) A tribal gaming enterprise employee (or their designee)
21 monitoring the proxy functions of the VPNAPS shall act as the

1 legally designated agent of the Account Holder and, assisted by
2 the technologic aid of proxy software elements contained in the
3 VPNAPS, shall conduct proxy play of Class II bingo games on
4 the Account Holder's behalf.

5 (9) There is no requirement for the proxy agent playing Class II
6 bingo games on the Account Holder's behalf to manually
7 declare a "bingo" upon matching the numbers drawn with the
8 pre-designated game winning pattern on a purchased bingo card
9 in order to collect the game prize; use of technologic aids such
10 as an auto-daub feature is expressly permitted to assist the
11 proxy agent playing Class II bingo games on the Account
12 Holder's behalf in determining whether a card held has a pre-
13 designated pattern matching the numbers drawn for the Class II
14 bingo game.

15 (10) "VPN" under the regulation means a virtual private network
16 which (a) has been assigned a "special use" Internet protocol
17 address in the range from 10.0.0.0-10.255.255.255,
18 172.16.0.0 - 172.31.255.255, and 192.168.0.0-192.168.255.255
19 by the Internet Assigned Numbers Authority, and (b) uses a
20 form of communication that utilizes secured and restricted
21 access connections (i.e. via software and a server that

1 authenticates users, encrypts data, and manages sessions with
2 users) over connectivity infrastructure to create point-to-point
3 connections segregated and isolated from the publicly
4 accessible Internet network (also known as the World Wide
5 Web), such as to constitute a closed, proprietary
6 communication network.

7 (11) “VPN Aided Class II Gaming” under the regulation means
8 server-based electronic bingo games offered by the Gaming
9 Enterprise to be played on the Tribe’s sovereign Indian lands
10 using a Class II Gaming System, known as the VPNAPS,
11 containing several proprietary technologic aids, including a
12 component that facilitates access through a secure virtual
13 private network connection between Account Holders and their
14 proxy agents located on the Tribe’s Indian lands which assists
15 proxy play on behalf of the Account Holder.

16 (12) “VPNAPS” under the regulation means the Class II Gaming
17 System known as the “Virtual Private Network Assisted Play
18 System,” a licensed, proprietary technology platform comprised
19 of multiple software processes and hardware components that
20 work together to offer Class II server-based electronic bingo
21 games via a secure and restricted access VPN connection

1 accessed through any web browser enabled device; including
2 the collective hardware, software, VPN, proprietary hardware
3 and software specifically designed or modified for, and
4 intended for use by the tribal gaming enterprise, to conduct
5 VPN Aided Class II Gaming within the boundaries of the
6 Tribe's Indian lands.

7 (13) "Class II Gaming System" under the regulation means a "Class
8 II gaming system" as defined in 25 CFR §547.2; including any
9 components that facilitate access to the system or
10 communication between Account Holders, their proxy agents
11 and the tribal gaming enterprise.

12 (14) Before the VPNAPS is placed into operation, the VPNAPS is
13 required to be tested and verified by an independent compliance
14 lab in accordance with such standards as are accepted by the
15 tribal gaming enterprise.

16 10. All of the tribal laws and regulations applicable to VPN Aided Class II
17 Gaming are displayed on the Gaming Commission's website, and readily accessible to
18 the general public.

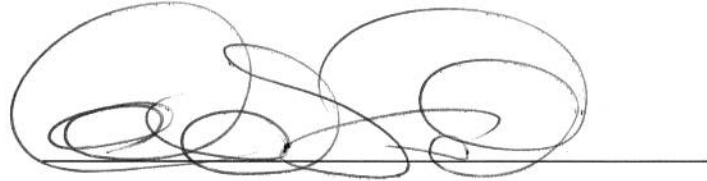
19 11. In sum, the Tribe and its Gaming Commission have exercised their primary
20 regulatory authority over Class II gaming conducted on Indian lands to ensure that,
21 before any VPN Aided Class II Gaming using the VPNAPS Class II Gaming System was

1 offered for real money play, both (a) the bingo games to be played using the VPNAPS
2 Class II Gaming System have been properly Classified as “Class II” games under IGRA,
3 and (b) the VPNAPS Class II Gaming System is a Class II gaming system that meets the
4 standards and requirement of the Tribe’s gaming regulations and the technical and other
5 standards of 25 CFR Parts 543 and 547.

6 12. After the VPN Aided Class II Gaming commenced, the NIGC sent
7 representatives for an on-site inspection meeting on November 6, 2014 with the Gaming
8 Commission concerning the class II bingo play and the VPNAPS. At this meeting the
9 Gaming Commission discussed with the NIGC representatives the nature of and legal
10 foundation for the VPN Aided Class II Gaming, the specific technical aspects of the
11 VPNAPS and also provided written documentation concerning the class II bingo gaming,
12 including the Classification Determination, the Foley Game Play Opinion and the Foley
13 Gaming System Opinion. After this meeting, being fully apprised of the nature of and
14 legal foundation for the VPN Aided Class II Gaming, as well as the specific technical
15 aspects of the VPNAPS, the NIGC did not take any enforcement action in connection
16 with the VPN Aided Class II Gaming operated by the Tribe. Unlike the NIGC, the State
17 of California (“State”) has never sent an agent to the Santa Ysabel reservation for an on-
18 site inspection meeting with the Gaming Commission concerning the nature of or legal
19 foundation for the VPN Aided Class II Gaming, or the specific technical aspects of the
20 VPNAPS, or requested such a meeting. Neither has the State ever requested or reviewed
21 with the Gaming Commission written documentation concerning the class II bingo

1 gaming, including the Classification Determination and the Foley Game Play Opinion
2 and Foley Gaming System Opinion.

3 **I declare under penalty of perjury that the foregoing is true and correct. This**
4 **declaration is executed on November 25, 2014.**

5 

6
7 David Vialpando

8 Date: 11-25-2014

9
10
11
12
13
14
15
16
17
18
19
20
21

**EXHIBITS TO DECLARATION OF DAVID CHELETTE
TABLE OF CONTENTS**

1. Letters – State of California.....	E1-E5
2. Description of Proposed VPN Aided Class II Gaming Using 25 CFR 547 Class II Gaming System.....	E6-E43
3. Description of Bingo Games to be Conducted by Santa Ysabel Interactive Using Virtual Private Network Assisted Play System	E44-E54



OFFICE OF THE GOVERNOR

July 14, 2014

Chairman Virgil Perez
Santa Ysabel Band of Diegueno Mission Indians
Of the Santa Ysabel Reservation
School House Canyon Road
P.O. Box 130
Santa Ysabel, CA 82070

Re: Request to Meet and Confer Under Compact Section 9.1

Dear Chairman Perez:

This letter is addressed to you in accordance with section 13.0 of the Tribal-State Compact Between the Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation and the State of California (Compact).

A recent article in US Poker (<http://www.uspoker.com/blog/santa-ysabel-launching-real-money-online-poker-california-players/8509/>), as well as other articles, announced that the Santa Ysabel Tribe intends to launch real money online poker in California. The article describes a plan where players apparently will not physically be on the Santa Ysabel Tribe's Indian lands. The State is not aware of any legal authority that could justify the Santa Ysabel Tribe's plan to offer off-reservation gaming within the State of California. Therefore, the State is left to conclude that the Santa Ysabel Tribe's planned Internet poker will constitute a material breach of the Compact and will violate the Indian Gaming Regulatory Act, the gambling laws of California, and the federal Unlawful Internet Gambling Enforcement Act.

For these reasons, the State hereby requests, pursuant to Compact section 9.1, subdivisions (a) and (b), that within ten (10) days following receipt of this letter, the Santa Ysabel Tribe meet and confer with the State regarding the Santa Ysabel Tribe's plan to offer Internet bingo. As further provided in section 9.1, the meet and confer is without prejudice to the State's right to seek injunctive relief against the Santa Ysabel Tribe when circumstances are deemed to require immediate relief.

Chairman Virgil Perez
July 14, 2014
Page 2

In accordance with Compact section 9.1, subdivision (a), the State hereby gives notice that the issue to be resolved in the meet and confer process is whether the Santa Ysabel Tribe intends to offer Internet poker in breach of the Compact and in violation of the Indian Gaming Regulatory Act, the gambling laws of California, and the federal Unlawful Internet Gambling Enforcement Act.

Representatives of the State will be available to meet in Sacramento on July 18, 2014, at 10:00 a.m. Please have a tribal representative or your legal counsel contact this office as soon as possible to confirm your availability.

Thank you for your prompt attention to this matter.

Sincerely,



Joginder S. Dhillon
Senior Advisor for Tribal Negotiations

July 15, 2014

Mr. Joginder S. Dhillon
Senior Advisor for Tribal Negotiations
Office of the Governor
State Capitol, Suite 1173
Sacramento, CA 95814

Dear Mr. Dhillon:

I am in receipt of your letter dated July 14, 2014, requesting to meet and confer pursuant to Tribal-State Gaming Compact Section 9.1 to discuss Santa Ysabel's business enterprise, Santa Ysabel Interactive. Unfortunately, you provide insufficient information regarding the purpose and substance of the proposed meeting upon which we might gather the necessary information to address potential concerns the state might have with our business enterprise.

The Iipay Nation of Santa Ysabel and the State of California negotiated a Tribal-State Gaming Compact in 2003, which was ratified by the State Legislature, providing the State with negotiated authority with regard to the regulation of Class III gaming offered by the Tribe on our tribal lands. While Santa Ysabel maintains its gaming compact with the State in good standing, the Tribe does not currently offer Class III gaming and has no plans to do so in the near future.

Santa Ysabel Interactive, as the press reports you highlight in your letter emphasize, and as the Santa Ysabel Tribal Gaming Commission states on its website, sycommission.net, offers online poker only, a Class II game. In fact, the Gaming Commission further states that the Tribe has no intention to offer any Class III games, including slots and house-banked games, through its interactive gaming website. That being said, we are at a quandary in understanding the relevance of Santa Ysabel Interactive's tribal-regulated Class II gaming, conducted from servers located on tribal lands, and our gaming compact with the State exclusively dealing with Class III gaming. I would request that you outline specific sections of the compact which the State believes apply to our Class II gaming enterprise. As a point of clarification, in paragraph three of the first page of your letter of July 14th, you make reference to "...the Santa Ysabel Tribe's plan to offer Internet Bingo." While bingo is also defined as a Class II gaming activity on tribal lands, Santa Ysabel does not offer bingo through Santa Ysabel Interactive, or have any plans to do so in the near future. Again, if Santa Ysabel did contemplate offering bingo in an interactive environment, because of the activity's classification as Class II gaming, we do not feel that the activity would in any way be covered by or have any relevance to our Tribal-State Gaming Compact.

We have no intention of discussing any federal statutes, including the Indian Gaming Regulatory Act or the Unlawful Internet Gaming Enforcement Act with any State of California government officials. We feel that you are exceeding your scope and authority by requesting a discussion with us concerning the application and relevance of federal law as it pertains to business activity sanctioned by our Tribe, a sovereign nation, conducted on tribal lands.

You mention in your letter possible violation of California gambling laws as it relates to the Tribe's Class II online poker activity conducted from servers located on tribal lands. We request that you cite specific statutes of California law which the State believes may be violated by this activity. Without specific information in this regard, we would be unable to provide the State with meaningful dialogue with which to resolve potential issues.

As we are aware that the State is currently considering at least two legislative proposals for state-licensed interactive gaming, we would be more than happy to meet with state elected officials and share our experience with building our interactive gaming enterprise to improve the pending legislation, enhance the legislation's fairness for all relevant stakeholders, and ensure the integrity of state-licensed gaming activity. Likewise, we would be pleased to meet with state gaming regulators who may be tasked with crafting the regulatory structure or enacted state-licensed online gaming, to share our regulatory framework. We have as our common goal ensuring the integrity of gaming and protection of the gaming public.

Related to the last topic mentioned above, we are surprised at the rapidity with which the State took notice of our legal, tribal-regulated interactive Class II gaming enterprise. We received your letter on the first day of the launch of our website. Contrast this with the State's lack of action for over five years as it pertains to so-called Internet Cafes, which offer unregulated Internet-based slot games, in clear violation of both state law and tribal exclusivity with regard to these Class III games. The public safety and crime issues attracted to the communities where these unlawful gaming operations are allowed to operate is well-documented, yet these operations continue to proliferate throughout the State. We would also inquire as to the State's apparent inaction in regards to the numerous unlicensed card rooms operating in commercial buildings and out of private residences across the State. These illegal, unlicensed, unregulated commercial operations similarly attract crime in the form of prostitution, illegal sales of alcohol, and the risk of home invasion robberies, yet the State fails to adequately address these actual crimes.

I would be happy to meet with you and your staff, informally and not within the provisions of the Tribe's Gaming Compact with the State, after being provided with the information outlined above and respecting the conditions outlined in this response. I would further invite you and your staff to hold such a meeting on the tribal lands of the Iipay Nation of Santa Ysabel.

I await your timely response to this letter.

Sincerely,

Virgil Perez, Tribal Chairman
Iipay Nation of Santa Ysabel

August 4, 2014

Mr. Joginder S. Dhillon
Senior Advisor for Tribal Negotiations
Office of the Governor
State Capitol, Suite 1173
Sacramento, CA 95814

Dear Mr. Dhillon:

In the interest of fostering positive government-to-government relations, I would like to inform you of developments related to Santa Ysabel's interactive gambling website, privatetable.com. The Santa Ysabel Gaming Commission has entered into a partnership with the California Council on Problem Gambling to work together to incorporate best practices and strategies concerning responsible gambling into the Tribe's online gambling website.

Santa Ysabel Interactive has received recommendations from the Council to improve the effectiveness and accessibility to the website's responsible gambling program. Several of the Council's recommendations have been incorporated in the website. It is our desire to construct a robust, state-of-the-art responsible gambling program within our online gambling enterprise which may be relied upon by the State or any other Tribe as a model program in problem gambling prevention and intervention. We look forward to a long and productive partnership with the California Council on Problem Gambling, and at some time in the not too distant future, we look forward to supporting the Council's outstanding work through a financial contribution.

I would also like to renew my previous invitation to you and other members of the Governor's staff to visit the Iipay Nation of Santa Ysabel reservation in the near future.

Sincerely,

Virgil Perez, Tribal Chairman
Iipay Nation of Santa Ysabel

cc: Douglas Hatfield, NIGC Director of Compliance

Description of Proposed VPN Aided Class II Gaming Using 25 CFR Part 547 Class II Gaming System

Introduction

Pursuant to its inherent sovereign authority and applicable federal law, specifically, the Indian Gaming Regulatory Act (“IGRA”), P.L. 100-497, 25 U.S.C. §§ 2701, *et seq.*, the Iipay Nation of Santa Ysabel (“Tribe”), a federally-recognized Indian tribe, intends to offer server-based bingo games to be played on the Tribe’s sovereign Indian lands using a Class II gaming system known as the “Virtual Private Network Assisted Play System” (“VPNAPS”). The VPNAPS contains several proprietary technologic aids, including a component that facilitates access to the Tribe’s gaming facility through a secure virtual private network connection between individuals who are properly registered account holders with the tribal gaming enterprise and their proxy agent located on the Indian lands, which assists proxy play of bingo games on behalf of the account holders (referred to herein as “VPN Aided Class II Gaming”). In sum, the VPNAPS allows the Tribe to offer Class II electronic linked bingo gaming conducted on Indian lands using a proxy system. The nature of the games to be played using the linked bingo system will be Class II server-based games requiring peer-to-peer competition in a single game of bingo with a common ball draw.

How VPN Aided Class II Gaming will be Conducted

VPN Aided Class II Gaming will offer only Class II server-based (electronic) bingo games using a game server located within a tribally licensed Indian gaming facility on the Tribe’s Indian lands. The bingo games will be classified as “Class II” games under IGRA by the tribal gaming regulatory agency before being offered for play using the VPNAPS. See Appendix A, Class II Gaming Classification Under IGRA. Moreover, the VPNAPS itself will be verified and certified under the Tribe’s gaming regulations and the technical standards of 25 CFR Parts 543 and 547 by a qualified, independent compliance lab.

The tribal gaming enterprise will conduct its VPN Aided Class II Gaming using the VPNAPS, a licensed, proprietary technology platform – comprised of multiple software processes and hardware components that work together to offer access to Class II server-based bingo games via a secure and restricted access virtual private network (“VPN”) connection through any web browser enabled device – that is designed and engineered to maintain legal compliance with all applicable laws and regulations. The collection of “technologic aids” contained within the VPNAPS will allow the gaming system to function as a series of linked “electronic” Class II gaming devices at the tribal gaming facility located on the Tribe’s Indian lands without changing the essential game characteristics or statutory criteria required under IGRA for the play of a Class II bingo game.

The games to be conducted using the VPNAPS will use the traditional bingo game format. Game play, however, is achieved via “proxy play” – thus ensuring that all actual game play is taking place within the sovereign Indian lands of the Tribe. In this respect, real time live bingo game action is played only by the “proxy” that represents an individual who has used a web-browser enabled device to access the Tribe’s gaming facility and its servers (each located on the Tribe’s Indian lands) via the VPNAPS; no live bingo game action is ever performed by the user of the web-browser enabled device. Once an individual is approved as an “Account Holder” (i.e. an individual at least twenty-one (21) years of age who has used the VPNAPS virtual “registration booth” to receive consent to (1) enter the Tribe’s Indian lands and (2) establish an account with the tribal gaming enterprise), system components of the VPNAPS allow the Account Holder to access a “VPN gateway” connecting them to a virtual “proxy engagement station” – to hire a proxy to conduct the bingo game play on their behalf. The Account Holder engages their proxy via a request form that is the legal contract through which the proxy relationship is established.

A tribal gaming employee (or their designee) monitoring the proxy functions of the VPNAPS acts as the legally designated agent of the Account Holder, and, assisted by the technologic aid of proxy software elements in the VPNAPS (including an auto-daub feature), conducts proxy play of the bingo games on the Account Holder’s behalf. An Account Holder’s proxy commences play of the game on the VPNAPS by requesting from the game action server component of the VPNAPS the purchase of one or more digital bingo cards in a common game of bingo with a set denomination (i.e. penny, \$.05, \$.10, \$.25, \$.50 or \$1.00 game). At all times the games played using the VPNAPS require peer-to-peer competition between at least five (5) proxy participants in the game of bingo which is accomplished through a linked network contained within the VPNAPS. There is a common bingo ball draw for all proxy participants included in each bingo game. Components of the VPNAPS assist the Account Holder’s proxy in playing the game of bingo by providing a visual representation of the digital bingo card, displaying the balls drawn, daubing or covering the corresponding numbers on the digital bingo card when matched with ball numbers as they are drawn, and presenting any prizes won through the play of the bingo game for later display to the Account Holder. Game play results are revealed on a time-delayed basis to the Account Holder, and an Account Holder can select the theme for watching the replay display of the game played by their proxy on their behalf.

See **Attachment No. 1** for diagram overview of the timeline of VPN Aided Class II Gaming via the VPNAPS.

The VPN gateway link used by Account Holders to establish their accounts with the tribal gaming enterprise and to connect with their proxy agents regarding their proxy service relationship will be assigned a “special use” Internet protocol address by the Internet Assigned Numbers Authority and uses a form of communication that utilizes secured and restricted access connections (i.e. via software and a server that authenticates users, encrypts data, and manages sessions with users) over connectivity infrastructure to create point-to-point connections segregated and isolated from the publicly accessible Internet network (also known as the World Wide Web), such as to constitute a closed, proprietary communication network. This level of isolation is accomplished by using various technologies that not only establish the “tunnel” for the information passed between the Account Holders and their proxy agents and the tribal gaming enterprise, but also how the information is transported. These include: Firewall(s),

Internet Protocol Security, Password Authentication, and Advanced Encryption. See Appendix B, Features of Closed Proprietary Communication Network.

The secure VPN used with the VPNAPS meets the level of isolation necessary to be deemed a “closed, proprietary communication network,” as demonstrated by (1) its use of an encrypted HTTPS secure connection to the tribal gaming operation using a proprietary communications protocol, and (2) the fact that no component of the VPNAPS used in connection with the VPN Aided Class II Gaming will function without a physical and logical connection to the network.

See Attachment No. 2 for the security features of the VPNAPS to be used with the VPN Aided Class II Gaming.

Other than the VPN communication link between the Account Holders and their proxy agents and the tribal gaming enterprise, all other components of the VPNAPS are physically located on the Tribe’s Indian lands, including the computer hardware and software associated with the operation of the VPN Aided Class II Gaming, the accounts of the Account Holders, the administrative personnel and records, and the servers and other technological components that assist the proxy participants to play the bingo games on behalf of the Account Holders.

The initial registration process for accessing the tribal gaming enterprise and its VPN Aided Class II Gaming gathers basic identification information. As the individual is allowed entry into the secure VPN network connection of the VPNAPS, additional information will be required for consumer protection: (1) further identification information; (2) age (21–years or older) and location verifications; (3) affirmations of privacy policy and other legal and regulatory requirements, along with other disclosures and affirmations; (4) payment and settlement information and authorizations; and (5) engagement of their proxy, the legally designated agent of an Account Holder, to take specific actions on their behalf.

In order to hire a proxy to participate in bingo games on their behalf, an individual must first become a registered account holder and fund an account with the tribal gaming enterprise. An Account Holder can fund their account by several different means, including direct cash deposits, mailed checks or money orders, wire transfers, ACH transfers, or debits from Visa or MasterCard debits or credit cards made using features of the VPNAPS. Once their account is established, Account Holders can then submit a request form to instruct their proxy to purchase (in U.S. currency) bingo cards to be played on their behalf in order to be eligible to win several different forms of cash prizes. If, and only if, the request form is accepted by the tribal gaming enterprise, a proxy participant will be allowed to proceed to purchase bingo cards on the Account Holder’s behalf. Bingo cards for bingo games will be sold in denominations of Penny, \$0.05, \$0.10, \$0.25; \$0.50; and \$1.00. There will be no limit to the number of cards available for purchase for each bingo game.

The VPNAPS will comply with the Part 547 technical standards for the use of “technologic aids” in the play of Class II games. The primary collection of components which serve as “technological aids” as part of the play of Class II games using the VPNAPS consist of the following:

1. The electronic hardware and software components used to make a “video” or “digital” representation of the Class II game on the Class II gaming system.
2. The hardware and software components used to make the VPN communication link between the tribal gaming enterprise’s servers located on the Tribe’s Indian lands and an Account Holder’s web-browser enabled device.
3. The hardware and software components for the “proxy function” elements of the VPNAPS to allow proxy play of the bingo game by the Account Holder’s legally designated agent on behalf of the Account Holder.

See **Attachment No. 3** for a diagram overview of VPNAPS components and Appendix C, Class II Gaming Using Technologic Aids.

In summary, this collection of “technological aids” will allow the VPNAPS to function as follows: (1) the electronic hardware and software components will permit a video or digital representation of the Class II game play and results to be displayed in real time to proxy participants, as if the proxy participants are playing an “electronic” Class II gaming device at the tribal gaming facility; (2) the VPN hardware & software components will permit a remote communications channel between each Account Holder and their legally designated proxy located on Indian lands, who will receive instructions from the Account Holder regarding play of bingo games on the VPNAPS; and (3) the “proxy function” element of the VPNAPS, monitored by the tribal gaming employee designated for the Account Holder, will allow the Account Holder’s proxy to play the bingo game in real time on behalf of the Account Holder and reveal and report on a time delayed basis to the Account Holder the results of the games previously played on their behalf.

As mentioned above, the Tribe will exercise its primary regulatory authority over Class II gaming conducted on Indian lands by having its tribal gaming regulatory agency make a written determination, before any VPN Aided Class II Gaming using the VPNAPS will be offered for real money play, that (1) the bingo games played using the VPNAPS are to be classified as “Class II” games under IGRA, and (2) the VPNAPS is a Class II gaming system that meets the standards and requirements of the Tribe’s gaming regulations and the technical standards of 25 CFR Parts 543 and 547.

Overview of VPNAPS Functionality

See **Attachment No. 4** for description and illustration of the functionality of the VPNAPS.

Summary

The Tribe intends to use a Class II gaming system that, through high-tech advancements and innovations, is designed and built to be the first **IGRA compliant** *virtual* Class II bingo gaming system for use with web-browser enabled devices. This one-of-kind digital-based bingo gaming system is part of the natural progression of the continuing technological evolution of Class II gaming, as Congress has always intended for the Indian gaming industry.

Just as the first generation of Class II electronic bingo machines represented the “electrification” of bingo by making the technological leap in putting the classic paper & dauber bingo game into a wholly *electronic* format, the VPNAPS takes the next technological leap, deploying new software and hardware enhancements that work in concert to create a Class II gaming environment, and represents the “digitalization” of bingo by transforming the client-server architecture of e-bingo gaming systems and putting it in a wholly *digital* format; all while retaining the essential characteristics/fundamental aspects of Class II bingo games.

System components include:

- a virtual “registration booth” – to receive consent to enter the Tribe’s Indian lands and
- to allow access to a “VPN gateway”
- connecting to a virtual “proxy engagement station” – to hire a proxy to conduct the bingo game play

Real time live bingo game action is played by the proxy of the web-browser enabled device user who has accessed the Tribe’s virtual Class II bingo gaming system from anywhere; no live bingo game action, however, is ever performed by the user. And no live bingo game action is ever commenced until two virtual private tribal doorways have been successfully entered by the user, and at least five device user proxies are participating in a common bingo game. The gaming system is equipped with an auto-daub feature to assist the user proxies in their play of the bingo games.

Appendix A

CLASS II GAMING CLASSIFICATION UNDER IGRA

Class II Gaming Classification

IGRA Definition

IGRA governs gaming on Indian lands. IGRA defines "Class II Gaming" in relevant part to include:

1. The game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith) –
 - a. which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;
 - b. in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
 - c. in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo, and . . .

See 25 U.S.C. §2703(7) (A). Games that are not within the definition of Class I or Class II games are Class III games, see 25 U.S.C. §2703(8), including:

1. any banking card games, including baccarat, chemin de fer, or blackjack (21), or
2. electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

NIGC Definition

The NIGC's current regulations define Class II gaming very similar to the statutory definition under IGRA:

1. Bingo or lotto (whether or not electronic, computer, or other technologic aids are used) when players:
 - a. Play for prizes with cards bearing numbers or other designations;
 - b. Cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
 - c. Win the game by being the first person to cover a designated pattern on such cards.
2. If played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo;
3. Nonbanking card games that:

- a. State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and
- b. Players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes;

See 25 C.F.R. §502.3.

The NIGC regulations also define “other games similar to bingo” for purposes of Class II gaming.

25 C.F.R. §502.9 Other games similar to bingo.

Other games similar to bingo means any game played in the same location as bingo (as defined in 25 USC 2703(7)(A)(i)) constituting a variant on the game of bingo, provided that such game is not house banked and permits players to compete against each other for a common prize or prizes.

APPENDIX B

Features of a Closed Proprietary Communications Network

The VPNAPS utilizes a secure VPN for the communications link between Account Holders their proxy agents located on the Tribe's Indian lands and the tribe's gaming enterprise. The secure VPN used by the VPNAPS is in essence a "closed, proprietary communication network". A closed proprietary network, more commonly known as a "private network", is separate and distinct from the publically accessible "Internet" network (also known as the World Wide Web) through its use of VPNs. Communications that travel over a virtual private network are isolated from, and not accessible to the general publicly using the Internet generally, and vice versa. This is true even though a virtual private network shares some connectivity infrastructure with the Internet.

The VPN to be used as part of the VPNAPS is designed to only allow access to the Tribe's gaming enterprise and its VPN Aided Class II Gaming via direct communication between the Account Holders their proxy agents and the tribal gaming enterprise. This point-to-point communication, segregated and isolated from the Internet, is accomplished by using various technologies that not only establish the "tunnel" for the information passed between the Account Holders, their proxies and the tribal gaming enterprise, but also how the information is transported. These include:

1. Firewall(s): A security system consisting of a combination of hardware and software that limits the exposure of a computer or computer network to attack from hackers; commonly used on local area networks that are connected to the Internet.
2. IPSec: Internet Protocol Security provides interoperable, high quality and cryptographically based security services for traffic at the IP layer, such as authenticity, integrity, confidentiality and access control to each IP packet.
3. Password Authentication: end user security measure that ensures user login and identification: are based on a unique login name and password combination. Further authentication techniques may be utilized in the future to further enhance security through use of physical characteristics such as fingerprint identification, iris/retinal scanning, facial scanning & recognition, voice recognition, etc.

Advanced Encryption: A cryptographic algorithm that can be used to protect electronic data. The AES algorithm can be used to encrypt (encipher) and decrypt (decipher) information. Encryption converts data to an unintelligible form called ciphertext; decrypting the ciphertext converts the data back into its original form, called plain text.

APPENDIX C

CLASS II GAMING USING TECHNOLOGIC AIDS

Class II Gaming Using a Technologic Aid

NIGC Definition

Class II games that may utilize “electronic, computer or other technologic aids” as part of players’ participation in the game are distinguished under the NIGC regulations as follows:

25 C.F.R. §502.7 Electronic, computer or other technologic aid.

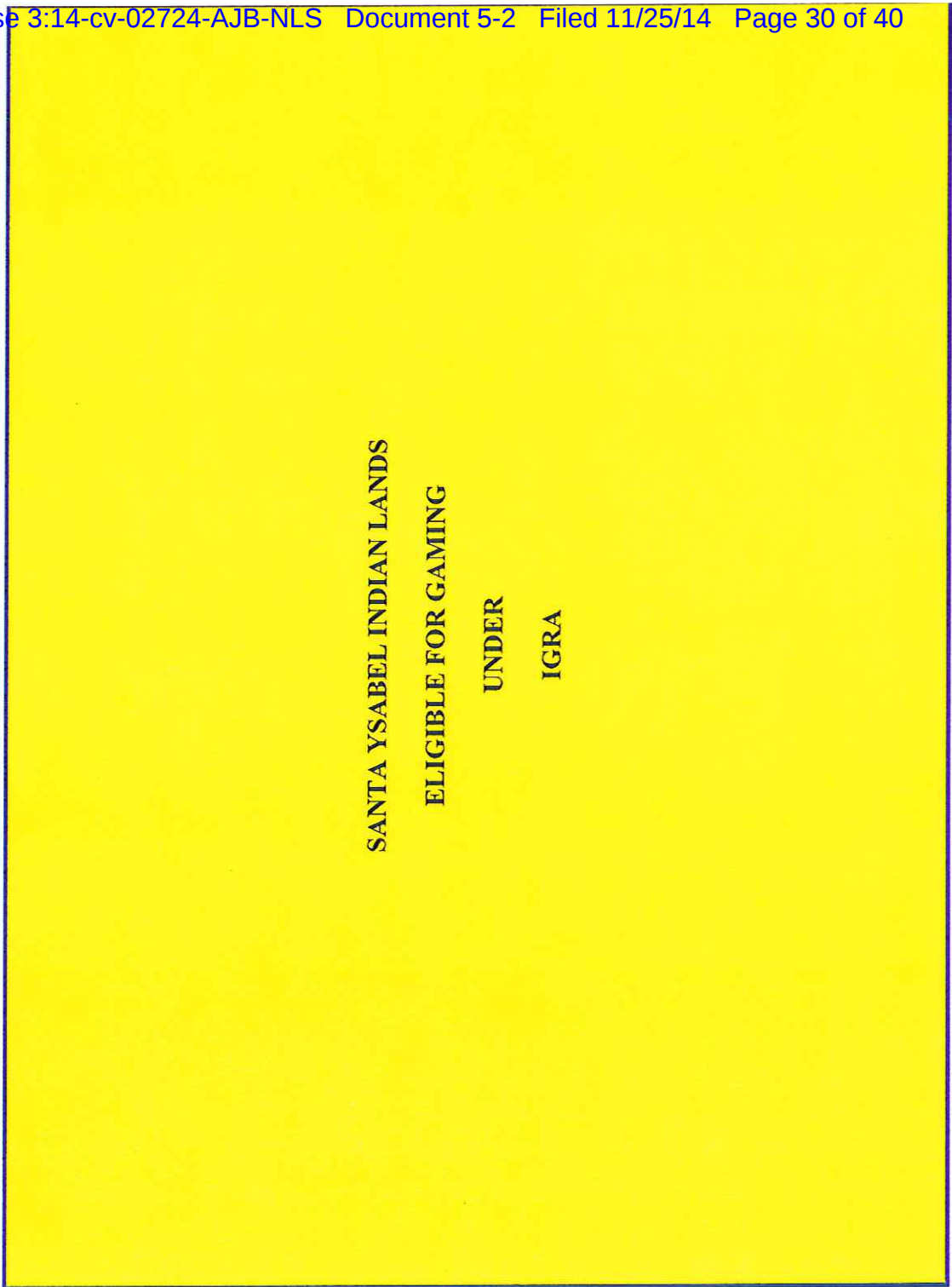
1. Electronic, computer or other technologic aid means any machine or device that
 - a. assists a player or the playing of a game;
 - b. is not an electronic or electromechanical facsimile; and
 - c. is operated according to applicable Federal communications law.
2. Electronic, computer or other technologic aids include, but are not limited to, machines or devices that:
 - a. broaden the participation levels in a common game;
 - b. facilitate communication between and among gaming sites; or
 - c. allow a player to play a game with or against other players rather than with or against a machine.
3. Examples of electronic, computer or other technologic aids include pull tab dispensers and/or readers, telephones, cables, televisions, screens, satellites, bingo blowers, electronic player stations, or electronic cards for participants in bingo games.

The NIGC regulation which applies to any Class III games using an electronic or electromechanical facsimile of any game of chance is found at:

25 C.F.R. §502.8 Electronic or electromechanical facsimile.

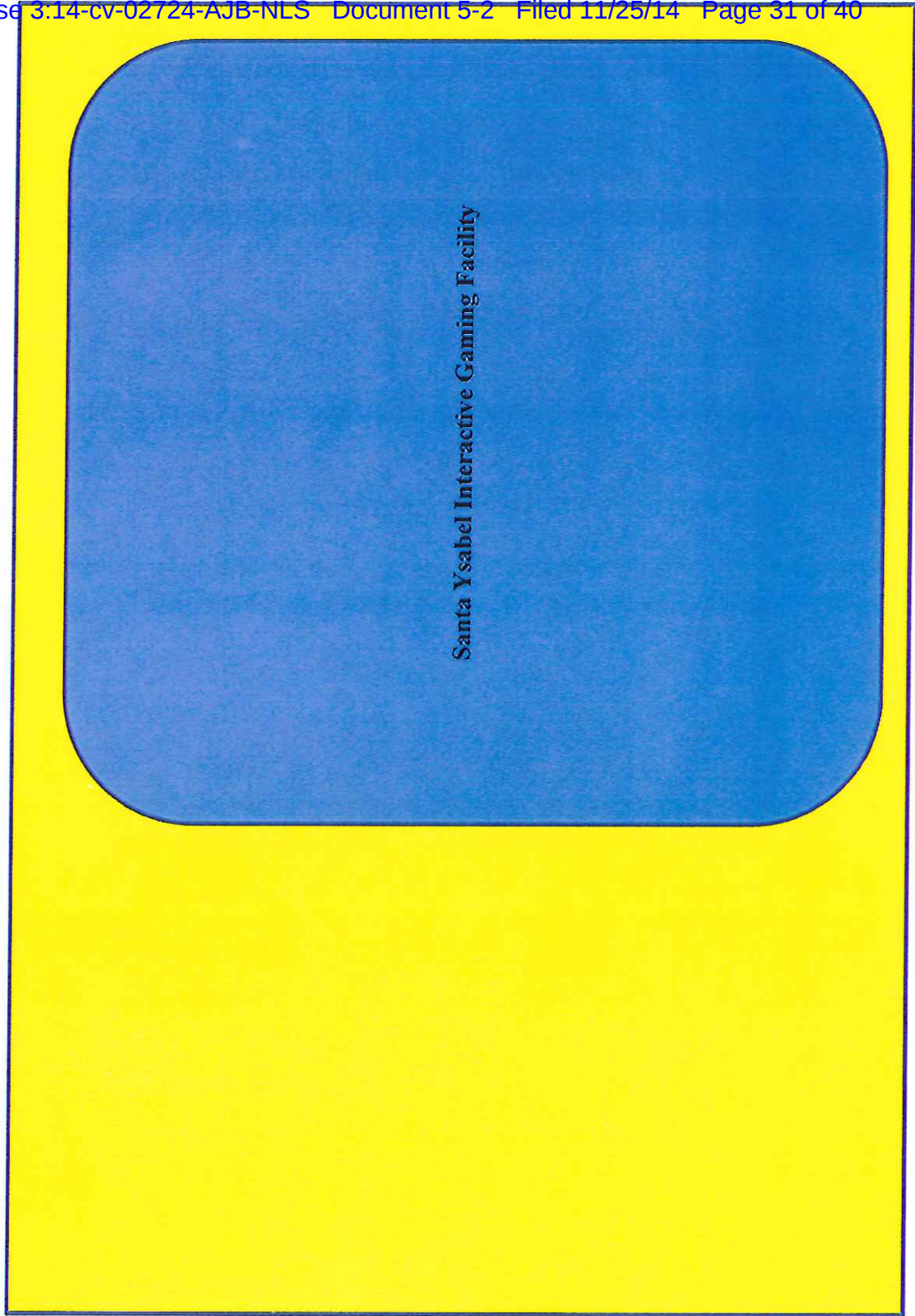
Electronic or electromechanical facsimile means a game played in an electronic or electromechanical format that replicates a game of chance by incorporating all of the characteristics of the game, except when, for bingo, lotto, and other games similar to bingo, the electronic or electromechanical format broadens participation by allowing multiple players to play with or against each other rather than with or against a machine.

Timeline diagram 1 re: Indian lands

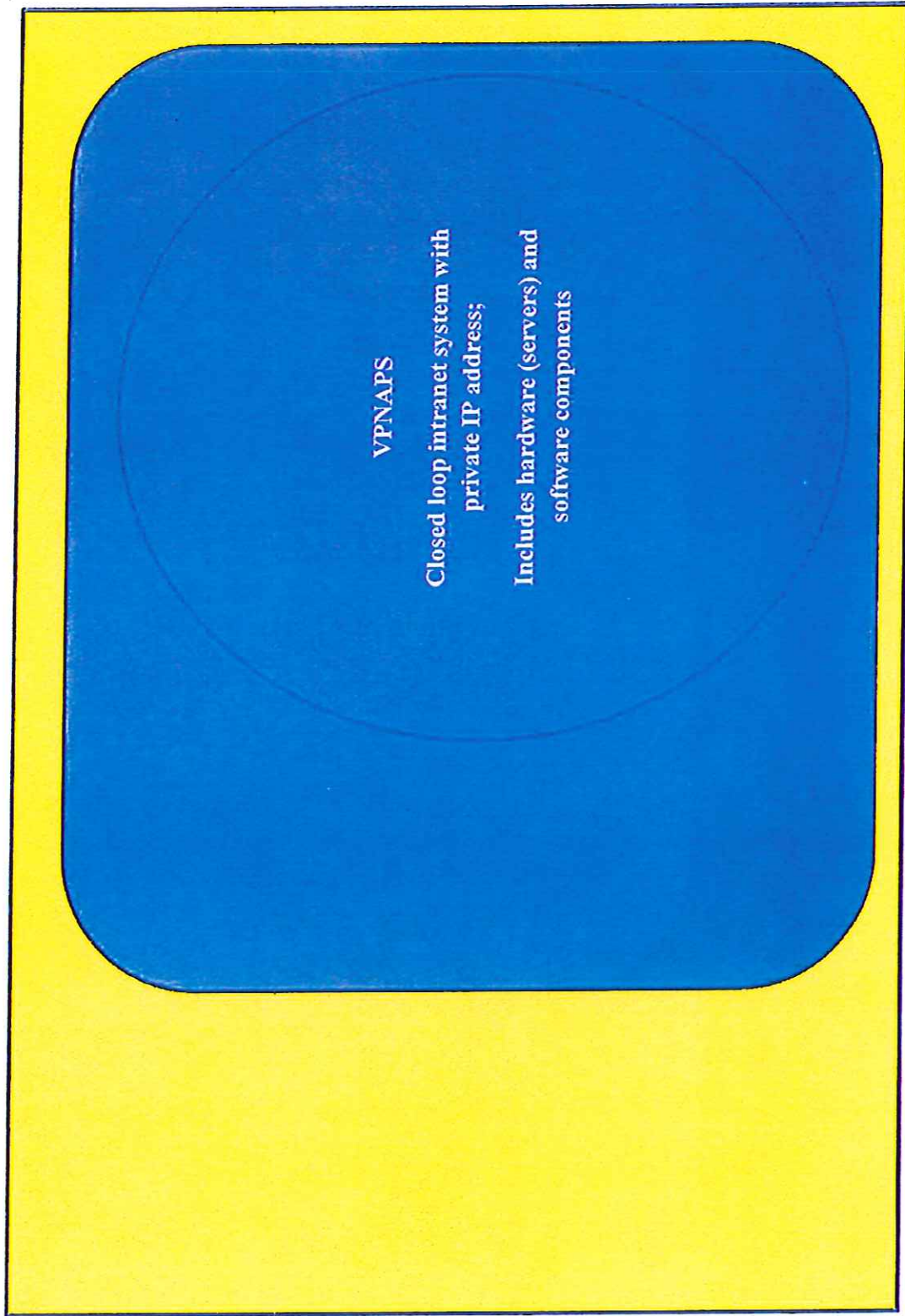


Non-Indian Lands

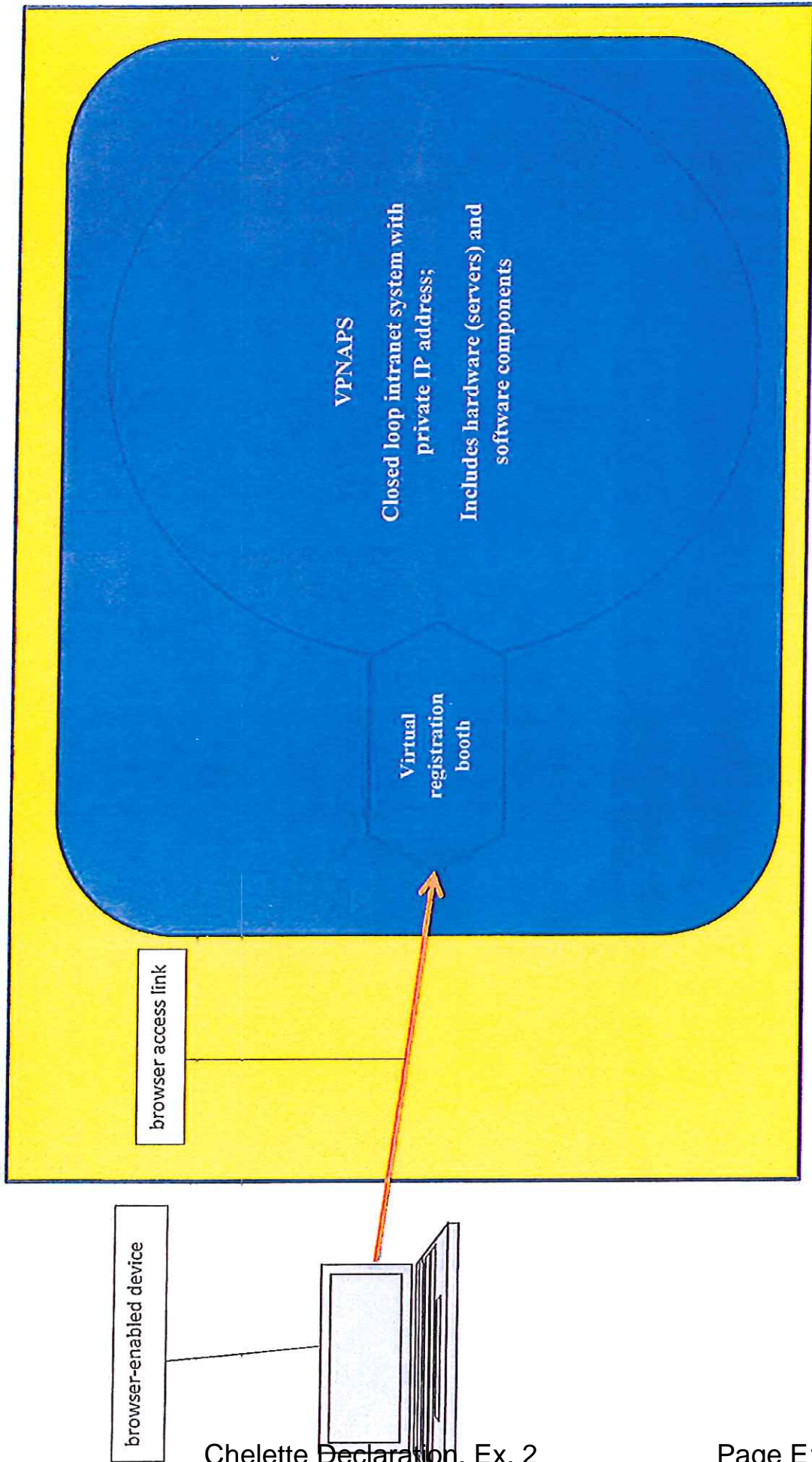
Timeline diagram 2 re: Santa Ysabel Interactive facility



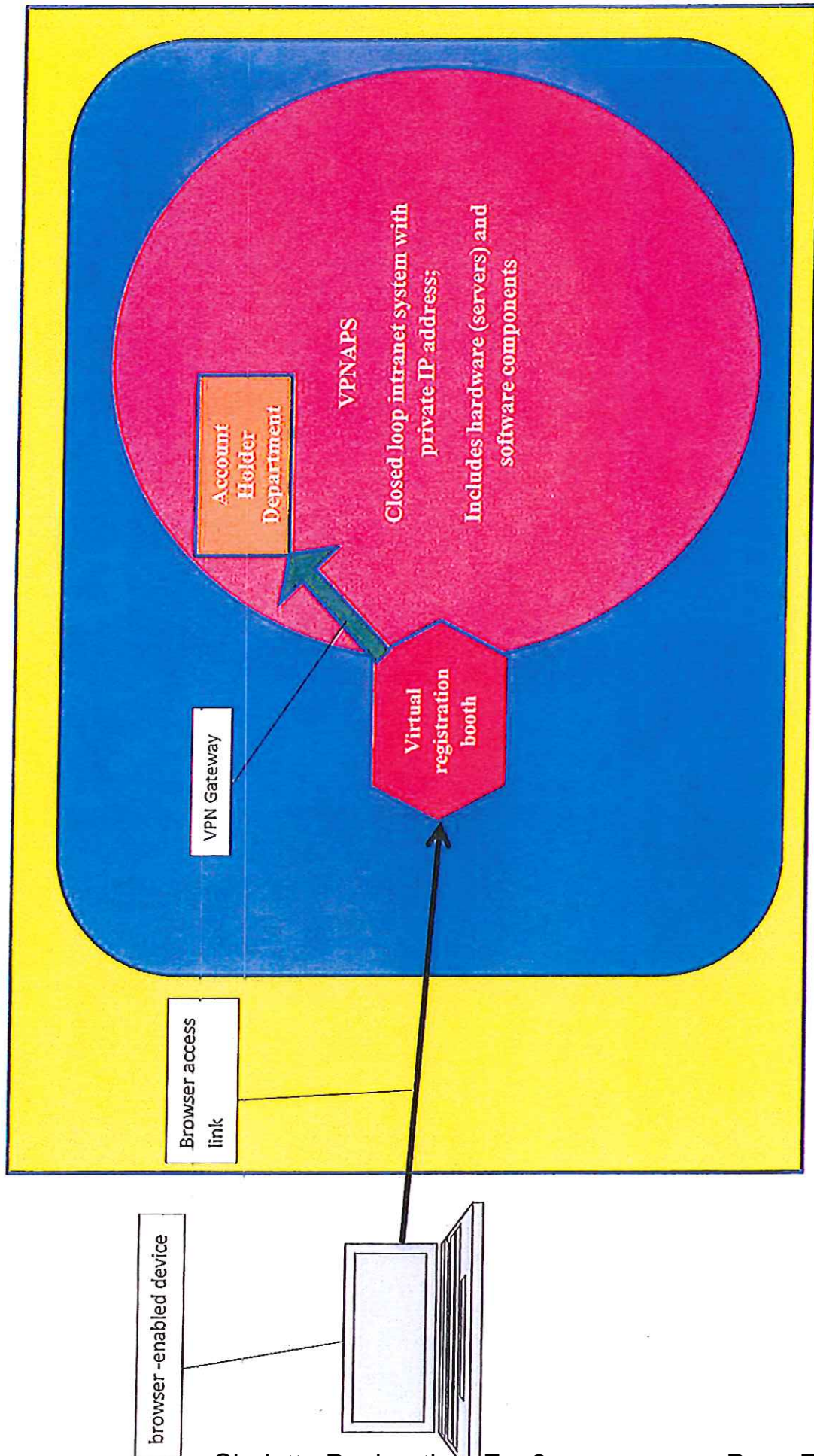
Timeline diagram 3 re: VPNAPS



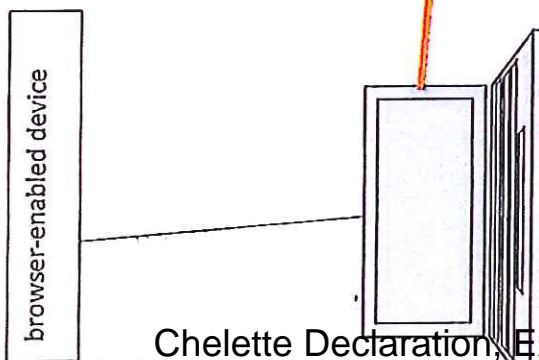
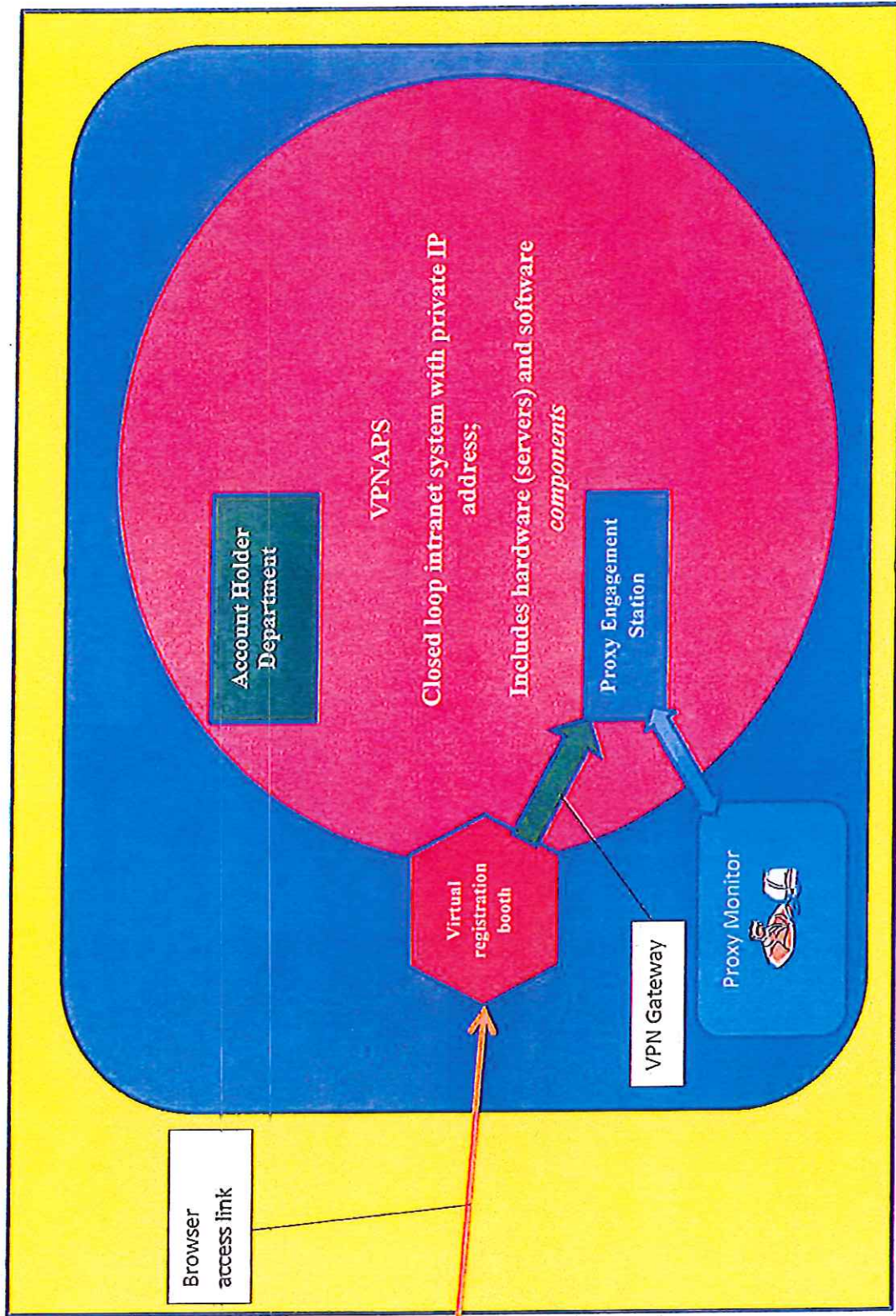
Timeline diagram 4 re: registration booth



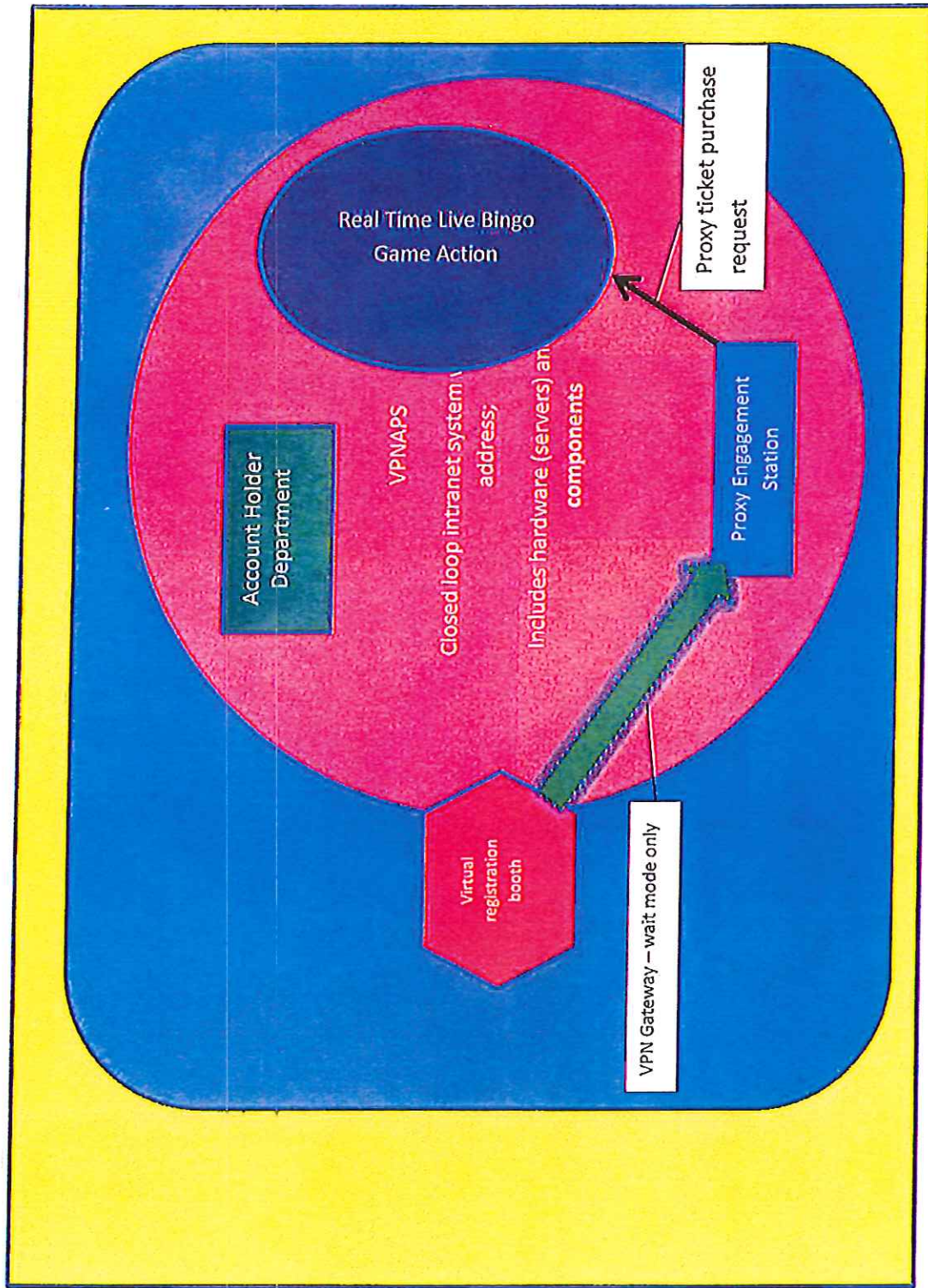
Timeline diagram 5 re: account holder dept



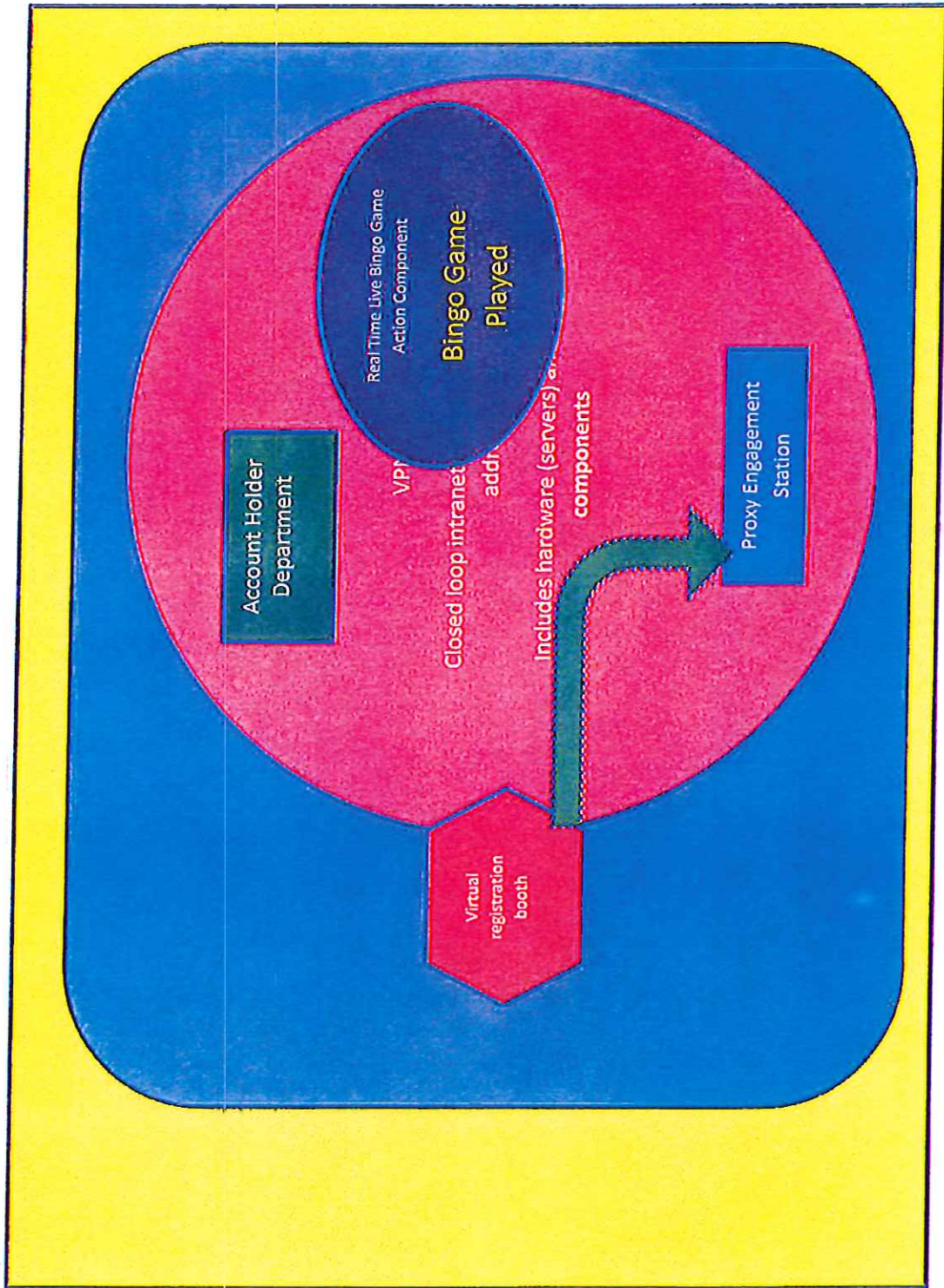
Timeline diagram 6 re: proxy station



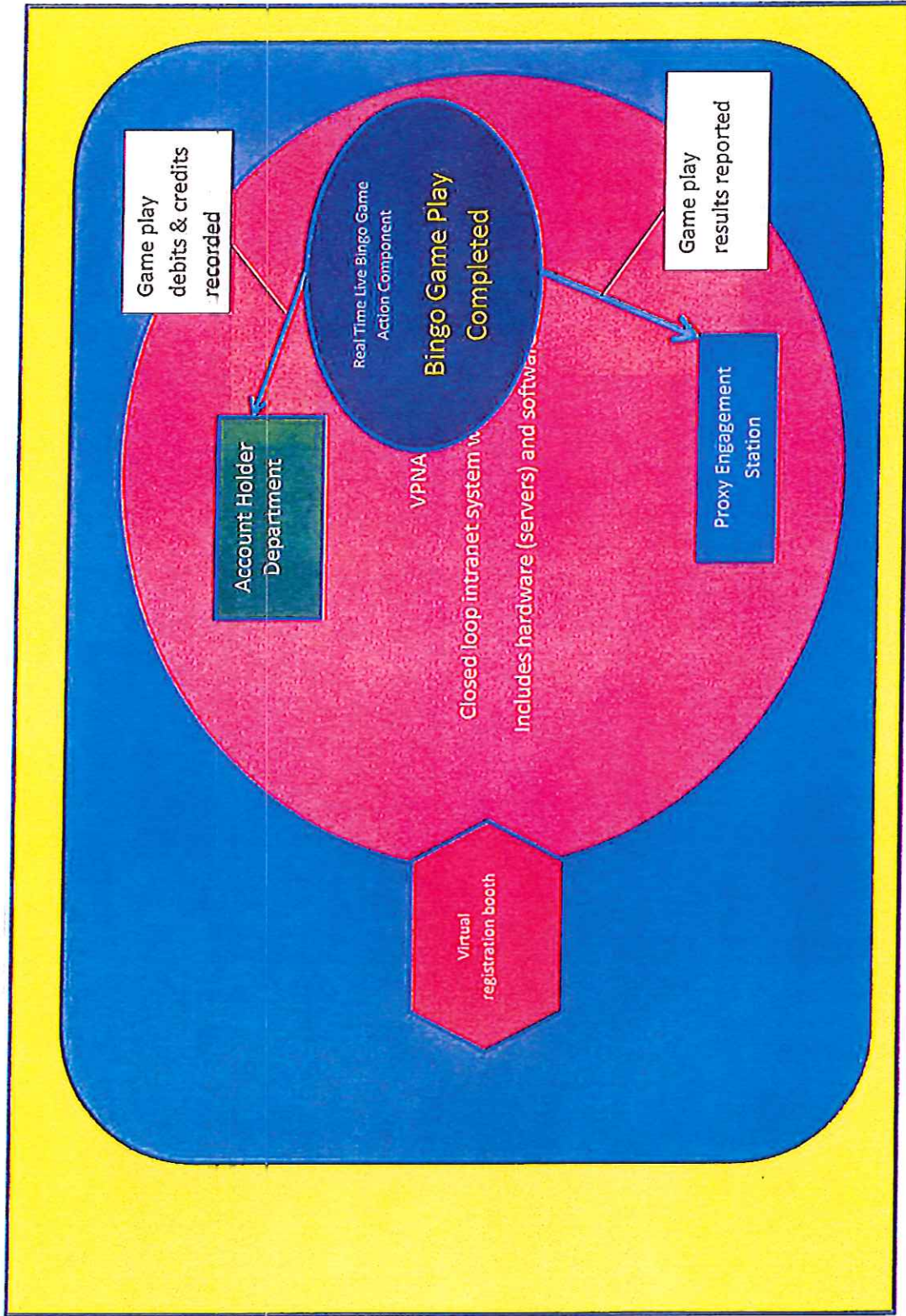
Timeline diagram 7 re: proxy request to game action



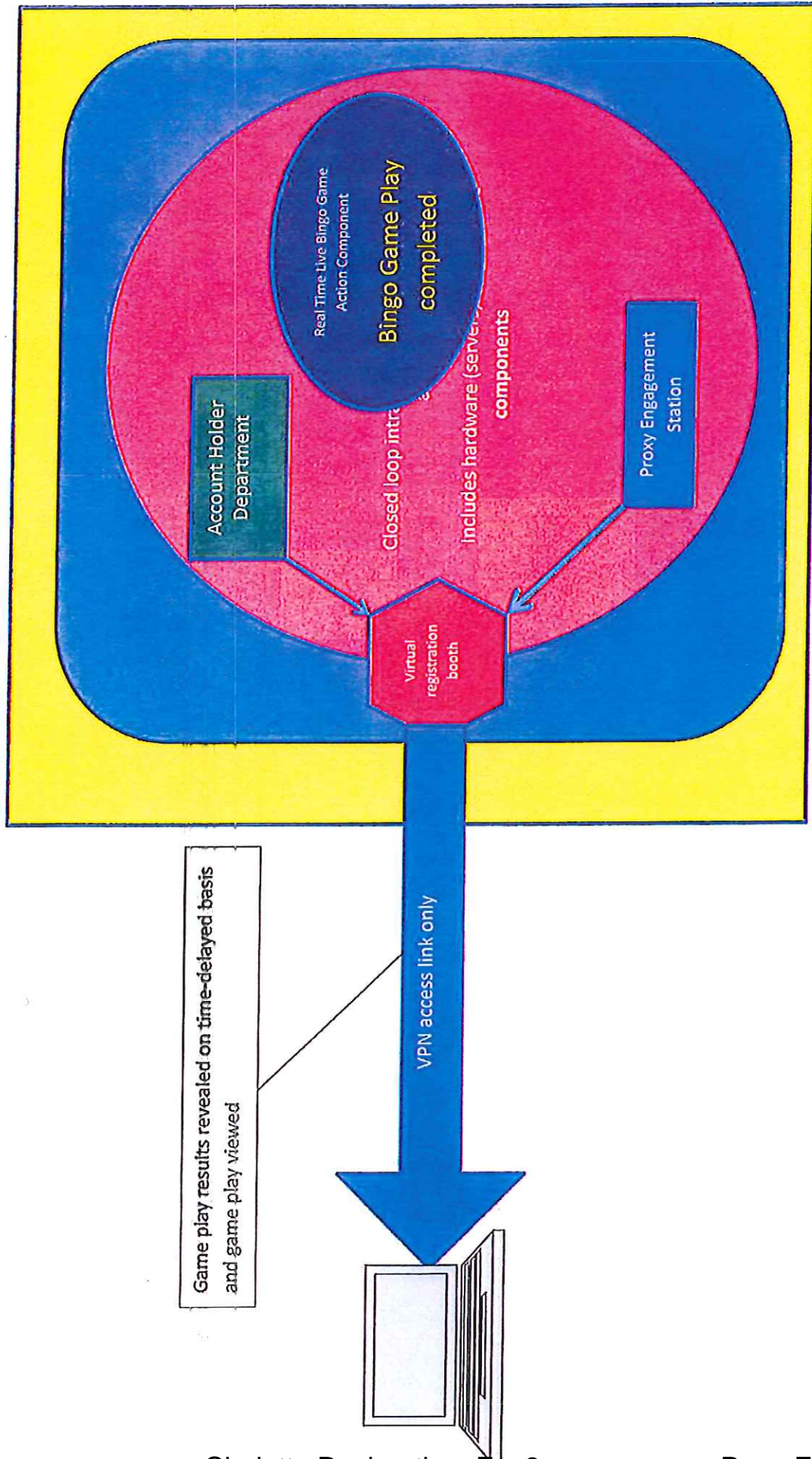
Timeline diagram 8 re: game action play



Timeline diagram 9 re: game action results



Timeline diagram 10 re: game action results revealed & reported



Great Luck, LLC - VPNAPS (Proxy) Security Overview - v.62

July 2013

The following describes the components of the Great Luck, LLC - Virtual Private Network Assisted Play System - ("VPNAPS") that incorporate specific security methodology, processes and devices.

1. Web Server and SSL:

- SSL 2048bit with Extended Validation certificate → All data from/to the client to the server is encrypted.
- CSRF Form tokens → To prevent any user from hijacking the current user's form request.
- CrossDomain XML to deny cross site submission requests.
- Mod_Evasive → To prevent multiple requests within a single second causing server slowdown (common DDOS attack).
- All data sent from the agent to a third party gateway (kyc, payment, etc), and all data sent from the audit cluster to a third party gateway, are encrypted.

2. Database:

- Protection against SQL Injection - Stripping all illegal characters, escaping quotes, No user input is added to the database directly.
- The socket server uses a Read-Only MYSQL username to read information from the database, instead of writing to it. The SmartFox username only has write access to it's own table AmGISmartfox.
- Software firewalls for the Agent and Audit Cluster Admin (located in app/config/security.yml)

3. Payment Gate

- The Agent and the Audit Cluster make PCI compliant connections to the Payment Gateway, through a secure socket connection SSL.
- All subroutines for depositing and withdrawing funds are made through the Payment Gateway. The Audit Cluster contacts the payment gateway processes these funds.
- There is no direct monetary transactions from the agent. The agent just verifies the client's balance and identity.